

FILED  
January 28, 2025  
State of Nevada  
E.M.R.B.

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

ASHLEY DESOUZA,  
  
Complainant,  
  
v.  
  
CLARK COUNTY EDUCATION ASSOCIATION  
and CLARK COUNTY SCHOOL DISTRICT,  
  
Respondent.

Case No. 2024-035

**NOTICE OF ENTRY OF ORDER**

EN BANC

**ITEM NO. 906A**

- TO: Complainant Ashley DeSouza and her attorneys Trevor J. Hatfield, Esq. and Hatfield & Associates, Ltd.;
- TO: Respondent Clark County Education Association and its attorneys, Dante Dabaghian, Esq.;
- TO: Respondent Clark County School District and its attorney, Crystal J. Pugh, Esq. and the Office of the General Counsel for the Clark County School District.

PLEASE TAKE NOTICE that the **ORDER ON RESPONDENT CLARK COUNTY EDUCATION ASSOCIATION'S MOTION TO DISMISS COMPLAINT** was entered in the above-entitled matter on January 28, 2025.

A copy of said order is attached hereto.

DATED this 28th day of January 2025.

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 28<sup>th</sup> day of January 2025, I served a copy of the foregoing **NOTICE OF**  
4 **ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Trevor J. Hatfield, Esq.  
6 Hatfield & Associates, LTD  
7 703 S. Eight Street.  
8 Las Vegas, NV 89101

8 Dante Dabaghian, Esq.  
9 General Counsel  
10 Clark County Education Association  
11 4230 McLeod Drive.  
12 Las Vegas, NV 89121

11 Crystal J. Pugh, Esq.  
12 Clark County School District  
13 Office of the General Counsel  
14 5100 West Sahara Avenue  
15 Las Vegas, NV 89146

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17 MARISU ROMUALDEZ ABELLAR  
18 Executive Assistant  
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STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

ASHLEY DESOUZA,

Case No. 2024-035

Complainant,

**ORDER ON RESPONDENT CLARK  
COUNTY EDUCATION  
ASSOCIATION’S MOTION TO DISMISS  
COMPLAINT**

v.

CLARK COUNTY EDUCATION  
ASSOCIATION and CLARK COUNTY SCHOOL  
DISTRICT,

EN BANC

Respondent.

**ITEM NO. 906A**

On January 14, 2025, this matter came before the State of Nevada, Government Employee-Management Relations Board (“Board”) for consideration and decision on Respondent Clark County Education Association’s (“CCEA”) Motion to Dismiss pursuant to the provisions of the Employee-Management Relations Act (the “Act”), NRS Chapter 233B, and NAC Chapter 288.

The case against CCEA is based on an alleged breach of the duty of fair representation. The Nevada Supreme Court has recognized that employee organizations are subject to the duty of fair representation. *Weiner v. Beatty*, 121 Nev. 243, 249, 116 P.3d 829, 832 (2005); *Cone v. Nevada Serv. Employees Union/SEIU Local 1107*, 116 Nev. 473, 478-79, 998 P.2d 1178, 1182 (2000). The standard for assessing a breach of the duty of fair representation is whether the employee organization has acted in a manner that is arbitrary, discriminatory or in bad faith. *Weiner*. at 249. The duty of fair representation is typically construed narrowly to provide the employee organization with the necessary discretion to act in what it perceives to be the best interests of those it represents. *Crom v. Las Vegas – Clark County Library District*, Case No. AI-046004, Item No. 752E (EMRB, July 17, 2013), citing to *Galindo v. Stody Co.*, 793 F.2d 1502, 1514 (9th Cir.1986). In the sections that follow the Board will examine whether CCEA acted arbitrarily, discriminatorily or in bad faith.

1           1. Was CCEA’s Conduct Arbitrary?

2           This Board has determined that an employee organization’s conduct is arbitrary if it is without  
3 rational basis, is egregious, unfair or unrelated to legitimate union interests. *Jason Woodard v. Sparks*  
4 *Police Protective Association*, Case No. 2018-026, Item No. 853-A (EMRB, Dec. 17, 2020). An  
5 employee organization’s actions are arbitrary only if the employee organization’s conduct can be fairly  
6 characterized as so far outside a “wide range of reasonableness that it is wholly ‘irrational’ or  
7 ‘arbitrary.’” *Brian Heitzinger v. Las Vegas-Clark County Library District*, Case No. A1-045977, Item  
8 No. 728C at 11 (EMRB, Jan. 30, 2012), citing *Marquez v. Screen Actors Guild, Inc.*, 525 U.S. 33, 45  
9 (1998).

10           Complainant received an employment offer with the Clark County School District (“CCSD”)  
11 and began work on July 26, 2023, at a paygrade of E-II which has a salary of \$54,376.00. This salary  
12 was based on the professional salary table contained in the 2021-2023 Collective Bargaining  
13 Agreement (“CBA”) between CCSD and the Clark County Education Association (“CCEA”). In  
14 December of 2023, CCSD and CCEA signed a successor CBA which included a new pay scale as well  
15 as a provision that all licensed educators hired before February 1, 2024, would receive a 10% wage  
16 increase to their existing salary that would apply retroactively to July 1, 2023, as well as an additional  
17 8% wage increase in the second year of the contract. The revised pay scale in the 2023-2025 CBA was  
18 applicable only to personnel hired after February of 2024. The pay scale was limited to new hires given  
19 the difficulties that CCSD was experiencing in hiring qualified educational personnel in a very  
20 competitive market.

21           Since the Complainant was hired prior to February 1, 2024, she received the 10% wage increase  
22 retroactively applied to July 1, 2023, and her salary increased to \$58,691.60.<sup>1</sup> The Complainant  
23 asserted that she should be placed at Column II, Step E, or Column IV, Step H, on the new salary  
24 schedule, and not Column I, Step D where she was slotted. However, it is clear the new CBA pay scale  
25 was limited only to personnel hired after February 1, 2024, and that Complainant would be slotted into  
26 the new pay scale based on her slotting from 2023.

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28 <sup>1</sup> Funding provided under SB231 increased Complainant’s base salary to \$59,814.00 and Complainant’s salary will increase  
an additional 8% in the second year of the contract.

1 The Complainant also sought to have her claims proceed through the CBA's grievance process,  
2 including arbitration and CCEA assisted her up to the point where Complainant insisted the matter be  
3 presented to arbitration. CCEA refused to proceed with arbitration after investigating her claims  
4 because the CCEA determined her claims lacked merit. The Board agrees with CCEA that  
5 Complainant's grievance lacked merit. *See e.g.*, EMRB's Order on Respondent Clark County School  
6 District's Motion to Dismiss Complaint. There is ample evidence showing that CCEA acted  
7 reasonably, rationally and in a manner consistent with the employee organization's member's interests.

8 2. Was CCEA's Conduct Discriminatory?

9 To prove discriminatory conduct relating to a breach of the duty of fair representation, the  
10 Complainant must produce substantial evidence that the discrimination was intentional, severe, and  
11 unrelated to legitimate employee organization objectives. *Bybee & Gingell v. White Pine County Sch.*  
12 *Dist.*, Case No. A1-045972, Item No. 724B at p.7 (EMRB, Feb. 9, 2011), citing to *Amalgamated Ass'n*  
13 *of St., Elec. Ry. and Motor Coach Emp. of America v. Lockridge*, 403 U.S. 274, 301 (1971).

14 The evidence before the Board indicates that all members of the bargaining unit similarly  
15 situated to Complainant were slotted into positions in the same manner and given the same raises within  
16 the same time frame. There is also evidence that both CCSD and CCEA agree that Complainant's  
17 current slotting and pay are correct. Moreover, no other facts were presented to the Board indicating  
18 that CCEA was unreasonably advancing the interests of another group over Complainant's, nor is there  
19 proof that CCEA otherwise discriminated against Complainant in any way regarding her slotting and  
20 pay. In fact, there is a lack of evidence indicating that CCEA acted intentionally, severely or in a  
21 manner unrelated to legitimate objectives. Thus, Complainant failed to meet its burden as to the  
22 existence of discrimination by CCEA.

23 3. Did CCEA Act in Bad Faith?

24 "In order to show 'bad faith,' a complainant must present substantial evidence of fraud,  
25 deceitful action or dishonest conduct." *Bybee & Gingell v. White Pine County Sch. Dist.*, Case No. A1-  
26 045972, Item No. 724B at p.7 (EMRB, Feb. 9, 2011), citing to *Amalgamated Ass'n of St., Elec. Ry. and*  
27 *Motor Coach Emp. of America v. Lockridge*, 403 U.S. 274, 301 (1971); *see also Crom v. Las Vegas-*  
28 *Clark County Library Dist.*, Item No. 752E (2013).

1 The facts show that CCEA treated Complainant's matter seriously. CCEA made inquiries with  
2 CCSD regarding Complainant's slotting and pay. Furthermore, CCEA presented the Complainant's  
3 grievance to CCSD, and the grievance was denied. The Complainant then demanded the grievance be  
4 presented to arbitration. CCEA dutifully submitted the matter to its Member Rights Committee, which  
5 has the authority to determine which matters CCEA will arbitrate. CCEA's Member Rights Committee  
6 denied the Complainant's request to arbitrate on the grounds it lacked merit. There was no evidence  
7 presented showing that CCEA acted fraudulently, deceitfully or dishonestly regarding Complainant.  
8 The evidence clearly shows that CCEA acted promptly and fairly regarding Complainant's grievances.

9 The Board may dismiss a matter for lack of probable cause under NAC 288.375(1). *Thomas D.*  
10 *Richards v. Police Managers and Supervisors Association*, Case No. A1-046094, Item No. 788  
11 (EMRB, Aug. 19, 2013). If there are a lack of sufficient facts to give rise to a justiciable controversy,  
12 there is also a lack of probable cause. *Adonis Valentin v. Clark Co. Public Works*, Case No.  
13 A1-046010, Item # 762 (EMRB, July 1, 2011); *Teresa Daniel, Ida Sierra, Marguis Lewis, Aaron Lee,*  
14 *Andrew D. Gasca, Kevin Cervantes, Luther J. Soto, Beverly Abram, Latrice Banks, Denise Mayfield,*  
15 *Linda Korschinowski, Charleen Davis-Shaw, David M. Shaw, Argretta O. Hutson, et al. v. Education*  
16 *Support Employees Association*, Case No. A1-046028, Item No. 767 (EMRB, Oct. 31, 2011); *Sherman*  
17 *Willoughby v. Clark County; Human Resources/Real Property Management*, Case No. A1-046030,  
18 Item No. 769 (EMRB, Oct. 21, 2011). Given the fact that the Board has determined that CCEA did not  
19 act in an arbitrary, discriminatory or bad faith manner, there is an absence of probable cause in this  
20 matter.

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