

FILED  
June 6, 2024  
State of Nevada  
E.M.R.B.

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

ASSOCIATION OF PROFESSIONAL-  
TECHNICAL ADMINISTRATORS,

Complainant,

v.

WASHOE COUNTY SCHOOL DISTRICT,

Respondent.

Case No. 2024-001

**NOTICE OF ENTRY OF ORDER**

**EN BANC**

**ITEM NO. 900**

TO: Complainant and its attorney, Ronald J. Dreher, Esq.; and

TO: Respondent and its attorney, Anthony L. Hall, Esq. and Jonathan A. McGuire, Esq. of Simons  
Hall Johnston PC.

PLEASE TAKE NOTICE that the **ORDER GRANTING RESPONDENT'S MOTION TO  
DISMISS** was entered in the above-entitled matter on June 6, 2024.

A copy of said order is attached hereto.

DATED this 6th day of June 2024.

GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

BY   
MARISU ROMUALDEZ ABELLAR  
Executive Assistant

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 6th day of June 2024, I served a copy of the foregoing **NOTICE OF ENTRY**  
4 **OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Anthony L. Hall, Esq.  
Jonathan A. McGuire, Esq.  
6 Simons Hall Johnston PC  
690 Sierra Rose Dr.  
7 Reno, Nevada 89511

8 Ronald J. Dreher, Esq.  
9 P.O. Box 6494  
Reno, Nevada 89513

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MARISU ROMUALDEZ ABELLAR  
Executive Assistant

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Case No. 2024-001

**ORDER GRANTING RESPONDENT’S  
MOTION TO DISMISS**

**EN BANC**

**ITEM NO. 900**

On May 21, 2024, this matter came before the State of Nevada, Government Employee-Management Relations Board (the “Board”) for consideration and decision pursuant to the provision of the Employee-Management Relations Act (the Act), NRS Chapter 233B, and NAC Chapter 288. At issue was Respondent’s Motion to Dismiss and Oral Motion to Quash Subpoenas and Complainant’s Motion to Bar Affirmative Defenses.

**I. BACKGROUND.**

On February 20, 2024, Respondent filed a Motion to Dismiss, which alleged, among other things, that the Board lacked jurisdiction to hear the matter. The Respondent argued that four (4) board members of the Association of Professional-Technical Administrators (“APTA”) informed Respondent on December 27, 2023, that APTA was voluntarily withdrawing. *See* Respondent’s Exhibit 7. Respondent confirmed that was the intent of the four (4) APTA board members on January 8, 2024. Respondent’s Motion to Dismiss at Exhibit A. APTA argues, among other things, that that the four (4) board members lacked the authority to issue the notice of voluntary withdrawal. *See e.g.*, Complaint at ¶¶ 11 and 15-27. Respondent in turn argued that the authority of the APTA board members falls under NRS Chapter 82 because APTA is a non-profit corporation and whether the four (4) board members

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1 had authority to voluntarily withdraw was a corporate governance issue that is covered by Chapter 82.  
2 Motion to Dismiss at 6.

3 The Board initially took up the matter at the April 18, 2024, Board meeting and issued an Order  
4 to Stay Proceedings to allow APTA time to file an action with the District Court under NRS Chapter 82  
5 for a determination as to whether the four (4) board members in fact had the legal authority to  
6 voluntarily withdraw. On May 3, 2024, APTA notified the Board that it would not be filing a legal  
7 action with the District Court and urged the Board to take jurisdiction. The Board finds that it lacks  
8 jurisdiction over this matter based on the analysis set forth below.

## 9 II. LEGAL ANALYSIS.

10 NAC 288.145, which governs the facts in this case, states:

- 11 1. In addition to the reasons set forth in subsection 3 of NRS 288.160, a local  
12 government employer may withdraw recognition of an employee organization if the  
13 employee organization:
  - 14 (a) Voluntarily withdraws in writing as the bargaining representative; or
  - 15 (b) Fails to notify the employer pursuant to NRS 288.180 that it desires to  
16 negotiate.
- 17 2. Except as otherwise provided in NAC 288.146, a local government employer must  
18 request a hearing before the Board and receive the written permission of the Board  
19 before withdrawing recognition of an employee organization for any reason other  
20 than voluntary withdrawal.

21 It is clear under NAC 288.145(1)(a) that a hearing before this Board is not required if the employee  
22 organization voluntarily withdraws as the bargaining representative in writing.

23 However, in this case the query is whether the four (4) board members of APTA had the  
24 authority to submit the voluntary withdrawal provided to Respondent on December 27, 2023. The  
25 authority of the Board members to act in the manner they did is really the nature of the dispute between  
26 the parties. Respondent argued that the four (4) board members who submitted the withdrawal notice  
27 constitute a majority of the APTA board because: (1) Article II of the APTA Constitution and Bylaws  
28 limits membership in APTA to all Pro-Techs and School Psychologists employed by Washoe County  
and Article V limits office holders to active members only and Mr. Dreher is not an active member of  
APTAs nor is he employed by Washoe County. APTA argued that Mr. Ron P. Dreher is a valid member  
of the Board under Article IV. However, determining who has the authority to act on behalf of APTA

1 is not within the purview of this Board, rather that is an intra-organizational dispute that must be  
2 resolved under NRS Chapter 82 which relates to non-profit corporate governance.

3 This case would not have been so problematic if the APTA Board had simply met per its  
4 Constitution and Bylaws and voted to voluntarily withdraw or otherwise formally declare what its  
5 intentions were regarding withdrawal. Unfortunately, that is not what occurred based on the record  
6 before the Board. In fact, there is no indication that an APTA board meeting on the topic of withdrawal  
7 ever took place. Instead, following the vote on whether APTA members were in favor of “Pro-Techs”  
8 leaving APTA and forming their own employee organization, four (4) APTA Board members notified  
9 Respondent that APTA wished to voluntarily withdraw. Respondent proceeded to act upon the notice  
10 from the four (4) board members and ultimately decertified APTA. Whether the four (4) members had  
11 the lawful authority to submit the notice of voluntary withdrawal is not an issue this Board has the  
12 jurisdiction to decide since that subject matter falls under NRS Chapter 82.

13 Moreover, whether Respondent could lawfully rely on the actual or apparent authority of the  
14 four (4) APTA board members falls squarely under Chapter 82. *See* NRS 282.216. The powers and  
15 duties of officers, meeting requirements, voting requirements and other matters related to governance of  
16 APTA as a non-profit corporation are set forth under NRS Chapter 82, not NRS Chapter 288.  
17 Furthermore, Nevada law contains an express provision authorizing a lawsuit to be filed over disputes  
18 related to the authority of board members who may be acting beyond their authority. NRS 82.216(1).  
19 The Board finds that whether the four (4) board members exceeded their authority is exactly what this  
20 case is about and the record in this case clearly supports the Board’s finding in this regard.

21 APTA cited *Nye County v. Nye County Law Enforcement Management Association*, Case No.  
22 2016-005, Item No. 815 (EMRB, May 16, 2016), in support of its position that this Board has  
23 jurisdiction over this case. However, the *Nye County* case was primarily about an application for a  
24 hearing on de-certification that was filed by Nye County under NRS 288.160. *Id.* The Board in *Nye*  
25 did find that an employee organization without members is unable to voluntarily withdraw under NAC  
26 288.145, but this finding was incidental to the underlying application. *Id.* To date, this Board has not  
27 examined what constitutes a voluntary withdrawal by an employee organization with a fact pattern even  
28 remotely close to the current case.

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**III. CONCLUSION.**

Bottom line, the Board finds that the question regarding the authority of officers of a Nevada non-profit corporation to act is an issue that falls squarely under NRS Chapter 82 and not Chapter 288. Thus, based on the discussion above, the Board declines to accept jurisdiction and finds that this matter must be dismissed.

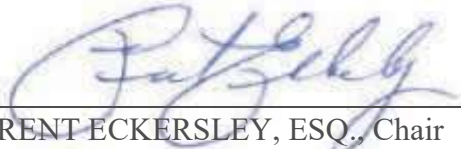
**IV. ORDERING PROVISIONS.**

Based on the foregoing, it is hereby **ORDERED** that Respondent’s Motion to Dismiss be **GRANTED WITH PREJUDICE**.

It is further **ORDERED** that Respondent’s Oral Motion to Quash Subpoenas and Complainant’s Motion to Bar Affirmative Defenses are hereby rendered moot by the Board’s Order herein.<sup>1</sup>

Dated this 6th day of June, 2024.

GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

By:   
BRENT ECKERSLEY, ESQ., Chair

By:   
MICHAEL J. SMITH, Vice-Chair

By:   
SANDRA MASTERS, Board Member

By:   
TAMMARA M. WILLIAMS, Board  
Member

<sup>1</sup> The Board took no action on Consolidated Case No. 2023-015.