

FILED
January 25, 2024
State of Nevada
E.M.R.B.

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CLARK COUNTY EDUCATION
ASSOCIATION,

Case No. 2023-009

Complainant,

v.

NOTICE OF ENTRY OF ORDER

CLARK COUNTY SCHOOL DISTRICT and
INTERVENOR EDUCATION SUPPORT
EMPLOYEES ASSOCIATION,

PANEL B

Respondents.

ITEM NO. 890

TO: Complainant, by and through their attorney, Steven Sorensen, Esq., General Counsel for the Clark County Education Association; and

TO: Respondent, by and through their attorney, Crystal J. Herrera, Esq. of the Clark County School District, Office of the General Counsel; and

TO: Petitioner Intervenor Education Support Employees Association, by and through its attorneys, Francis C. Flaherty, Esq. and Sue S. Matuska, Esq. of Dyer Lawrence, LLP.

PLEASE TAKE NOTICE that the **ORDER ON MOTION FOR SANCTIONS, FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER** was entered in the above-entitled matter on January 25, 2024.

A copy of said order is attached hereto.

DATED this 25th day of January 2024.

GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By: 

ISABEL FRANCO
Administrative Assistant II

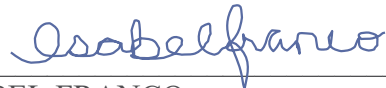
1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Government Employee-Management Relations
3 Board, and that on the 25th day of January 2024, I served a copy of the foregoing **NOTICE OF**
4 **ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Steven Sorenson
6 General Counsel
7 Clark County Education Association
8 4230 McLeod Drive
9 Las Vegas, Nevada 89121

9 Crystal J. Herrera, Esq.
10 Clark County School District
11 Office of the General Counsel
12 5100 West Sahara Avenue
13 Las Vegas, NV 89146

12 Francis C. Flaherty, Esq.
13 Sue S. Matuska, Esq.
14 Dyer Lawrence, LLP
15 2805 Mountain Street
16 Carson City, Nevada 89703

16 

17 ISABEL FRANCO
18 Administrative Assistant II
19
20
21
22
23
24
25
26
27
28

FILED
January 25, 2024
State of Nevada
E.M.R.B.

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CLARK COUNTY EDUCATION
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT and
INTERVENOR EDUCATION SUPPORT
EMPLOYEES ASSOCIATION,

Respondents.

Case No. 2023-009

**ORDER ON MOTION FOR SANCTIONS,
FINDINGS OF FACT AND CONCLUSIONS
OF LAW AND ORDER**

PANEL B

ITEM NO. 890

On October 17, 2023, and January 10, 2024, this matter came before the State of Nevada, Government Employee-Management Relations Board (the “Board”) for consideration and decision on Petitioner’s Motion for Sanctions and on the prohibited practices allegation pursuant to the provision of the Government Employee-Management Relations Act (the Act), NRS Chapter 233B, and NAC Chapter 288.

I. BACKGROUND

There were two main issues presented with this case. The first issue is whether the Clark County School District (“CCSD”) engaged in a prohibited practice under NRS 288.170 by improperly recognizing Teamsters Local 14 (“Teamsters”) contrary to the provisions of NRS 288.160, and if so, whether this conduct rose to the level of a prohibited practice under NRS 288.170.

This claim is based almost entirely on the allegation that CCSD had been negotiating directly with Teamsters instead of the Clark County Education Association which is the recognized bargaining unit for the employees at issue. There was ample evidence presented that CCEA was aware of the Agreement that ESEA had with Teamster. Under the Agreement, Teamsters would assist ESEA with certain non-licensed employees who were members of ESEA’s recognized bargaining unit.

1 The second issue relates to whether sanctions were warranted for failure of CCSD to properly
2 respond to Complainant’s subpoena.¹ The Complainant’s subpoena was issued on October 10, 2023
3 and asked for the following to be produced:

4 All written communications, including emails, texts, and memorandums
5 to, from, or copied to Teamsters Local 14 including Fred Horvath, Johnny
6 Ortega, Mark Peter, Grant Davis, Eymhy Gateley, Travis Nelson, Jay
7 Randazzo, Jason Gateley, Carolina Ospina, Debra Ledon, Christi Springer,
8 and Val Thomason from Superintendent Jesus Jara and from January 1,
9 2023 to the present.

10 Counsel for CCSD objected to the subpoena and the Board Denied an Oral Motion to Compel
11 Production and the Board denied the request on the grounds that the information sought was not
12 relevant to the Complaint. Following the hearing on the matter, CCEA obtained additional information
13 via a Nevada Public Records Act request and filed its Motion for Sanctions.

14 II. DISCUSSION

15 A. Prohibited Practices Complaint

16 The Prohibited Practices Complaint is based on an allegation that CCSD had “de facto” created
17 a new bargaining unit when they allegedly bargained directly with Teamsters on behalf of certain non-
18 licensed support staff of CCSD. The following are excerpts from the applicable statutes.

19 NRS 288.150 state in relevant part:

20 1. Except as otherwise provided in subsection 6 and NRS 354.6241, every
21 local government employer shall negotiate in good faith through one or
22 more representatives of its own choosing concerning the mandatory
23 subjects of bargaining set forth in subsection 2 with the designated
24 representatives of the recognized employee organization, if any, for each
25 appropriate bargaining unit among its employees. If either party so
26 requests, agreements reached must be reduced to writing.

27 NRS 288.160 states, in relevant part:

28 1. An employee organization may apply to a local government employer
for recognition by presenting:

- (a) A copy of its constitution and bylaws, if any;
- (b) A roster of its officers, if any, and representatives; and
- (c) A pledge in writing not to strike against the local government employer under any circumstances.

A local government employer shall not recognize as representative of its employees any employee organization which has not adopted, in a manner valid under its own rules, the pledge required by paragraph (c).

¹ CCSD alleged that the Complaint was not filed in a timely manner, that the Board lacked jurisdiction to hear the Complaint and that the matters raised were not ripe for consideration. No motions were filed regarding these allegations and all of these allegations were rendered moot by this Decision.

1 NRS 288.170 states in relevant part:

2 1. Each local government employer which has recognized one or more
3 employee organizations shall determine, after consultation with the
4 recognized organization or organizations, which group or groups of its
5 employees constitute an appropriate unit or units for negotiating. The
6 primary criterion for that determination must be the community of interest
7 among the employees concerned.

8 * * *

9 5. If any employee organization is aggrieved by the determination of a
10 bargaining unit, it may appeal to the Board. Subject to judicial review, the
11 decision of the Board is binding upon the local government employer and
12 employee organizations involved. The Board shall apply the same
13 criterion as specified in subsection 1. (Emphasis added).

14 Under NRS 288.150 and 288.160 a government employer may only negotiate with a properly
15 recognized bargaining unit. See Item 120, EMRB Case No. A1-045338, *Reno Police Protective*
16 *Association v. City of Reno at p. 6 (1981)* (an employer should not, and cannot, entertain claims or
17 requests for recognition from another employee organization, except during the window period); see
18 also, EMRB Item No. 792 at p. 3, Case No. A1-046104, *Clark County v. Clark County Defenders*
19 *Union (2014)* ([w]e also note that NRS 288.170(1) does not permit a local government employer to
20 make a determination as to the scope of a bargaining unit unless it first consults with each of the
21 employee organizations that it has recognized).

22 It is clear that once a unit has been recognized, the governmental employer is obligated to
23 bargain only with the unit which has been recognized – which in this case is ESEA. Furthermore, it is
24 clear to this Board that any attempt by a governmental employer to bargain with an employee of a
25 recognized bargaining unit on behalf of an unrecognized bargaining unit would constitute a prohibited
26 practice under NRS 288.170. However, there is no law or rule that prevents ESEA from entering into
27 an Agreement with Teamsters to have Teamsters assist ESEA in performing its duties as the exclusive
28 bargaining agent. The question then becomes whether CCSD negotiated directly with Teamsters. In
29 this case, the Board finds that CCSD did not negotiate directly with Teamsters.

30 **B. Motion for Sanctions**

31 The Motion for Sanctions asserted that CCSD failed to produce all relevant communications
32 between Superintendent Jara and Teamsters. Their subpoena was issued under the authority provided
33 to the Board under 288.120 and NAC 288.279.

1 The Board may impose sanctions for certain conduct, including against any party who fails to
2 comply with an order of the Board. NAC 288.373(1)(a). There is no doubt that a subpoena is an order
3 of the Board. In examining this issue, the Board must decide whether the conduct contained in the
4 Motion for Sanctions rises to a level that warrants sanctions. In this instance, the Board finds the
5 documents that CCEA provided did not rise to a level that warranted sanctions.

6 In this case, the Complainant failed to prove that Teamsters were negotiating directly with
7 CCSD and, in fact, the evidence suggests otherwise.

8 III. FINDINGS OF FACT

9 1. The Board has determined the following facts based on a preponderance of evidence.

10 2. The matter was timely filed because it was based on conduct that fell within the relevant
11 time period.

12 3. ESEA is the recognized bargaining unit for the employees at issue in this matter.

13 4. ESEA and Teamsters have an Agreement to have Teamsters assist ESEA with servicing
14 the employees.

15 5. Complainant was aware of the Agreement between ESEA and Teamsters.

16 6. Complainant failed to prove that Teamsters were negotiating directly with CCSD, and in
17 fact, the evidence suggests that CCSD was negotiating directly with ESEA.

18 7. The Board heard testimony from Dr. Jara that he was not a member of the bargaining
19 team and no testimony was provided to counter this assertion.

20 8. The Board found that the evidence submitted in support of the Motion for Sanctions fell
21 short of rising to a level that warranted sanctions.

22 9. If any of the foregoing findings is more appropriately construed as a conclusion of law,
23 it may be so construed.

24 IV. CONCLUSIONS OF LAW

25 1. The Board is authorized to hear and determine complaints arising under the Nevada
26 Government Employee-Management Relations Act.

27 2. The Board has exclusive jurisdiction over the parties and the subject matters of the
28 Complaint on file herein pursuant to the provisions of NRS Chapter 288.

