

FILED

JUN 26 2020

STATE OF NEVADA  
E.M.R.B.

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

NEVADA POLICE UNION, FORMERLY  
KNOWN AS NEVADA HIGHWAY PATROL  
ASSOCIATION, INC.,

Complainant,

v.

STATE OF NEVADA, DEPARTMENT OF  
PUBLIC SAFETY; STEVE SISOLAK, in his  
capacity as Governor of the State of Nevada,

Respondents.

Case No. 2020-015

**ORDER ON RESPONDENT'S MOTION  
FOR PRELIMINARY  
DETERMINATION AND DISMISSAL**

**EN BANC**

**ITEM NO. 866**

On June 24, 2020, this matter came before the State of Nevada, Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of NRS Chapter 288, the Government Employee-Management Relations Act ("EMRA"); NAC Chapter 288 and NRS Chapter 233B.

At issue was Respondent's, Nevada Department of Public Safety (DPS), Motion for Preliminary Determination and Dismissal Pursuant to NRS 288.625(2)(a). Respondent argues the Complaint is flawed as it characterizes Respondent as a local government employer as defined under NRS 288.060 and is founded upon statutes that govern local government employers, not the Executive Department. Respondent further contends that Complainant's notice of intent was improper and failed to satisfy the timelines imposed in NRS 288.565(2). Finally, Respondent argues that DPS has not interfered, restrained, coerced, made threats or retaliated against Complainant. In Opposition, Complainant concedes that it incorrectly identified DPS as a local government employer.

At this stage, the Board will grant the motion to dismiss in order for Complainant to cure the defects therein including its concession that it incorrectly identified DPU as well as basing its Complaint on provisions related thereto. The Board does not prohibit the filing of an additional motion

1 to dismiss thereafter, for example pursuant to NAC 288.375, and reserves judgment on remaining  
2 issues.

3 NPU brought its motion pursuant to NRS 288.625(2)(a) and NAC 288.240(3) (general motion  
4 practice before this Board). The Board however notes that it does not elect to use its discretion to  
5 conduct a preliminary investigation of the complaint pursuant to NRS 288.625(2) as the following  
6 provisions do not warrant such. Section 5 of the recent regulatory changes of the Board (LCB File No.  
7 R056.19)<sup>1</sup> provides:

8 In determining whether to conduct a preliminary investigation of a complaint pursuant to  
9 section 27 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page 3733  
(NRS 288.625), the Board will consider:

- 10 (a) Whether the complainant or petitioner is represented by counsel;  
11 (b) Whether the complainant or petitioner has conducted an investigation of the  
12 complaint or similar complaints;  
13 (c) The number of persons affected by the alleged violation; and  
14 (d) The amount of time and resources necessary to conduct the investigation.

15 2. In conducting a preliminary investigation pursuant to section 27 of Senate Bill No.  
16 135, chapter 590, Statutes of Nevada 2019, at page 3733 (NRS 288.625), the Board or  
17 Commissioner may:

- 18 (a) Interview the complainant or petitioner or any witnesses.  
19 (b) Request the complainant or petitioner or any witness to provide records to the  
20 Board or Commissioner. A person shall provide any requested records to the Board or  
21 Commissioner, as applicable, not later than 30 days after the date on which the request  
22 was received by the person.

23 Here, both parties are represented by counsel, complainant has not requested an investigation,  
24 and the amount of time and resources necessary to conduct the investigation do not warrant the use of  
25 the Board's discretionary authority.

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<sup>1</sup> This regulation was adopted on December 30, 2019; however, the LCB has yet to officially codify the recent regulatory changes. Section 5 prescribes certain requirements governing preliminary investigations. In adopting this regulation, it was noted that the Board has never conducted investigations in its history, instead acts as an impartial court, and this provision was intended to be useful when a pro se client files a complaint with the Board. Minutes of the Workshop to Solicit Comments for New Regulations or Changes to Existing Regulations of the EMRB (July 17, 2019).

1 IT IS, THEREFORE, ORDERED that the Motion to Dismiss the Complaint is GRANTED  
2 without prejudice and with leave to amend.

3 Dated this \_\_\_ day of June 2020.

4 GOVERNMENT EMPLOYEE-  
5 MANAGEMENT RELATIONS BOARD

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7 BY: BRENT C. ECKERSLEY, Chair

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3 **STATE OF NEVADA**  
4 **GOVERNMENT EMPLOYEE-MANAGEMENT**  
5 **RELATIONS BOARD**  
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7 NEVADA POLICE UNION, FORMERLY  
8 KNOWN AS NEVADA HIGHWAY PATROL  
ASSOCIATION, INC.,

9 Complainant,

10 v.

11 STATE OF NEVADA, DEPARTMENT OF  
12 PUBLIC SAFETY; STEVE SISOLAK, in his  
capacity as Governor of the State of Nevada,

13 Respondents.  
14

Case No. 2020-015

**NOTICE OF ENTRY OF ORDER**

**ITEM NO. 866**

15 TO: Petitioner, by and through its attorneys, Jason D. Guinasso, Esq., and Alex R. Velto, Esq., of  
Hutchison & Steffen;

16 TO: Respondents State of Nevada and Department of Public Safety, by and through Aaron Ford,  
17 Attorney General; Nathan Hastings, Deputy Attorney General for the State of Nevada.


18 PLEASE TAKE NOTICE that the **ORDER ON RESPONDENT'S MOTION FOR**  
19 **PRELIMINARY ORDER** was entered in the above-entitled matter on June 26, 2020.

20 A copy of said order is attached hereto.

21 DATED this 26th day of June 2020.

22 GOVERNMENT EMPLOYEE-  
23 MANAGEMENT RELATIONS BOARD

24 BY

25   
26 BRUCE SNYDER  
27 Commissioner  
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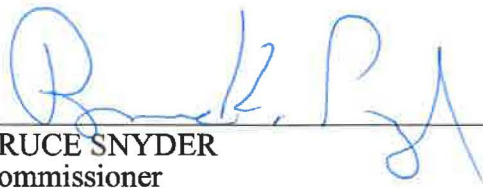
1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Government Employee-Management Relations  
3 Board, and that on the 26th day of June 2020, I served a copy of the foregoing **NOTICE OF ENTRY**  
4 **OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Jason D. Guinasso, Esq.  
6 Alex R. Velto, Esq.  
7 Hutchison & Steffen, PLLC  
8 500 Damonte Ranch Parkway, Suite 980  
9 Reno, NV 89521

10 Aaron Ford, Esq.  
11 Nathan Hastings, Esq.  
12 Office of the Attorney General  
13 State of Nevada  
14 555 Wright Way  
15 Carson City, NV 89711

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BRUCE SNYDER  
Commissioner