

CASE 2024-032

ESEA v. CCSD

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES'
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT.

Respondent.

Case No. 2024-032

AMENDED NOTICE OF HEARING

TO: Complainant, by and through its attorneys, Nathan Ring, Esq., and Paul Cotsonis, Esq. of Reese Ring Velto, PLLC; and

TO: Respondent, by and through its attorney, Crystal J. Pugh, Esq. and Betty J. Foley, Esq., Office of the General Counsel of the Clark County School District

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE pursuant to NRS 233B.121(2), that the Government Employee-Management Relations Board ("Board") will conduct a hearing in the above-captioned matter:

Panel

This case has been assigned to Panel D. The presiding officer shall be Chair Brent C. Eckersley, Esq. The other panel members are Vice-Chair Michael J. Smith and Board Member Michael J. Urban, Esq.

DATES AND TIMES OF HEARING

Monday, September 22, 2025, at 8:30 a.m.; continuing Tuesday, September 23, 2025, at 8:30 a.m.; and continuing Wednesday, September 24, 2025, if necessary, at a time to be determined during the hearing.

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1 withholding job duties and overtime after he filed his grievances?

2 3. Whether CCSD violated NRS 288.270(1)(c) when one of its employees, David Harris,
3 told Mr. Salazar that filing grievances "was not the way to do things," and that he could "suck it"?

4 4. Whether CCSD violated NRS 288.270(1)(d) by changing Mr. Salazar's work duties,
5 requiring him to perform work outside his class and then refusing to pay him responsibility pay, and
6 holding him to a higher level of scrutiny after this complaint was filed?


7 **Respondents' Statement of Issues**

8 1. Whether the District committed a prohibited labor practice in violation of NRS
9 288.270(1)(a), (c), and (d)?

10
11 This Notice of Hearing will further serve as notice to all parties herein that, upon conclusion of
12 the Hearing or as otherwise necessary to deliberate toward a decision on the complaint, the Board may
13 move to go into closed session pursuant to NRS 288.220(5).

14 DATED 15th day of July 2025.

15
16 GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

17
18 BY 
19 MARISU ROMUALDEZ ABELLAR
Commissioner

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Crystal J. Pugh, Esq.
Betty Foley, Esq.
Office of The General Counsel
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Kelly Valadez
Kelly Valadez
Executive Assistant

ESEA (Complainant)

Complaint

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2 PAUL COTSONIS, ESQ.
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FILED
September 23, 2024
State of Nevada
E.M.R.B.
4:57 p.m.

7 Before the State of Nevada
8 Government Employee-Management
9 Relations Board
10

11 EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

12 Complainant,

13 v.
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15 CLARK COUNTY SCHOOL DISTRICT,

16 Respondent.

CASE NO.: 2024-032

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION'S PROHIBITED
PRACTICE COMPLAINT AGAINST
CLARK COUNTY SCHOOL DISTRICT

17 **INTRODUCTION**

18 This is a prohibited practice complaint pursuant to Nevada Revised Statutes ("NRS")
19 288.270(1)(a), (c)-(d) based on Clark County School District's ("Respondent" or "CCSD")
20 interference with the rights of an employee to engage in protected activity under the Employee-
21 Management Relations Act (the "EMRA" or the "Act"). The Education Support Employees
22 Association ("Union," "Complainant," or "ESEA") asserts that CCSD targeted and retaliated
23 against Zachary Salazar, a Union member who sought assistance from the Union, for exercising

24 ESEA'S PROHIBITED PRACTICES COMPLAINT
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1 his rights under law and for filing grievances concerning working conditions. Furthermore, CCSD
2 violated Salazar's *Weingarten* rights by misleading him concerning the disciplinary nature of an
3 investigatory meeting, and for subjecting him to disparate treatment through the maintenance of
4 a "black book" by management as a result of his having exercised his rights under law and the
5 CBA. Complainant, by and through its undersigned counsel, respectfully submits this Complaint
6 and complains and alleges as follows:

7 **JURISDICTION AND PARTIES**

8 1. At all times relevant herein, Complainant ESEA was and is an "employee
9 organization" pursuant to NRS 288.040 and/or a "labor organization." Complainant's current
10 mailing address is P.O. Box 13447, Las Vegas, NV 89121.

11 2. At all times relevant herein, Respondent CCSD is and was a "Government
12 Employer" pursuant to NRS 288.060. Respondent's current mailing address is 5100 West Sahara
13 Avenue, Las Vegas, NV 89146.

14 3. The Board has jurisdiction of this matter pursuant to NRS 288.110 to hear and
15 determine "any controversy concerning prohibited practices."

16 4. NRS 288.270 provides in relevant part:

17 It is a prohibited practice for a local government employer or its
18 designated representative willfully to:

19 (a) Interfere, restrain, or coerce any employee in the exercise of any
20 right guaranteed under this chapter.

21 ...

22 (c) Discriminate in regard to hiring, tenure or any term or condition
23 of employment to encourage or discourage membership in any employee
24 organization.

25 (d) Discharge or otherwise discriminate against any employee
26 because the employee has signed or filed an affidavit, petition or complaint
or given any information or testimony under this chapter, or because the
employee has formed, joined or chosen to be represented by any employee
organization.

5. The Respondent and Complainant are currently parties to a collective bargaining agreement that is in effect and will be in effect through the 30th day of June, 2025.

FACTUAL ALLEGATIONS

6. Zachary Salazar is employed by the Respondent as a Water Treatment Technician and has been a union member and member of the bargaining unit represented by ESEA at all times relevant to this Complaint.

7. Salazar is an employee covered under the CBA between ESEA and CCSD.

8. On or about August 26, 2024, at approximately 1:30 PM, Mr. Salazar was summoned to the office of Douglas Diaz, the Director of his Department. Salazar was accompanied by David Harris, his immediate supervisor.

9. Before the meeting, Mr. Salazar inquired if the meeting could lead to disciplinary action being taken against him, and Mr. Harris assured him it would not.

10. Despite assurances that the meeting would not lead to discipline, during the meeting, Mr. Salazar was questioned concerning the GPS monitoring of his work vehicle by Roy Marshall, his department lead.

11. Mr. Salazar explained that he was on a protected FMLA telehealth call during his lunch break, and he had previously informed Mr. Marshall of this.

12. Despite this explanation, Mr. Marshall continued to question and target Mr. Salazar in the meeting.

13. In addition, Mr. Salazar believes that his personal FMLA information was improperly shared by management with others, including his co-worker, in order to harm him.

14. As the August 26th meeting further progressed, Mr. Salazar's supervisors aggressively interrogated and harassed him for requesting the filing of a grievance related to working out of classification and not receiving the proper responsibility pay.

1 15. During this interrogation, Mr. Salazar felt intimidated by Mr. Diaz’s demeanor in
2 the meeting and felt he was potentially being disciplined for filing a grievance under the CBA.

3 16. A grievance is a member’s right by virtue of being an employee covered by the
4 CBA and for whom the Union will file a grievance.

5 17. The grievance to which management was referring was requested by Salazar
6 related to work performed on August 25th and management knew of the requested correct pay for
7 the work performed and was clearly referring to that in the August 26th and August 27th meetings
8 with Salazar.

9 18. Immediately following the August 26th meeting, Mr. Diaz informed Mr. Salazar
10 that disciplinary action may be taken against him, which directly contradicted the prior assurance
11 that the meeting would not lead to discipline.

12 19. This misleading conduct by CCSD management violated Mr.
13 Salazar’s *Weingarten* rights, which are protected under the Employee-Management Relations Act
14 and applicable legal precedent.

15 20. Under *NLRB v. J Weingarten, Inc.*, 420 U.S. 251 (1975), an employee has the right
16 to union representation during any interview that may reasonably lead to disciplinary action.

17 21. By falsely indicating that the August 26th meeting would not be disciplinary in
18 nature, CCSD deprived Mr. Salazar of his right to adequate union representation.

19 22. The EMRB has long recognized that *Weingarten* applies under the Nevada EMRA.
20 *See Teamsters Chauffeurs Warehousemen & Helpers and Professional Clerical Public and*
21 *Municipal Employees Local Union No. 533 v. Humboldt General Hospital*, Item No. 246 EMRB,
22 Case Nos. AI-045459 and AI-045460 (1990)

23 23. On August 27, 2024, Mr. Harris informed Mr. Salazar that filing grievances “was
24 not the way to do things” at CCSD and warned him of potential retaliation from Mr. Diaz.
25
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24. On August 27, 2024, Mr. Harris described Mr. Diaz as someone who maintains a “black book” of employees who have filed grievances or crossed him in some way. Mr. Harris explained that those employees are often retaliated against, either by preventing them from advancing in their careers or making their working conditions miserable.

25. Shortly after the August 26th and August 27th meetings, Mr. Salazar's technician status and duties were stripped away without explanation or justification. He was also informed that he could no longer work alone or claim overtime.

26. When Salazar asked Harris about removal of his technician duties and refusal to provide overtime work he was told that this is what happens when grievances are filed and if he had a problem that he could “suck it” and that comes straight from Diaz and not him.

27. These were clear examples of retaliation against Salazar for engaging in protected activity as a union member and filing a grievance.

28. Furthermore, this clearly indicated that Mr. Diaz had placed Mr. Salazar in his “black book” because of Mr. Salazar’s requested grievance.

29. The existence of this "black book" of employees and the threats of retaliation by Mr. Diaz threaten, coerce and restrain employees, like Mr. Salazar, who exercise their legal rights, including the right to file grievances and the right to representation in disciplinary proceedings. This conduct violates the protections provided under the EMRA and constitute a prohibited practice under NRS 288.270.

CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(1)(a), (c)-(d)

30. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

31. Under NRS 288.270(1)(a), it is a prohibited practice to “[i]nterfere, restrain or coerce any employee in the exercise of any right guaranteed under” the EMRA.

1 32. Under NRS 288.270(1)(c), it is a prohibited practice to “[d]iscriminate in regard
2 to hiring, tenure or any term or condition of employment to encourage or discourage membership
3 in any employee organization.”

4 33. Under NRS 288.270(1)(d), it is a prohibited practice to “[d]ischarge or otherwise
5 discriminate against any employee because the employee has signed or filed an affidavit, petition
6 or complaint or given any information or testimony under this chapter, or because the employee
7 has formed, joined or chosen to be represented by any employee organization.”

8 34. Respondent violated Mr. Salazar’s rights under the EMRA when it lied to him and
9 told him the August 26th meeting would not lead to disciplinary action but threat of disciplinary
10 action followed from the meeting. This violated NRS 288.270(1)(a) because it stripped Mr.
11 Salazar of his Weingarten rights and denied him union representation in the meeting.

12 35. Respondent is further interfering with and restraining Mr. Salazar’s rights
13 guaranteed under the EMRA by creating and maintaining a “black book” of employees who file
14 grievances or otherwise assert their legal rights. The use of this "black book" as a tool for
15 retaliation against Mr. Salazar and others violates NRS 288.270(1)(a) by threatening, coercing
16 and restraining employees in the exercise of their legal rights guaranteed under the EMRA.

17 36. The Respondent has violated NRS 288.270(1)(c) by “[d]iscriminat[ing] in regard
18 to...any term or condition of employment to...discourage membership in any employee
19 organization.” The punitive action taken against Salazar, including stripping away his duties and
20 denying him overtime as a direct result of filing grievances is a prohibited practice.

21 37. The Respondent has violated NRS 288.270(1)(d) by “otherwise discriminat[ing]
22 against any employee because the employee...has...chosen to be represented by any employee
23 organization.” Again, the punitive action taken against Salazar, including stripping away his
24 duties and denying him overtime as a direct result of filing grievances is a prohibited practice
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1 under this Section because he necessarily chose union representation in the filing of his grievance
2 under the CBA.

3 38. Respondent continues to this day to engage in prohibited practices because it still
4 is refusing to provide Salazar with overtime, continues to prevent him from performing technician
5 duties, and continues to hold potential disciplinary action over him.

6 **PRAYER FOR RELIEF**

7 Complainant respectfully requests that this Board:

8 1. Find in favor of Complainant and against the Respondent on each and every claim
in this Complaint;

9 2. Find that Respondent violated NRS 288.270(1)(a), (c)-(d) by retaliating against
10 Mr. Salazar for exercising his rights under law and for filing a grievance under the CBA;

11 3. Find that Respondent violated Mr. Salazar's *Weingarten* rights by misleading him
12 about the nature of the August 26, 2024, meeting, thereby depriving him of his union
representation;

13 4. Find that Respondent's creation and maintenance of a "black book" of employees,
14 used for retaliation, violates NRS 288.270(1)(a), (c)-(d);

15 5. Order that Respondent cease and desist from further retaliatory actions against Mr.
16 Salazar and other similarly situated employees;

17 6. Order that Respondent reinstate Mr. Salazar to his former duties and allow him to
18 work overtime;

19 7. Order that Respondent pay Mr. Salazar's lost wages and any other damages
20 incurred as a result of its prohibited practices;

21 8. Order that Respondent pay Complainant's attorney's fees and costs incurred in
this matter; and

1 9. Order such further relief as the Board deems appropriate under the circumstances.

2 Date: September 23, 2024

3 Respectfully submitted,

4 /s/ Nathan R. Ring

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CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, NV 89146

CCSD (Respondent)

Answer to Complaint

OFFICE OF THE GENERAL COUNSEL
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*Attorney for Respondent,
Clark County School District*

STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO.: 2024-032

**CLARK COUNTY SCHOOL DISTRICT'S
ANSWER**

COMES NOW, Respondent, CLARK COUNTY SCHOOL DISTRICT ("District"), by and through its undersigned counsel, and for its Answer to the Complaint on file herein, admits, denies, states, and alleges as follows:

INTRODUCTION

Answering the first paragraph of this section of the Complaint, the District admits that the Education Support Employees Association ("ESEA") filed the instant Complaint which speaks for itself. The District denies and disputes the remaining allegations contained therein.

JURISDICTION AND PARTIES

1. Answering paragraph 1 of the Complaint, the District admits that ESEA is an employee organization in accordance with NRS 288.040. The District is without sufficient knowledge or information to admit or deny the remaining allegations in paragraph 1 of the Complaint and therefore, denies those allegations.

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1 2. Answering paragraph 2 of the Complaint, the District admits that it is a local
2 government employer in accordance with NRS 288.060 and that it maintains offices at 5100 West
3 Sahara Avenue, Las Vegas, NV 89146. The District is without sufficient knowledge or
4 information to admit or deny the remaining allegations in paragraph 2 of the Complaint and
5 therefore, denies those allegations.

6 3. Answering paragraph 3 of the Complaint, that paragraph calls for or requires a legal
7 conclusion, for which no response is required. To the extent that a response is required, the
8 District is without sufficient information or knowledge at this time to admit or deny the allegations
9 contained in said paragraph, and therefore denies the allegations.

10 4. Answering paragraph 4 of the Complaint, that paragraph calls for or requires a legal
11 conclusion, for which no response is required. To the extent that a response is required, NRS
12 288.270 speaks for itself, and the District denies any remaining allegations contained therein.

13 5. Answering paragraph 5 of the Complaint, the District admits that it and ESEA
14 entered into a 2023-2025 Negotiated Agreement through June 30, 2025. The District is without
15 sufficient knowledge or information to admit or deny the remaining allegations in said paragraph,
16 and therefore denies the allegations.

17 **FACTUAL ALLEGATIONS**

18 6. Answering paragraph 6 of the Complaint, the District admits that Zachary Salazar
19 (“Salazar”) is employed with the District as a Water Treatment Technician-Entry Level. The
20 District is without sufficient knowledge or information to admit or deny the remaining allegations
21 in said paragraph, and therefore denies the allegations.

22 7. Answering paragraph 7 of the Complaint, the District admits that Salazar is an
23 employee subject to the 2023-2025 Negotiated Agreement between the District and ESEA. The
24 District is without sufficient knowledge or information to admit or deny the remaining allegations
25 in said paragraph, and therefore denies the allegations.

26 8. Answering paragraph 8 of the Complaint, the District admits that on or about
27 August 26, 2024 Douglas Diaz (“Diaz”), Director III of Facility Optimization at the District, and
28 David Harris (“Harris”), Maintenance Supervisor at the District, met with Salazar. The District is

1 without sufficient knowledge or information to admit or deny the remaining allegations in said
2 paragraph, and therefore denies the allegations.

3 9. Answering paragraph 9 of the Complaint, the District admits that Salazar asked
4 Harris if the meeting on or about August 26, 2024 was a disciplinary meeting, to which Harris
5 responded that the meeting was not. The District is without sufficient knowledge or information to
6 admit or deny the remaining allegations in said paragraph, and therefore denies the allegations.

7 10. Answering paragraph 10 of the Complaint, the District admits that on or about the
8 August 26, 2024 meeting, Salazar was asked about his assigned vehicle idling for approximately
9 an hour and thirty minutes on or about August 16, 2024. The District denies the remaining
10 allegations contained therein.

11 11. Answering paragraph 11 of the Complaint, the District admits that on or about the
12 August 26, 2024 meeting, Salazar stated that while his assigned vehicle was idling for
13 approximately an hour and thirty minutes on or about August 16, 2024, he was on a lunch break
14 and had a telehealth call. The District denies the remaining allegations contained therein.

15 12. Answering paragraph 12 of the Complaint, the District denies the allegations
16 contained therein.

17 13. Answering paragraph 13 of the Complaint, the District denies the allegations
18 contained therein.

19 14. Answering paragraph 14 of the Complaint, the District denies the allegations
20 contained therein.

21 15. Answering paragraph 15 of the Complaint, the District denies the allegations
22 contained therein.

23 16. Answering paragraph 16 of the Complaint, the District admits that the 2023-2025
24 Negotiated Agreement between the District and ESEA contains Article 4 titled "Grievance and
25 Arbitration Procedure" which defines a grievance and identifies that a grievance may be filed by
26 an employee of the District covered by the Negotiated Agreement individually or through ESEA,
27 or by ESEA. The District denies the remaining allegations contained therein.

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1 17. Answering paragraph 17 of the Complaint, the District denies the allegations
2 contained therein.

3 18. Answering paragraph 18 of the Complaint, the District denies the allegations
4 contained therein.

5 19. Answering paragraph 19 of the Complaint, the District denies the allegations
6 contained therein.

7 20. Answering paragraph 20 of the Complaint, that paragraph calls for or requires a
8 legal conclusion, for which no response is required. To the extent that a response is required, the
9 District denies the allegations contained therein.

10 21. Answering paragraph 21 of the Complaint, the District denies the allegations
11 contained therein.

12 22. Answering paragraph 22 of the Complaint, that paragraph calls for or requires a
13 legal conclusion, for which no response is required. To the extent that a response is required, the
14 District admits that the referenced EMRB decisions state what they state and denies any remaining
15 allegations contained therein.

16 23. Answering paragraph 23 of the Complaint, the District denies the allegations
17 contained therein.

18 24. Answering paragraph 24 of the Complaint, the District denies the allegations
19 contained therein.

20 25. Answering paragraph 25 of the Complaint, the District denies the allegations
21 contained therein.

22 26. Answering paragraph 26 of the Complaint, the District denies the allegations
23 contained therein.

24 27. Answering paragraph 27 of the Complaint, the District denies the allegations
25 contained therein.

26 28. Answering paragraph 28 of the Complaint, the District denies the allegations
27 contained therein.

28 ///

29. Answering paragraph 29 of the Complaint, the District denies the allegations contained therein.

CLAIMS FOR RELIEF

Prohibited Practice under NRS 288.270(1)(a), (c)-(d)

30. Answering Paragraph 30 of the Complaint, the District repeats and realleges the responses to paragraphs 1 through 29, inclusive, and incorporates the same as if fully set forth herein.

31. Answering paragraph 31 of the Complaint, that paragraph calls for or requires a legal conclusion, for which no response is required. To the extent that a response is required, the District admits that NRS 288.270(1)(a) states what it states and denies any remaining allegations contained therein.

32. Answering paragraph 32 of the Complaint, that paragraph calls for or requires a legal conclusion, for which no response is required. To the extent that a response is required, the District admits that NRS 288.270(1)(c) states what it states and denies any remaining allegations contained therein.

33. Answering paragraph 33 of the Complaint, that paragraph calls for or requires a legal conclusion, for which no response is required. To the extent that a response is required, the District admits that NRS 288.270(1)(d) states what it states and denies any remaining allegations contained therein.

34. Answering paragraph 34 of the Complaint, the District denies the allegations contained therein.

35. Answering paragraph 35 of the Complaint, the District denies the allegations contained therein.

36. Answering paragraph 36 of the Complaint, the District denies the allegations contained therein.

37. Answering paragraph 37 of the Complaint, the District denies the allegations contained therein.

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1 38. Answering paragraph 38 of the Complaint, the District denies the allegations
2 contained therein.

3 **PRAYER FOR RELIEF**

4 39. Answering the requests for relief 1 through 9 stated in the Complaint, the District
5 denies that Complainant is entitled to any relief.

6 **AFFIRMATIVE DEFENSES**

7 1. The Complaint fails to state a cognizable prohibited practice under NRS Chapter
8 288.

9 2. Any claims raised in the Complaint are untimely.

10 3. The Board lacks authority and jurisdiction to hear and decide contractual disputes
11 between employers and bargaining units.

12 4. Respondent's actions were authorized under Nevada law.

13 5. In the event further inquiry reveals the applicability of additional affirmative
14 defenses, the District reserves the right to amend its Answer to specifically assert additional
15 defenses.

16 **WHEREFORE**, this answering Respondent prays as follows:

17 1. That the Complainant take nothing by way of this Complaint;

18 2. That judgment be awarded in favor of this answering Respondent, the Clark County
19 School District;

20 3. That this answering Respondent, the Clark County School District, be awarded
21 attorney's fees and costs in this matter; and

22 4. For such other and further relief as the Board deems just and appropriate.

23 DATED this 28th day of October, 2024.

24 CLARK COUNTY SCHOOL DISTRICT
25 OFFICE OF THE GENERAL COUNSEL

26 By: /s/ Crystal J. Pugh
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ESEA (Complainant)

Prehearing Statement

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FILED
November 21, 2024
State of Nevada
E.M.R.B.
5:26 p.m.

7 Before the State of Nevada
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9 Government Employee-Management
10 Relations Board

11 EDUCATION SUPPORT EMPLOYEES
12 ASSOCIATION,

13 Complainant,

14 v.

15 Clark County School District

16 Respondent.

CASE NO.: 2024-032

**EDUCATION SUPPORT
EMPLOYEES ASSOCIATION'S
PREHEARING STATEMENT**

17 **INTRODUCTION**

18 Comes now Complainant, Education Support Employees Association (“ESEA” or “the
19 Union”), by and through its attorneys of record, pursuant to NAC 288.250, and submits the following
20 Prehearing Statement in this action currently pending before the Local Government Employee-
21 Management Relations Board (the “Board” or “EMRB”) against the Clark County School District
22 (“CCSD” or “School District.”) ESEA reserves the right to supplement or amend this statement as
23

1 new or additional information becomes available. The Board has jurisdiction over this matter under
2 NRS 288.280, as the facts alleged herein demonstrate a prohibited practice by CCSD under NRS
3 288.270(1)(a) and NRS 228.270(1)(c)-(d).

4 **I. ISSUE OF FACT AND LAW TO BE DECIDED**

5 1. Whether CCSD violated NRS 288.270(1)(a) by interfering with the Weingarten rights
6 of the Union, and its member, Salazar, through its actions on or about August 26, 2024, when it
7 denied that a meeting could lead to “disciplinary” action when asked, questioned Mr. Salazar
8 regarding his activities, the meeting resulted in immediate discipline, and the union was denied the
9 ability to provide adequate representation to Salazar?

10 2. Whether CCSD violated NRS 288.270(1)(d) through adoption of formal or informal
11 policy where it or its management maintains a “black book” of employees who file grievances and
12 then subjects those employees to discipline and subpar working conditions, as well as disciplining
13 Mr. Salazar by withholding job duties and overtime after he filed his grievance?

14 3. Whether CCSD violated NRS 288.270(1)(c) when one of its employees, David
15 Harris, told Mr. Salazar that filing grievances “was not the way to do things,” and that he could
16 “suck it”?

17 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

18 A. CCSD FAILED AND REFUSED TO PROVIDE ADEQUATE NOTICE OF THE
19 SUBJECT MATTER AND SPECIFICITY OF CHARGES TO THE UNION OR ITS
20 MEMBER SALAZAR BEFORE OR AT THE OUTSET OF THE INVESTIGATORY
21 INTERVIEW ON AUGUST 26, 2024.

22 Employees of local government employers covered by collective bargaining agreements are
23 granted rights under the U.S. Supreme Court’s landmark decision in NLRB v. J. Weingarten, Inc.,
24 420 U.S. 251 (1975); Teamsters Chauffeurs Warehousemen & Helpers Local Union No. 533 v.

1 Humboldt General Hospital, EMRB Case Nos. A1-045459 and A1-045460 (1990). The rights granted
2 by the Supreme Court in that case are known as Weingarten rights and the contours of those rights
3 have been developed in the ensuing nearly fifty years through NLRB decisions and court precedent.
4 See, e.g. U.S. Postal Service, 351 NLRB 1344 (2007) and Pac. Tel. & Tel. Co. v. NLRB, 711 F.2d 134
5 (9th Cir. 1983). Weingarten applies when an employee is brought into an investigator interview that
6 could lead to disciplinary action and requests representation. A specific right recognized under
7 Weingarten is the right to know the subject matter of the investigatory interview before the interview
8 to allow for adequate union representation. NLRB, Board Decision, United States Postal Service, 371
9 N.L.R.B. No. 7.

10 Here, CCSD refused to respect its employee and his union's Weingarten rights by refusing to
11 provide notice of the subject matter of the investigatory interview of Salazar before the interview or
12 at its outset. In fact, CCSD lied to the employee. Mr. Salazar clearly asked Mr. Harris whether the
13 meeting would be "disciplinary." Mr. Harris stated that it would not be, but Mr. Salazar was then
14 questioned by CCSD management, and he was told, following the meeting, that disciplinary action
15 may be taken against him.

16 Under applicable precedent, this is a violation of an employee's Weingarten rights. Pac. Tel.
17 & Tel. Co. v. NLRB, 711 F.2d 134 (9th Cir. 1983). As the Ninth Circuit stated therein, providing
18 accurate information about the subject matter of an investigatory interview before it is conducted is
19 crucial for a union representative to effectively assist and protect the employee's rights. Id. Without
20 this information, the union's ability to provide meaningful representation is significantly diminished
21 or outright denied. Id. An employer must provide information to the employee and the union
22 concerning the subject matter of the interview. Id.

23 The Pac. Tel. & Tel. Co. cases illustrate that the refusal to provide information about the

1 subject matter of investigatory interviews not only interferes with an employee's right to
2 representation under Weingarten, but also significantly impairs or completely hinders the union's
3 ability to function as an advocate for the member.

4 CCSD violated Weingarten and denied Mr. Salazar the benefits of union representation. If
5 CCSD had accurately informed Mr. Salazar that the meeting could have led to potential discipline,
6 he would have been entitled to union representation. Because Mr. Salazar was told that the meeting
7 was "not disciplinary," Mr. Salazar had no reason to ask that a Union representative be present at the
8 meeting. However, CCSD engaged in an obvious bait and switch. CCSD lied to Salazar and failed to
9 provide details concerning the subject matter of the August 26, 2024, interview. These actions are
10 directly contrary to the well-established body of law under Weingarten.

11 Furthermore, under NRS 288.270(1)(a), the test for interference with employee rights is
12 whether the employer's action can be reasonably viewed as tending to interfere, coerce, or deter the
13 exercise of protected activity. As established in AFSCME Local 4041 v. State of Nevada, Case No.
14 2020-001, Item No. 861-B (2021), and Juvenile Justice Supervisors Ass'n v. County of Clark, Case
15 No. 2017-020, Item No. 834 (2018), once the employer's conduct can be reasonably seen as
16 interfering with the free exercise of employee rights, (such as Weingarten rights), the burden shifts
17 to the employer to justify its actions with a substantial and legitimate business reason.

18 In this case, CCSD cannot provide any substantial or legitimate justification for its violation
19 of this employee's Weingarten rights. Pursuant to NRS 288.270(a), it is clear that CCSD engaged in
20 a prohibited practice by lying to Mr. Salazar when it informed him that the August 26, 2024, meeting
21 was "not disciplinary." CCSD's actions denied him the ability to have union representation in an
22 investigatory interview that could result in discipline. CCSD engaged in a prohibited practice.

1 B. CCSD VIOLATED NRS 288.270(1)(d) THROUGH A POLICY OF MAINTAINING A
2 'BLACK BOOK' OF EMPLOYEES WHO FILE GRIEVANCES AND SUBJECTING
3 THEM TO DISCIPLINE AND SUBPAR WORKING CONDITIONS

4 NRS 288.270(1)(d) provides the following:

5 1. It is a prohibited practice for a local government employer
6 or its designated representative willfully to:

7 ...
8 (d) Discharge or otherwise discriminate against any employee
9 because the employee has signed or filed an affidavit, petition or
10 complaint or given any information or testimony under this chapter,
11 or because the employee has formed, joined or chosen to be
12 represented by any employee organization.

13 NRS 288.270(1)(d).

14 Nevada's EMRA was passed as a state level equivalent to the National Labor Relations Act,
15 which provides the following under 29 USC § 158(a)(4). "It shall be an unfair labor practice for an
16 employer to "Discharge or otherwise discriminate against an employee because he has filed
17 charges or given testimony under this subchapter."

18 For an aggrieved employee to proceed under NRS 288.270(1)(d), they must make a prima
19 facie case showing that the protected conduct was a motivating factor for the employer's
20 decision. *Bisch v. Las Vegas Metro Police Dep't*, 129 Nev. Adv. Op. 36, 302 P.3d 1108 (2013).
21 When this is established, the burden shifts to the employer to demonstrate by a preponderance of
22 the evidence that the same action would have taken place even in the absence of the protected
23 conduct. *Id* at 1116. Moreover, when an employment action is undertaken within close temporal
24 proximity to protected conduct, retaliatory intent may be inferred. *Passantino v. Johnson & Johnson*
25 *Consumer Prod., Inc.*, 212 F.3d 493, 507 (9th Cir. 2000).

26 Here, Mr. Salazar filed grievances after being given job assignments that should have been
reserved for Water Treatment Technicians when Mr. Salazar was a Water Treatment Technician
(Entry Level). Pursuant to the collective bargaining agreement between ESEA and CCSD, he should

1 have been given “responsibility pay” or what is essentially a pay promotion for performing these
2 specific tasks. CCSD did not provide responsibility pay to Mr. Salazar for these specific tasks, even
3 after he requested it. Mr. Salazar then filed a grievance on August 19, 2024, stating that “Technician
4 Work orders being assigned despite being entry level and the district being told several months ago
5 to not assign us technician work without responsibility pay or being promoted to technician. Work
6 orders say that I am a technician.”

7 Subsequently, on or about August 27, 2024, Mr. Salazar attended a meeting with his
8 supervisor Dave Harris wherein he was told by Harris that “Doug has a black book of people who
9 have crossed him, and he does everything in his power to make those people’s lives miserable or keep
10 them from promoting or moving on into other positions in their Work careers at the District.” The
11 “Doug” that Mr. Harris was referring to was Manager Doug Diaz. Following this meeting and his
12 filing of grievance, Mr. Salazar’s technician status was stripped from him, and he was also told that
13 he could no longer work overtime or work alone.

14 This meeting and the actions taken against Mr. Salazar thereafter demonstrates a prima facie
15 case of retaliation based on Mr. Salazar’s filing of a grievance. Mr. Salazar filed the grievance on
16 August 19, 2024, 7 days prior to the first disciplinary meeting on August 26, 2024. On August 27,
17 2024, he was told by his supervisor that his manager kept a black book of employees who have
18 “crossed him” by filing grievances, and his overtime and technician status was then taken away.

19 There is nothing that CCSD can demonstrate, beyond outright denial of the veracity of the
20 statements, that could show that Mr. Salazar’s discipline was anything other than discriminating
21 against him for having “formed, joined or chosen to be represented by any employee organization.”

22 Even if CCSD denies that these statements were made, the timing of the removal of Mr.
23 Salazar’s overtime, which was only eight days after his grievance was filed demonstrates retaliatory

1 intent, as it was an “adverse employment action taken within a reasonable period of time after
2 complaints of discrimination were made.” *Passantino v. Johnson & Johnson Consumer Prod., Inc.*,
3 212 F.3d 493. CCSD clearly violated NRS 288.270(1)(d) when it told Mr. Salazar that Mr. Diaz kept
4 a ‘black book’ of employees who filed grievances, as well as when it punished Mr. Salazar by removing
5 his overtime pay after the grievances were filed. The intention of CCSD, Harris and Diaz was to chill
6 Salazar’s exercise of his rights under the EMRA.

7 C. CCSD VIOLATED NRS 288.270(1)(c) BY TELLING ITS EMPLOYEES FILING
8 GRIEVANCES IS ‘NOT THE WAY TO DO THINGS’

9 It is unlawful under NRS 288.270(1)(c) to “discriminate in regard to hiring, tenure or any
10 term or condition of employment to encourage or discourage membership in any employee
11 organization.” Discrimination in terms of employment to discourage membership in an employee
12 organization can take many forms, but often takes place in the form of statements made by
13 management which discourage and chill union activity. When these statements are made, the Board
14 may draw inferences from and make conclusions on proven facts with regard to whether antiunion
15 or animus existed. *National Labor Relations Board v. Electric Steam Radiator Corp.*, 321 F. 2d 733,
738 (6th Cir. 1963).

16 Specific intent to discriminate against or interfere with the union or its members is not
17 required “when the employer’s conduct inherently encourages or discourage union membership.”
18 *Radio Officer’s Union, etc. v. National Labor Relations Board*, 347 U.S. 17, 44, 74 S. Ct. 323, 338
19 (emphasis added.) Furthermore, the existence of discrimination or interference may be inferred by
20 the Board based upon its experience in the labor management relations area. *National Labor*
21 *Relations Board v. Erie Resistor Corp.*, 373 U.S. 221, 227, 83 S. Ct. 1139, 1144 (1963).

22 Here, when Mr. Harris told Mr. Salazar that (1) “filing grievances is not the way to do things,”
23 (2) that Mr. Diaz kept a “black book” of employees who have filed grievances, or (3) that “he could

suck it, and that comes straight from Doug” that Mr. Harris and Mr. Diaz’s intent was to discourage membership in the employee organization and to chill Salazar’s rights under the EMRA. By stating that ‘filing grievances is not the way to do things,’ it is abundantly clear that Mr. Harris did not want Mr. Salazar to engage in the protected union activity of filing a grievance. This is direct evidence of interference with Salazar’s participation as a union member. The employer’s actions in then taking away overtime from Salazar and changing his terms and conditions of employment thereafter are discrimination in terms and conditions of employment. For these reasons, CCSD violated NRS 288.270(1)(c).

III. STATEMENT OF FACTS

Zachary Salazar is employed by Clark County School District as a Water Treatment Technician, Entry Level, and is a union member and member of the bargaining unit represented by ESEA. As such, Mr. Salazar is an employee covered under the CBA between ESEA and CCSD.

On or about August 26, 2024, at approximately 1:30 PM, Mr. Salazar was summoned to the office of Douglas Diaz, the Director of his Department. Mr. Salazar was accompanied by David Harris, his immediate supervisor. Before the meeting, Mr. Salazar inquired if the meeting could lead to disciplinary action being taken against him, and Mr. Harris assured him it would not.

Despite assurances that the meeting would not lead to disciplinary action, during the meeting, Mr. Salazar was questioned concerning the GPS monitoring of his work vehicle by Roy Marshall, his department lead. Mr. Salazar explained that he was on a protected FMLA telehealth call during his lunch break, and previously had informed Mr. Marshall of this fact. Despite this explanation, Mr. Marshall continued to question and target Mr. Salazar in the meeting.

As the August 26th meeting further progressed, Mr. Salazar’s supervisors aggressively interrogated and harassed him for requesting the filing of a grievance related to working out of

1 classification and not receiving the proper responsibility pay, as is required per the terms of the CBA
2 signed by ESEA and CCSD. During this interrogation, Mr. Salazar felt intimidated by Mr. Diaz's
3 demeanor in the meeting and felt he was potentially being disciplined for filing a grievance under the
4 CBA.

5 At the conclusion of the August 26th meeting, Mr. Diaz informed Mr. Salazar that disciplinary
6 action may be taken against him, which directly contradicted the prior assurance that the meeting
7 would not lead to disciplinary action. CCSD's conduct was misleading and violated Mr.
8 Salazar's Weingarten rights.

9 On August 27, 2024, Mr. Harris informed Mr. Salazar that filing grievances "was not the way
10 to do things" at CCSD and warned him of potential retaliation from Mr. Diaz. Mr. Harris additionally
11 described Mr. Diaz as someone who maintains a "black book" of employees who have filed
12 grievances or crossed him in some way. Mr. Harris explained that those employees are often retaliated
13 against, either by preventing them from advancing in their careers or making their working conditions
14 miserable.

15 Shortly after the August 26th and August 27th meetings, Mr. Salazar's technician status and
16 duties were stripped away from him by management without explanation or justification. He was also
17 informed that he could no longer work alone or work overtime.

18 When Salazar asked Harris about removal of his technician duties and refusal to provide
19 overtime work, he was told that this is what happens when grievances are filed and if he had a
20 problem that he could "suck it" and "that comes straight from Diaz and not him."

21 The existence of a "black book" of employees and the threats of retaliation by Mr. Diaz
22 threaten, coerce and restrain employees, like Mr. Salazar, who exercise their legal rights, including the
23 right to file grievances and the right to representation in disciplinary proceedings.

IV. POTENTIAL WITNESSES

Local 14 intends to call the following witnesses:

1. Zachary Salazar, Water Treatment Technician, Entry Level, CCSD. Mr. Salazar will testify regarding his grievances on lack of responsibility pay, the investigatory/disciplinary interview held on August 26, 2024 with Doug Diaz, the subsequent meeting held on August 27, 2024 with Dave Harris, and the discipline and changed work terms and conditions that Mr. Salazar faced as a result of filing the grievances.

2. Johnnie Ortega, Business Agent/Representative for Teamsters Local 14 (Servicing Agent of ESEA). Mr. Ortega will testify concerning the Negotiated Agreement between CCSD and ESEA, which requires that no employee be assigned work in higher class positions unless assigned in writing by the appropriate administrator, and that an employee who performs these responsibilities for 6 months will be promoted to the higher-class position. Mr. Ortega will also testify concerning his attempts to have Doug Diaz, director of Facilities Optimization, place Mr. Salazar into the higher-level technician position and his conversations with Diaz following his change of terms and conditions of employment of Mr. Salazar.

3. Kevin Rodella, HVACR Technician at Clark County School District. Mr. Rodella will testify concerning his observations of the September 18, 2024, meeting between Roy Marshall, David Harris, and Mr. Salazar, wherein Mr. Salazar asked his supervisors Roy Marshall and David Harris why he was no longer given overtime.

4. Cedric Cole, Assistant Human Resources officer for Clark County School District. Mr. Cole will testify regarding CCSD's policies with regards to investigatory reviews, overtime, and the negotiated agreement between ESEA and CCSD. Mr. Cole additionally will testify as to ESEA's efforts to have Mr. Salazar placed into the 'technician' role instead of 'technician – entry level,' pursuant to the negotiated agreement.

1 5. Douglas Diaz Jr., Director of Facilities Optimization at Clark County School District.
2 Mr. Diaz is expected to testify regarding his practice of placing employees who file grievances or
3 ‘cross him’ in a ‘black book,’ and the subsequent retaliation against those employees. Mr. Diaz will
4 also testify regarding his statement to Mr. Harris that Mr. Salazar could “suck it” after he filed the
5 subject grievances. Further, Mr. Diaz is expected testify concerning the facts and circumstances of
6 the August 26, 2024 investigatory interview of Salazar.

7 6. David Harris, Supervisor of Facilities Optimization at Clark County School District.
8 Mr. Harris is expected to testify regarding his refusal to provide Mr. Salazar with overtime at Doug
9 Diaz’s direction, and his discussion with Mr. Salazar on August 26, 2024, in which Mr. Salazar asked
10 Mr. Harris if the meeting would be disciplinary, to which Mr. Harris said “no.” Mr. Harris is further
11 expected to testify as to his statement to Mr. Salazar on August 27, 2024, wherein he stated that
12 “filing grievances is not the way to do things at CCSD, especially not with Doug.”

13 Mr. Harris is also expected to testify concerning his discussion with Mr. Salazar wherein he
14 told Mr. Salazar that Mr. Diaz kept a “black book of people who have crossed him.” Mr. Harris is
15 also expected to testify concerning his August 27, 2024, statement to Mr. Salazar that “[t]his is what
16 happens when grievances are filed, and if you have a problem, you can suck it and that comes straight
17 from Doug.”

18 7. Local 14 reserves the right to amend its list of witnesses as new witnesses become
19 known during the course of this proceeding, including any and all witnesses named by Clark County
20 School District.

21 **V. RELATED PROCEEDINGS**

22 Mr. Salazar filed 4 grievances through ESEA which caused the prohibited practices of CCSD
23 to occur. These grievances were filed on August 19, 2024, September 10, 2024, and September 17-

1 18, 2024. The merit of those grievances is not at issue in this proceeding and this matter does not
2 need to be deferred pending resolution of those grievances. The actions complained of her do not
3 touch upon the merits of any grievance.

4 There are no other pending or anticipated administrative, judicial, or other proceedings
5 related to the subject matter of this hearing.

6 **VI. ESTIMATED TIME FOR LOCAL 14'S PRESENTATION**

7 ESEA estimates that its presentation will take approximately 8 hours, depending on the
8 time required for cross-examination.

9 **VII. CONCLUSION**

10 Complainant, ESEA, requests that the Board declare the Respondent, CCSD, committed a
11 prohibited practice under NRS 288.270(1)(a) by failing to provide sufficient notice of the subject
12 matter of the investigatory interview of Mr. Salazar before the interview was conducted, interfering
13 with the union's ability to represent its member during the interview by deceiving Mr. Salazar and
14 stating the meeting was not 'disciplinary' when, in fact, it was.

15 Complainant, ESEA, further requests that the Board declare the Respondent, CCSD,
16 committed a prohibited practice under NRS 288.270(1)(c)-(d) by disciplining and changing Mr.
17 Salazar's terms and conditions of employment for exercising his rights under the CBA to file
18 grievances and for his membership and association in the Union.

19 ESEA requests that the EMRB prohibit CCSD from maintaining any lists, "black books" or
20 other documents used to maintain a record of or punish protected union activity, that CCSD refrain
21 from telling employees that "filing grievances isn't the way to do things" and that CCSD refrain from
22 disciplining employees who exercise their right to file grievances under the CBA. ESEA requests the

1 enhanced remedy that Doug Diaz be required to read before a meeting of his subordinates the
2 Board's Order in this matter. See Federated Logistics & Operations, 340 NLRB 255, 258 (2003).
3

4 Date: November 21, 2024

5 Respectfully submitted,

6 /s/ Nathan R. Ring

7
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23

1 CERTIFICATE OF SERVICE

2 I hereby certify that on November 22, 2024, I have mailed, as required by NAC 288.070(d)(3),
3 a true and correct copy of ESEA’S PREHEARING STATEMENT as addressed below. I also have
4 filed the document with the Nevada Government Employee-Management Relations Board via its
5 email address at emrb@business.nv.gov:

6 CLARK COUNTY SCHOOL DISTRICT
7 5100 West Sahara Avenue
8 Las Vegas, NV 89146

9 /s/ Michelle Wade

CCSD (Respondent)

Prehearing Statement

FILED

NOV 25 2024

STATE OF NEVADA
E.M.R.B.

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STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO.: 2024-032

**CLARK COUNTY SCHOOL DISTRICT'S
PREHEARING STATEMENT**

COMES NOW, Respondent, CLARK COUNTY SCHOOL DISTRICT ("District"), by and through its undersigned counsel, and pursuant to NAC 288.250 submits the following Prehearing Statement in this action before the Local Government Employee-Management Relations Board ("Board" or "EMRB"). The District reserves the right to supplement or amend this Statement as new or additional information becomes available.

I.

STATEMENT OF THE ISSUES

Whether the District committed a prohibited labor practice in violation of NRS 288.270(1)(a), (c), and (d)?

...

...

...

...

1 II.

2 MEMORANDUM OF POINTS AND AUTHORITIES

3 A. INTRODUCTION

4 The Complainant Education Support Employee Association (“ESEA”) initiated this action
5 against the District based on an alleged prohibited practice concerning actions taken against an
6 employee named Zachary Salazar following his submission of a grievance. More specifically,
7 ESEA claims that Salazar was called into a disciplinary meeting and was told it was not a
8 disciplinary meeting, and therefore, Salazar was not afforded the ability to have a union
9 representative present, thereby violating his *Weingarten* rights. ESEA further claims that Salazar’s
10 Family Medical Leave (FMLA) information was somehow improperly shared with others, he was
11 interrogated for filing a grievance related to responsibility pay under the applicable negotiated
12 agreement, that there is some type of “black book” by an administrator for employees who file
13 grievances or cross him in some way, and that Salazar was retaliated against in no longer being
14 able to work alone or claim overtime. The allegations leave much information to be revealed by
15 ESEA since they distort and conflate information known by the District. Overall, the Complaint
16 appears premised on conjecture, Salazar’s self-serving perspective, and a vendetta against an
17 administrator without factual support for the same. The District should not be found to have
18 committed a prohibited labor practice in violation of NRS 288.270(1)(a), (c), or (d) under such
19 confounding circumstances.

20 B. RELEVANT AUTHORITY

21 NRS 288.270 states, in relevant part:

22 1. It is a prohibited practice for a local government employer or its designated
23 representative willfully to:

24 (a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under
this chapter.

25 ...

26 (c) Discriminate in regard to hiring, tenure or any term or condition of employment to
encourage or discourage membership in any employee organization.

27 ...

28 (d) Discharge or otherwise discriminate against any employee because the employee has
signed or filed an affidavit, petition or complaint or given any information or testimony

1 under this chapter, or because the employee has formed, joined or chosen to be represented
2 by any employee organization.

3 **C. RELEVANT FACTS**

4 As identified in the introductory paragraph, the allegations in this case leave much
5 information to be identified and disclosed to the District. Despite the District's attempt to better
6 understand the allegations and their integrity, it provides this prehearing statement based on
7 information known and what can be surmised at this time.

8 On September 10, 2024, ESEA filed a grievance under the applicable negotiated agreement
9 between ESEA and the District grieving the alleged non-payment of responsibility pay to Salazar
10 and failure to move to a higher-level position. The matter was designated Grievance
11 # 2425/SK/01/05T and relevantly concerns Article 5-1-2-3 which provides:

12 An Employee who performs the responsibilities of a higher rated support
13 professional vacant position for six (6) consecutive months, will be promoted to
14 that position and placed in the salary schedule at the Step-in accordance with
15 Article 19 or Regulation 4293. The District agrees that it will not utilize this
16 provision to circumvent to the competitive bidding for promotional vacancies.

16 Salazar is employed with the District as a "Water Treatment Technician-Entry Level" and
17 maintained that he was doing the work of higher-level position, "Water Treatment Technician,"
18 and therefore, should be provided responsibility pay for his work and be promoted to the higher
19 level position under Article 5. The grievance was denied and subsequently moved to arbitration by
20 ESEA, on October 30, 2024. The arbitration has not been scheduled.

21 Before the filing of the referenced grievance, Salazar met with Doug Diaz, Director III of
22 Facility Optimization at the District, and David Harris, Maintenance Supervisor at the District, on
23 or about August 26, 2024. Despite allegations to the contrary, Roy Marshall, Maintenance Leader
24 at the District, was not present at the meeting. The intent of the meeting was to informally discuss
25 employee concerns taking place between Salazar and another employee and Salazar's assigned
26 vehicle idling for approximately an hour and thirty minutes on or about August 16, 2024 as staff
27 were trying to locate Salazar for an assignment, could not reach him, grew concerned, and found
28 through GPS that his District-assigned vehicle was idling for a prolonged period of time. Diaz did

1 not treat the meeting as a disciplinary meeting and was not discourteous or threatening. He treated
2 the meeting as a supervisory meeting as he was concerned and sought to provide appropriate
3 direction as needed, not discipline. Salazar maintained that he was on a lunch break and taking a
4 telehealth call. He acknowledged that he had not informed anyone he would be unavailable during
5 that time (meaning, staff was unaware of his unavailability or being on lunch) and that his lunch
6 break is only for half an hour, not an hour and a half. Salazar was not disciplined for the incident,
7 as once more, that was not the meeting's purpose.

8 With respect to the Complaint's contention that (1) Salazar's FMLA information was
9 shared by management to others, and (2) Mr. Harris informed Salazar about retaliation from
10 Mr. Diaz and Mr. Diaz maintaining a "black book," there is no support for the allegations.
11 Mr. Harris denies making any such of the alleged representations about Mr. Diaz to Salazar.

12 With respect to the Complaint's contention that Salazar's technician status and duties were
13 "stripped away without explanation or justification" and Salazar was informed he could no longer
14 work alone or claim overtime, there is no support for the allegations. Salazar remains a Water
15 Treatment Technician-Entry Level with the same duties and responsibilities afforded under the
16 position and has never been informed he could not claim overtime if overtime was appropriately
17 worked. Salazar is seemingly taking issue with the District ensuring his duties are in line with his
18 entry level position in an effort to continue arguing he is doing the work of higher level position
19 "Water Treatment Technician," and therefore, should be provided responsibility pay for his work
20 and be promoted to the higher level position. Ultimately, what Salazar and ESEA seek is
21 contractual and the subject of a grievance, not one that can be used as a shield and a sword to aver
22 interference or discrimination.

23 **D. ARGUMENT**

24 ESEA alleges prohibited labor practices against the District under NRS 288.270(1)(a), (c),
25 and (d). The factual allegations in support of such claimed violations appear to be that: (1) Salazar
26 was questioned without a union representative present when Salazar asked if the meeting would
27 lead to discipline; (2) Salazar was questioned or felt threatened concerning his filing of a
28 grievance; (3) Salazar was retaliated against for filing a grievance in having duties removed away

1 from him and not being offered overtime. The allegations improperly contort facts and
2 circumstances in an effort to aver violations known to be false.

3 To begin, the District did not violate Salazar's *Weingarten* rights when it held a supervisory
4 meeting with him which was not intended to result in discipline, as communicated to him, nor did
5 it result in discipline. This Board has previously determined that a local government employee
6 who is represented by an employee organization has *Weingarten* rights, including the right on
7 request to have a representative of said organization present at an investigatory interview that the
8 employee reasonably believes may lead to discipline or which the employer seeks information to
9 enable it to impose discipline. Case Nos. A1-045459 and A1-045460, *Teamsters v. Humboldt*
10 *General Hospital* (6/11/90), Item No. 246. The employee's belief that a meeting may lead to
11 discipline must be objectively reasonable based upon all the circumstances of the case. *Brian*
12 *Heitzinger v. Las Vegas-Clark County Library District; Teamsters Local 14; and Amanda Lively*
13 *(1/30/12)*, Item No. 728C. As recognized by this Board, *Weingarten* rights do not guarantee an
14 employee a right to representation in every employer-conducted interview. Case No. A1-045964,
15 *North Las Vegas Police Officers Association; and Officer Gianni Cavaricci vs. The City of North*
16 *Las Vegas Police Department (03/03/11)*, Item No. 717A. *Weingarten* rights apply in cases in
17 which a "risk of discipline reasonably inheres." *Id.* Moreover, the chief remedy for a *Weingarten*
18 rights violation is for the employee to be made whole, by restoring to the employee rights lost or
19 other damage for which the violation was a legal cause. Case No. A1-045782, *Education Support*
20 *Employees Association vs. Clark County School District; Fran Juhasz, Juareen Castillo, Alive*
21 *Favella, Katie Barmettler and Lleeann Love (10/11/05)*, Item No. 568B.

22 Here, a *Weingarten* right violation cannot be maintained under the sole reason that an
23 employer-conducted interview occurred. Salazar was questioned by his supervisor concerning
24 concerns Salazar had with another employee and to understand why his vehicle was idling during
25 contract time for a prolonged period of time while he was unreachable; however, the meeting was
26 one of concern and to provide appropriate direction as needed, not discipline. That no discipline
27 was issued evidences the veracity of the intent and representation. Even putting aside the factual
28 disagreement, what ESEA and Salazar omit is that there is a procedure in place for how

1 investigatory interviews that may lead to discipline are noticed, issued, and coordinated. Indeed,
2 the negotiated agreement between ESEA and the District provides that “Employees will be
3 provided a minimum of two (2) Days written notice of a mandated investigatory interview.”
4 (Emphasis added). The written notice is a template form that identifies concerns that are the
5 subject of investigation and is generally provided to the employee in person for acknowledgement
6 of receipt. In conformity with the negotiated agreement, an employee is provided time to seek
7 union assistance and representation, if desired, and the District works with the union to ensure an
8 investigatory interview can proceed at a mutually available date and time. None of this occurred
9 with Salazar because, once more, the meeting was supervisory in nature and not disciplinary.
10 A *Weingarten* right violation does not occur every time there is an employer-conducted interview
11 and did not occur under these circumstances.

12 The complaint also fails to provide credible or persuasive allegations that Salazar was
13 questioned or felt threatened concerning his filing of a grievance. The meeting between Salazar
14 and Mr. Diaz took place on or about August 26, 2024. The grievance concerning Salazar was filed
15 on September 10, 2024. Chronologically, it cannot be said that the grievance prompted questioning
16 or threats a month prior, even taking the allegations at face value. Further, while the complaint
17 imputes some “black book” of retaliation on Mr. Diaz, no such “black book” exists and the
18 complaint is devoid of facts supporting otherwise.

19 Finally, the complaint alleges a prohibited labor practice in Salazar allegedly having duties
20 removed away from him and not being offered overtime. Noticeably absent from the complaint is
21 any identification as to what duties were removed from his position; that is, because none were.
22 Salazar remains a “Water Treatment Technician-Entry Level.” ESEA took issue that Salazar was
23 working independently at times and outside his scope of work, and therefore, an effort was made to
24 ensure Salazar’s duties remained in line with his position. This attempt has now seemingly been
25 characterized as “retaliatory.” Overall, it appears that ESEA is seeking to force the District to have
26 Salazar do work outside of his scope of work (while at the same time faulting the District for this)
27 so he may continue seeking responsibility pay and a promotion to a higher level position.
28 However, those issues are contractual and the subject of a pending grievance. ESEA cannot and

1 should not be permitted to take one position in one matter (*i.e.* contractually what is/is not
2 required) while taking an inconsistent position (*i.e.* this is all retaliatory) in another. Lastly, there
3 is no evidence that Salazar was denied overtime, let alone because of a filed grievance.

4 **E. CONCLUSION**

5 For the reasons stated herein, the District requests that Complainant take nothing by way of
6 its Complaint and that judgment be rendered in favor of the District as follows:

- 7 1. The District did not engage in a prohibited labor practice.
- 8 2. The District did not violate NRS 288.270(1)(a),(c), or (d).
- 9 3. The Complainants are not entitled to attorneys' fees and the District is entitled to
10 attorneys' fees.

11 **III.**

12 **LIST OF WITNESSES**

- 13 1. Douglas Diaz, Director III of Facility Optimization for the Clark County School
14 District, is expected to testify regarding his knowledge and actions concerning Complainant's
15 allegations.
- 16 2. David Harris, Maintenance Supervisor with the Clark County School District, is
17 expected to testify regarding his knowledge and actions concerning Complainant's allegations.
- 18 3. Roy Marshall, Maintenance Leader with the Clark County School District, is
19 expected to testify regarding his knowledge and actions concerning Complainant's allegations.
- 20 4. The District reserves the right to call additional witnesses as deemed appropriate
21 and necessary.

22 **IV.**

23 **STATEMENT OF OTHER RELATED PROCEEDINGS**

24 There is a proceeding pending related to the subject of this hearing. It has been identified
25 herein as Grievance # 2425/SK/01/05T and concerns Salazar's request for pay and promotion. The
26 grievance was moved to arbitration on October 30, 2024 and has not yet been scheduled for
27 arbitration.

28 **V.**

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ESTIMATED TIME OF PRESENTATION

It is estimated that the District would need four (4) hours to present its position; however, this is contingent on ESEA’s case as their allegations are broad and as noted in this statement, there is a level of specificity and detail that is missing.

DATED this 22nd day of November, 2024.

CLARK COUNTY SCHOOL DISTRICT
OFFICE OF THE GENERAL COUNSEL

By: /s/ Crystal J. Pugh
CRYSTAL J. PUGH, ESQ.
Nevada Bar No. 12396
5100 West Sahara Avenue
Las Vegas, Nevada 89146
*Attorney for Respondent,
Clark County School District*

ESEA (Complainant)

Amended Complaint

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Counsel for Complainant

FILED
December 20, 2024
State of Nevada
E.M.R.B.
11:09 a.m.

6
7 Before the State of Nevada
8 Government Employee-Management
9 Relations Board

10
11 EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,
12
Complainant,
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v.
14 CLARK COUNTY SCHOOL DISTRICT,
15
Respondent.

CASE NO.: 2024-032

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION'S AMENDED
PROHIBITED PRACTICE COMPLAINT
AGAINST CLARK COUNTY SCHOOL
DISTRICT

16
17 **INTRODUCTION**

18 This is an amended prohibited practice complaint pursuant to Nevada Revised Statutes
19 ("NRS") 288.270(1)(a), (c)-(d) and NAC 288.235 based on Clark County School District's
20 ("Respondent" or "CCSD") interference with the rights of an employee to engage in protected
21 activity under the Employee-Management Relations Act (the "EMRA" or the "Act"). The
22 Education Support Employees Association ("Union," "Complainant," or "ESEA") asserts that
23 CCSD targeted and retaliated against Zachary Salazar, a Union member who sought assistance

ESEA'S AMENDED PROHIBITED PRACTICES COMPLAINT

1 from the Union, for exercising his rights under law and for filing grievances concerning
2 working conditions. Furthermore, CCSD violated Salazar's *Weingarten* rights by misleading
3 him concerning the disciplinary nature of an investigatory meeting, and for subjecting him to
4 disparate treatment through the maintenance of a "black book" by management as a result of his
5 having exercised his rights under law and the CBA. Complainant, by and through its
6 undersigned counsel, respectfully submits this Complaint and complains and alleges as follows:

7 JURISDICTION AND PARTIES

8 1. At all times relevant herein, Complainant ESEA was and is an "employee organization"
9 pursuant to NRS 288.040 and/or a "labor organization." Complainant's current mailing address
10 is P.O. Box 13447, Las Vegas, NV 89121.

11 2. At all times relevant herein, Respondent CCSD is and was a "Government Employer"
12 pursuant to NRS 288.060. Respondent's current mailing address is 5100 West Sahara Avenue,
13 Las Vegas, NV 89146.

14 3. The Board has jurisdiction of this matter pursuant to NRS 288.110 to hear and determine
15 "any controversy concerning prohibited practices."

16 4. NRS 288.270 provides in relevant part:

17 It is a prohibited practice for a local government employer or its
18 designated representative willfully to:

19 (a) Interfere, restrain, or coerce any employee in the exercise of any right
20 guaranteed under this chapter.

21 ...

22 (c) Discriminate in regard to hiring, tenure or any term or condition of
23 employment to encourage or discourage membership in any employee
24 organization.

25 (d) Discharge or otherwise discriminate against any employee because the
26 employee has signed or filed an affidavit, petition or complaint or given
any information or testimony under this chapter, or because the employee
has formed, joined or chosen to be represented by any employee
organization.

5. The Respondent and Complainant are currently parties to a collective bargaining agreement that is in effect and will be in effect through the 30th day of June, 2025.

FACTUAL ALLEGATIONS

6. Zachary Salazar is employed by the Respondent as a Water Treatment Technician and has been a union member and member of the bargaining unit represented by ESEA at all times relevant to this Complaint.

7. Salazar is an employee covered under the CBA between ESEA and CCSD.

8. On or about August 26, 2024, at approximately 1:30 PM, Mr. Salazar was summoned to the office of Douglas Diaz, the Director of his Department. Salazar was accompanied by David Harris, his immediate supervisor.

9. Before the meeting, Mr. Salazar inquired if the meeting could lead to disciplinary action being taken against him, and Mr. Harris assured him it would not.

10. Despite assurances that the meeting would not lead to discipline, during the meeting, Mr. Salazar was questioned concerning the GPS monitoring of his work vehicle by Roy Marshall, his department lead.

11. Mr. Salazar explained that he was on a protected FMLA telehealth call during his lunch break, and he had previously informed Mr. Marshall of this.

12. Despite this explanation, Mr. Marshall continued to question and target Mr. Salazar in the meeting.

13. In addition, Mr. Salazar believes that his personal FMLA information was improperly shared by management with others, including his co-worker, in order to harm him.

14. As the August 26th meeting further progressed, Mr. Salazar's supervisors aggressively interrogated and harassed him for requesting the filing of a grievance related to working out of classification and not receiving the proper responsibility pay.

1 15. During this interrogation, Mr. Salazar felt intimidated by Mr. Diaz's demeanor in the
2 meeting and felt he was potentially being disciplined for filing a grievance under the CBA.

3 16. A grievance is a member's right by virtue of being an employee covered by the CBA
4 and for whom the Union will file a grievance.

5 17. The grievance to which management was referring was requested by Salazar related to
6 work performed on August 25th and management knew of the requested correct pay for the
7 work performed and was clearly referring to that in the August 26th and August 27th meetings
8 with Salazar.

9 18. Immediately following the August 26th meeting, Mr. Diaz informed Mr. Salazar that
10 disciplinary action may be taken against him, which directly contradicted the prior assurance
11 that the meeting would not lead to discipline.

12 19. This misleading conduct by CCSD management violated Mr. Salazar's *Weingarten*
13 rights, which are protected under the Employee-Management Relations Act and applicable legal
14 precedent.

15 20. Under *NLRB v. J Weingarten, Inc.*, 420 U.S. 251 (1975), an employee has the right to
16 union representation during any interview that may reasonably lead to disciplinary action.

17 21. By falsely indicating that the August 26th meeting would not be disciplinary in nature,
18 CCSD deprived Mr. Salazar of his right to adequate union representation.

19 22. The EMRB has long recognized that *Weingarten* applies under the Nevada EMRA. *See*
20 *Teamsters Chauffeurs Warehousemen & Helpers and Professional Clerical Public and*
21 *Municipal Employees Local Union No. 533 v. Humboldt General Hospital*, Item No. 246
22 EMRB, Case Nos. AI-045459 and AI-045460 (1990)

23 23. On August 27, 2024, Mr. Harris informed Mr. Salazar that filing grievances "was not the
24 way to do things" at CCSD and warned him of potential retaliation from Mr. Diaz.

1 24. On August 27, 2024, Mr. Harris described Mr. Diaz as someone who maintains a “black
2 book” of employees who have filed grievances or crossed him in some way. Mr. Harris
3 explained that those employees are often retaliated against, either by preventing them from
4 advancing in their careers or making their working conditions miserable.

5 25. Shortly after the August 26th and August 27th meetings, Mr. Salazar’s technician status
6 and duties were stripped away without explanation or justification. He was also informed that
7 he could no longer work alone or claim overtime.

8 26. When Salazar asked Harris about removal of his technician duties and refusal to provide
9 overtime work he was told that this is what happens when grievances are filed and if he had a
10 problem that he could “suck it” and that comes straight from Diaz and not him.

11 27. The retaliation Salazar has been subjected to is continuing and ongoing.

12 28. On or about October 17, 2024, Mr. Salazar was informed that he is now required to
13 check in with Keven Rosella daily and provide minute by minute updates of his activity per the
14 request of David Harriss and Doug Diaz.

15 29. On or about October 18, 2024, Mr. Salazar was directed to perform pipefitting work at
16 Sunrise Mountain High School by himself for work order 989421 despite this being work
17 outside his class.

18 30. Mr. Salazar completed the work at Sunrise Mountain High School but was not paid
19 responsibility pay.

20 31. On or about October 22, 2024, Mr. Salazar had two work orders taken away from him
21 without any reason given.

22 32. Salazar has been ordered to report every morning directly to his supervisor when his co-
23 workers are not required to begin their workday in that manner.

24 33. Furthermore, after the initial complaint in this matter was filed, Salazar has now been
25 made to call his supervisor each time he leaves one school for his performance of work duties
26

1 and call when he arrives at the next school when that was not required before and his co-
2 workers are not required to do so.

3 34. These were clear examples of retaliation against Salazar for engaging in protected
4 activity as a union member and filing a grievance.

5 35. Furthermore, this clearly indicated that Mr. Diaz had placed Mr. Salazar in his "black
6 book" because of Mr. Salazar's requested grievance.

7 36. The existence of this "black book" of employees and the threats of retaliation by Mr.
8 Diaz threaten, coerce and restrain employees, like Mr. Salazar, who exercise their legal rights,
9 including the right to file grievances and the right to representation in disciplinary proceedings.
10 This conduct violates the protections provided under the EMRA and constitute a prohibited
11 practice under NRS 288.270.

11 **CLAIM FOR RELIEF**

12 **Prohibited Practice under NRS 288.270(1)(a), (c)-(d)**

13 37. The allegations contained in all preceding paragraphs of this Complaint are incorporated
14 herein by reference as if fully set forth herein.

15 38. Under NRS 288.270(1)(a), it is a prohibited practice to "[i]nterfere, restrain or coerce
16 any employee in the exercise of any right guaranteed under" the EMRA.

17 39. Under NRS 288.270(1)(c), it is a prohibited practice to "[d]iscriminate in regard to
18 hiring, tenure or any term or condition of employment to encourage or discourage membership
19 in any employee organization."

20 40. Under NRS 288.270(1)(d), it is a prohibited practice to "[d]ischarge or otherwise
21 discriminate against any employee because the employee has signed or filed an affidavit,
22 petition or complaint or given any information or testimony under this chapter, or because the
23 employee has formed, joined or chosen to be represented by any employee organization."

1 41. Respondent violated Mr. Salazar's rights under the EMRA when it lied to him and told
2 him the August 26th meeting would not lead to disciplinary action but threat of disciplinary
3 action followed from the meeting. This violated NRS 288.270(1)(a) because it stripped Mr.
4 Salazar of his *Weingarten* rights and denied him union representation in the meeting.

5 42. Respondent is further interfering with and restraining Mr. Salazar's rights guaranteed
6 under the EMRA by creating and maintaining a "black book" of employees who file grievances
7 or otherwise assert their legal rights. The use of this "black book" as a tool for retaliation against
8 Mr. Salazar and others violates NRS 288.270(1)(a) by threatening, coercing and restraining
employees in the exercise of their legal rights guaranteed under the EMRA.

9 43. The Respondent has violated NRS 288.270(1)(c) by "[d]iscriminat[ing] in regard
10 to...any term or condition of employment to...discourage membership in any employee
11 organization." The punitive action taken against Salazar, including stripping away his duties,
12 assigning work outside his class and refusing to pay responsibility pay, holding him to a higher
13 level of scrutiny and denying him overtime as a direct result of filing grievances is a prohibited
practice.

14 44. The Respondent has violated NRS 288.270(1)(d) by "otherwise discriminat[ing] against
15 any employee because the employee...has...chosen to be represented by any employee
16 organization." Again, the punitive action taken against Salazar, including stripping away his
17 duties and denying him overtime as a direct result of filing grievances is a prohibited practice
18 under this Section because he necessarily chose union representation in the filing of his
grievance under the CBA.

19 45. The Respondent violated NRS 288.270(1)(d) by changing Salazar's work duties as
20 stated in paragraphs 27 through 33 of this amended complaint after the initial complaint was
21 filed in this matter.

1 46. Respondent continues to this day to engage in prohibited practices because it still is
2 refusing to provide Salazar with overtime, continues to prevent him from performing technician
3 duties, and continues to hold potential disciplinary action over him.

4 **PRAYER FOR RELIEF**

5 Complainant respectfully requests that this Board:

6 1. Find in favor of Complainant and against the Respondent on each and every claim in
7 this Complaint;

8 2. Find that Respondent violated NRS 288.270(1)(a), (c)-(d) by retaliating against Mr.
9 Salazar for exercising his rights under law and for filing a grievance under the CBA;

10 3. Find that Respondent violated Mr. Salazar's *Weingarten* rights by misleading him about
11 the nature of the August 26, 2024, meeting, thereby depriving him of his union representation;

12 4. Find that Respondent's creation and maintenance of a "black book" of employees, used
13 for retaliation, violates NRS 288.270(1)(a), (c)-(d);

14 5. Order the enhanced remedy of requiring Daiz to read aloud to his direct reports the
15 violation of NRS 288 found in this matter;

16 6. Order that Respondent cease and desist from further retaliatory actions against Mr.
17 Salazar and other similarly situated employees;

18 7. Order that Respondent reinstate Mr. Salazar to his former duties and allow him to work
19 overtime;

20 8. Order that Respondent pay Mr. Salazar's lost wages and any other damages incurred as
21 a result of its prohibited practices;

22 9. Order that Respondent pay Complainant's attorney's fees and costs incurred in this
23 matter; and

24 //

25 //

1 10. Order such further relief as the Board deems appropriate under the circumstances.

2 Date: December 20, 2024

3 Respectfully submitted,

4 /s/ Nathan R. Ring

5 NATHAN R. RING, ESQ.
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CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, NV 89146

ESEA'S AMENDED PROHIBITED PRACTICES COMPLAINT

CCSD (Respondent)

Answer to Amended Complaint

OFFICE OF THE GENERAL COUNSEL
CLARK COUNTY SCHOOL DISTRICT
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*Attorney for Respondent,
Clark County School District*

STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO.: 2024-032

**CLARK COUNTY SCHOOL DISTRICT'S
ANSWER TO AMENDED COMPLAINT**

COMES NOW, Respondent, CLARK COUNTY SCHOOL DISTRICT ("District"), by and through its undersigned counsel, and for its Answer to the Amended Complaint on file herein, admits, denies, states, and alleges as follows:

INTRODUCTION

Answering the first paragraph of this section of the Complaint, the District admits that the Education Support Employees Association ("ESEA") filed the instant Amended Complaint which speaks for itself. The District denies and disputes the remaining allegations contained therein.

JURISDICTION AND PARTIES

1. Answering paragraph 1 of the Amended Complaint, the District admits that ESEA is an employee organization in accordance with NRS 288.040. The District is without sufficient knowledge or information to admit or deny the remaining allegations in paragraph 1 of the Amended Complaint and therefore, denies those allegations.

2. Answering paragraph 2 of the Amended Complaint, the District admits that it is a local government employer in accordance with NRS 288.060 and that it maintains offices at 5100 West Sahara Avenue, Las Vegas, NV 89146. The District is without sufficient knowledge or information to admit or deny the remaining allegations in paragraph 2 of the Amended Complaint and therefore, denies those allegations.

3. Answering paragraph 3 of the Amended Complaint, that paragraph calls for or requires a legal conclusion, for which no response is required. To the extent that a response is required, the District is without sufficient information or knowledge at this time to admit or deny the allegations contained in said paragraph, and therefore denies the allegations.

4. Answering paragraph 4 of the Amended Complaint, that paragraph calls for or requires a legal conclusion, for which no response is required. To the extent that a response is required, NRS 288.270 speaks for itself, and the District denies any remaining allegations contained therein.

5. Answering paragraph 5 of the Amended Complaint, the District admits that it and ESEA entered into a 2023-2025 Negotiated Agreement through June 30, 2025. The District is without sufficient knowledge or information to admit or deny the remaining allegations in said paragraph, and therefore denies the allegations.

FACTUAL ALLEGATIONS

6. Answering paragraph 6 of the Amended Complaint, the District admits that Zachary Salazar (“Salazar”) is employed with the District as a Water Treatment Technician-Entry Level. The District is without sufficient knowledge or information to admit or deny the remaining allegations in said paragraph, and therefore denies the allegations.

7. Answering paragraph 7 of the Amended Complaint, the District admits that Salazar is an employee subject to the 2023-2025 Negotiated Agreement between the District and ESEA. The District is without sufficient knowledge or information to admit or deny the remaining allegations in said paragraph, and therefore denies the allegations.

8. Answering paragraph 8 of the Amended Complaint, the District admits that on or about August 26, 2024, Douglas Diaz (“Diaz”), Director III of Facility Optimization at the District,

1 and David Harris (“Harris”), Maintenance Supervisor at the District, met with Salazar. The District
2 is without sufficient knowledge or information to admit or deny the remaining allegations in said
3 paragraph, and therefore denies the allegations.

4 9. Answering paragraph 9 of the Amended Complaint, the District admits that Salazar
5 asked Harris if the meeting on or about August 26, 2024 was a disciplinary meeting, to which
6 Harris responded that the meeting was not. The District is without sufficient knowledge or
7 information to admit or deny the remaining allegations in said paragraph, and therefore denies the
8 allegations.

9 10. Answering paragraph 10 of the Amended Complaint, the District admits that on or
10 about the August 26, 2024 meeting, Salazar was asked about his assigned vehicle idling for
11 approximately an hour and thirty minutes on or about August 16, 2024. The District denies the
12 remaining allegations contained therein.

13 11. Answering paragraph 11 of the Amended Complaint, the District admits that on or
14 about the August 26, 2024 meeting, Salazar stated that while his assigned vehicle was idling for
15 approximately an hour and thirty minutes on or about August 16, 2024, he was on a lunch break
16 and had a telehealth call. The District denies the remaining allegations contained therein.

17 12. Answering paragraph 12 of the Amended Complaint, the District denies the
18 allegations contained therein.

19 13. Answering paragraph 13 of the Amended Complaint, the District denies the
20 allegations contained therein.

21 14. Answering paragraph 14 of the Amended Complaint, the District denies the
22 allegations contained therein.

23 15. Answering paragraph 15 of the Amended Complaint, the District denies the
24 allegations contained therein.

25 16. Answering paragraph 16 of the Amended Complaint, the District admits that the
26 2023-2025 Negotiated Agreement between the District and ESEA contains Article 4 titled
27 “Grievance and Arbitration Procedure” which defines a grievance and identifies that a grievance
28 may be filed by an employee of the District covered by the Negotiated Agreement individually or

1 through ESEA, or by ESEA. The District denies the remaining allegations contained therein.

2 17. Answering paragraph 17 of the Amended Complaint, the District denies the
3 allegations contained therein.

4 18. Answering paragraph 18 of the Amended Complaint, the District denies the
5 allegations contained therein.

6 19. Answering paragraph 19 of the Amended Complaint, the District denies the
7 allegations contained therein.

8 20. Answering paragraph 20 of the Amended Complaint, that paragraph calls for or
9 requires a legal conclusion, for which no response is required. To the extent that a response is
10 required, the District denies the allegations contained therein.

11 21. Answering paragraph 21 of the Amended Complaint, the District denies the
12 allegations contained therein.

13 22. Answering paragraph 22 of the Amended Complaint, that paragraph calls for or
14 requires a legal conclusion, for which no response is required. To the extent that a response is
15 required, the District admits that the referenced EMRB decisions state what they state and denies
16 any remaining allegations contained therein.

17 23. Answering paragraph 23 of the Amended Complaint, the District denies the
18 allegations contained therein.

19 24. Answering paragraph 24 of the Amended Complaint, the District denies the
20 allegations contained therein.

21 25. Answering paragraph 25 of the Amended Complaint, the District denies the
22 allegations contained therein.

23 26. Answering paragraph 26 of the Amended Complaint, the District denies the
24 allegations contained therein.

25 27. Answering paragraph 27 of the Amended Complaint, the District denies the
26 allegations contained therein.

27 28. Answering paragraph 28 of the Amended Complaint, the District admits that
28 Salazar is expected to report to the maintenance lead when he reports to work. The District denies

1 the remaining allegations contained therein.

2 29. Answering paragraph 29 of the Amended Complaint, the District denies the
3 allegations contained therein.

4 30. Answering paragraph 30 of the Amended Complaint, the District denies the
5 allegations contained therein.

6 31. Answering paragraph 31 of the Amended Complaint, the District denies the
7 allegations contained therein.

8 32. Answering paragraph 32 of the Amended Complaint, the District admits that
9 Salazar is expected to report to the maintenance lead when he reports to work. The District denies
10 the remaining allegations contained therein.

11 33. Answering paragraph 33 of the Amended Complaint, the District denies the
12 allegations contained therein.

13 34. Answering paragraph 34 of the Amended Complaint, the District denies the
14 allegations contained therein.

15 35. Answering paragraph 35 of the Amended Complaint, the District denies the
16 allegations contained therein.

17 36. Answering paragraph 36 of the Amended Complaint, the District denies the
18 allegations contained therein.

19 **CLAIMS FOR RELIEF**

20 **Prohibited Practice under NRS 288.270(1)(a), (c)-(d)**

21 37. Answering Paragraph 37 of the Amended Complaint, the District repeats and
22 realleges the responses to paragraphs 1 through 36, inclusive, and incorporates the same as if fully
23 set forth herein.

24 38. Answering paragraph 38 of the Amended Complaint, that paragraph calls for or
25 requires a legal conclusion, for which no response is required. To the extent that a response is
26 required, the District admits that NRS 288.270(1)(a) states what it states and denies any remaining
27 allegations contained therein.

28 39. Answering paragraph 39 of the Amended Complaint, that paragraph calls for or

1 requires a legal conclusion, for which no response is required. To the extent that a response is
2 required, the District admits that NRS 288.270(1)(c) states what it states and denies any remaining
3 allegations contained therein.

4 40. Answering paragraph 40 of the Amended Complaint, that paragraph calls for or
5 requires a legal conclusion, for which no response is required. To the extent that a response is
6 required, the District admits that NRS 288.270(1)(d) states what it states and denies any remaining
7 allegations contained therein.

8 41. Answering paragraph 41 of the Amended Complaint, the District denies the
9 allegations contained therein.

10 42. Answering paragraph 42 of the Amended Complaint, the District denies the
11 allegations contained therein.

12 43. Answering paragraph 43 of the Amended Complaint, the District denies the
13 allegations contained therein.

14 44. Answering paragraph 44 of the Amended Complaint, the District denies the
15 allegations contained therein.

16 45. Answering paragraph 45 of the Amended Complaint, the District denies the
17 allegations contained therein.

18 46. Answering paragraph 46 of the Amended Complaint, the District denies the
19 allegations contained therein.

20 **PRAYER FOR RELIEF**

21 47. Answering the requests for relief 1 through 10 stated in the Amended Complaint,
22 the District denies that Complainant is entitled to any relief.

23 **AFFIRMATIVE DEFENSES**

24 1. The Amended Complaint fails to state a cognizable prohibited practice under NRS
25 Chapter 288.

26 2. Any claims raised in the Amended Complaint are untimely.

27 3. The Board lacks authority and jurisdiction to hear and decide contractual disputes
28 between employers and bargaining units.

4. Respondent's actions were authorized under Nevada law.

5. In the event further inquiry reveals the applicability of additional affirmative defenses, the District reserves the right to amend its Answer to specifically assert additional defenses.

WHEREFORE, this answering Respondent prays as follows:

1. That the Complainant take nothing by way of this Amended Complaint;

2. That judgment be awarded in favor of this answering Respondent, the Clark County School District;

3. That this answering Respondent, the Clark County School District, be awarded attorney's fees and costs in this matter; and

4. For such other and further relief as the Board deems just and appropriate.

DATED this 10th day of February, 2025.

CLARK COUNTY SCHOOL DISTRICT
OFFICE OF THE GENERAL COUNSEL

By: /s/ Crystal J. Pugh

CRYSTAL J. PUGH, ESQ.

Nevada Bar No. 12396

BETTY J. FOLEY, ESQ.

Nevada Bar No. 14517

5100 West Sahara Avenue

Las Vegas, Nevada 89146

Attorney for Respondent,

Clark County School District

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 10th day of February, 2025, I sent a true and correct copy of the
3 foregoing **CLARK COUNTY SCHOOL DISTRICT'S ANSWER TO AMENDED**
4 **COMPLAINT** by email and U.S. Mail with first class postage fully prepaid to the following:

5 Nathan R. Ring, Esq.
6 Paul Cotsonis, Esq.
7 REESE RING VELTO, PLLC
8 3100 W. Charleston Blvd., Ste. 208
9 Las Vegas, NV 89102
Email: Nathan@RRVLawyers.com
Counsel for Complainant,
Education Support Employees Association

10
11 /s/ Elsa C. Peña
12 An employee of the Office of the General
13 Counsel, Clark County School District
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ESEA (Complainant)

Amended Prehearing Statement

FILED
May 9, 2025
State of Nevada
E.M.R.B.
11:38 a.m.

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Before the State of Nevada
Government Employee-Management
Relations Board

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No. 2024-032

**EDUCATION SUPPORT EMPLOYEES
ASSOCIATION'S AMENDED
PREHEARING STATEMENT**

INTRODUCTION

Comes now Complainant, Education Support Employees Association (“ESEA” or “the Union”), by and through its attorneys of record, pursuant to NAC 288.250, and submits the following Amended Prehearing Statement in this action currently pending before the State of Nevada Government Employee-Management Relations Board (the “Board” or “EMRB”) against the Clark County School District (“CCSD” or “School District.”) ESEA reserves the right to supplement or amend this statement as new or additional information becomes available. The Board has jurisdiction over this matter under NRS 288.280, as the facts alleged herein demonstrate a prohibited practice by CCSD under NRS288.270(1)(a) and NRS 228.270(1)(c)-(d).

I. ISSUE OF FACT AND LAW TO BE DECIDED

1. Whether CCSD violated NRS 288.270(1)(a) by interfering with the Weingarten rights of the Union, and its member, Zachary Salazar, through its actions on or about August 26, 2024, when after being asked by Mr. Salazar it assured him the meeting would not lead to “disciplinary” action then proceeding to question Mr. Salazar regarding his activities and then turn around and inform him that disciplinary action may be taken against him at the end of the meeting denying the union the ability to provide adequate representation to Mr. Salazar?

2. Whether CCSD violated NRS 288.270(1)(d) through adoption of formal or informal policy where it or its management maintains a “black book” of employees who file grievances and then subjects those employees to discipline and subpar working conditions, as well as disciplining Salazar by withholding job duties and overtime after he filed his grievances?

3. Whether CCSD violated NRS 288.270(1)(c) when one of its employees, David Harris, told Mr. Salazar that filing grievances “was not the way to do things,” and that he could “suck it”?

4. Whether CCSD violated NRS 288.270(1)(d) by changing Mr. Salazar's work duties, requiring him to perform work outside his class and then refusing to pay him responsibility pay, and holding him to a higher level of scrutiny after this complaint was filed?

II. STATEMENT OF FACTS

Zachary Salazar is employed by Clark County School District as a Water Treatment Technician, Entry Level, and is a union member and member of the bargaining unit represented by ESEA. As such, Mr. Salazar is an employee covered under the CBA between ESEA and CCSD.

On or about August 26, 2024, at approximately 1:30 PM, Mr. Salazar was summoned to the office of Douglas Diaz, the Director of his Department. Mr. Salazar was accompanied by David Harris, his immediate supervisor. Before the meeting, Mr. Salazar inquired if the meeting

1 could lead to disciplinary action being taken against him, and Mr. Harris assured him it would
2 not.

3 During the meeting, Mr. Salazar was questioned concerning the GPS monitoring of his
4 work vehicle by Roy Marshall, his department lead. Mr. Salazar explained that he was on a
5 protected FMLA telehealth call during his lunch break and previously had informed Mr.
6 Marshall of this fact. Despite this explanation, Mr. Marshall continued to question and target Mr.
7 Salazar in the meeting. As the August 26th meeting further progressed, Mr. Salazar's supervisors
8 aggressively interrogated and harassed him for requesting the filing of a grievance related to
9 working out of classification and not receiving the proper responsibility pay, as is required per
10 the terms of the CBA signed by ESEA and CCSD. During this interrogation, Mr. Salazar felt
11 intimidated by Mr. Diaz's demeanor in the meeting and felt he was potentially being disciplined
12 for filing a grievance under the CBA. At the conclusion of the August 26th meeting, despite
13 assurances that the meeting would not lead to disciplinary action, Mr. Diaz informed Mr. Salazar
14 that disciplinary action may be taken against him. CCSD's conduct was misleading and violated
15 Mr. Salazar's Weingarten rights.

16 Thereafter, on or about August 27, 2024, Mr. Harris informed Mr. Salazar that filing
17 grievances "was not the way to do things" at CCSD and warned him of potential retaliation from
18 Mr. Diaz. Mr. Harris additionally described Mr. Diaz as someone who maintains a "black book"
19 of employees who have filed grievances or crossed him in some way. Mr. Harris explained that
20 those employees are often retaliated against, either by preventing them from advancing in their
21 careers or making their working conditions miserable.

22 Shortly after the August 26th and August 27th meetings, Mr. Salazar's technician status
23 and duties were stripped away from him by management without explanation or justification. He
24 was also informed that he could no longer work alone or work overtime. When Mr. Salazar asked
25 Mr. Harris about removal of his technician duties and refusal to provide overtime work, he was

1 told that this is what happens when grievances are filed and if he had a problem that he could
2 “suck it” and “that comes straight from Diaz and not him.”

3 Due to the existence of a "black book" of employees, the threats of retaliation, and a
4 general pattern by Mr. Diaz to coerce and restrain employees, like Mr. Salazar, in the exercise
5 of their legal rights, including the right to file grievances and the right to representation in
6 disciplinary proceedings, the Union filed the underlying Complaint with the Board on September
7 23, 2024. Since the filing of the Complaint, Mr. Salazar has been the target of increased scrutiny
8 and retaliation.

9 Specifically, since the filing of the Complaint, Mr. Salazar was directed to report every
10 morning with his direct supervisor, whereas his coworkers do not have any such requirement. In
11 addition to the reporting requirement, on or about October 17, 2024, Mr. Salazar was directed to
12 check in with Kevin Rodella, HVACR Technician at CCSD, and that he needed to provide
13 minute-by-minute updates of his activities per the request of Mr. Harriss and Mr. Diaz.
14 Additionally, on or about October 18, 2024, Mr. Salazar was directed by his lead, Roy Marshal,
15 to perform pipefitting work outside his class, and he was denied responsibility pay. Additionally,
16 on or about October 22, 2024, Mr. Salazar had two of his work orders summarily taken from him
17 and reassigned to other employees who are lower in job classifications. The work is outside their
18 job classifications.

19 **III. MEMORANDUM OF POINTS AND AUTHORITIES**

20 **A. CCSD FAILED AND REFUSED TO PROVIDE ADEQUATE NOTICE OF** 21 **THE SUBJECT MATTER AND SPECIFICITY OF CHARGES TO THE** 22 **UNION OR ITS MEMBER, SALAZAR, BEFORE OR AT THE OUTSET** **OF THE INVESTIGATORY INTERVIEW ON AUGUST 26, 2024.**

23 Employees of local government employers covered by collective bargaining agreements
24 are granted rights under the U.S. Supreme Court’s landmark decision in *NLRB v. J. Weingarten*,

1 *Inc.*, 420 U.S. 251 (1975); *Teamsters Chauffeurs Warehousemen & Helpers Local Union No.*
2 *533 v. Humboldt General Hospital*, EMRB Case Nos. A1-045459 and A1-045460 (1990). The
3 rights granted by the Supreme Court in that case are known as Weingarten rights and the contours
4 of those rights have been developed in the ensuing nearly fifty years through NLRB decisions
5 and court precedent. *See, e.g. U.S. Postal Service*, 351 NLRB 1344 (2007) and *Pac. Tel. & Tel.*
6 *Co. v. NLRB*, 711 F.2d 134 (9th Cir. 1983). Weingarten applies when an employee is brought
7 into an investigator interview that could lead to disciplinary action and requests representation.
8 A specific right recognized under Weingarten is the right to know the subject matter of the
9 investigatory interview before the interview to allow for adequate union representation. *NLRB,*
Board Decision, United States Postal Service, 371 N.L.R.B. No. 7.

10 Here, CCSD refused to respect its employee and his union's Weingarten rights by
11 refusing to provide notice of the subject matter of the investigatory interview of Salazar before
12 the interview or at its outset. In fact, CCSD lied to the employee. Mr. Salazar clearly asked Mr.
13 Harris whether the meeting would be "disciplinary." Mr. Harris stated that it would not be, but
14 Mr. Salazar was then questioned by CCSD management, and he was told, following the meeting,
15 that disciplinary action may be taken against him.

16 Under applicable precedent, this is a violation of an employee's Weingarten rights. *Pac.*
17 *Tel. & Tel. Co. v. NLRB*, 711 F.2d 134 (9th Cir. 1983). As the Ninth Circuit stated therein,
18 providing accurate information about the subject matter of an investigatory interview before it is
19 conducted is crucial for a union representative to effectively assist and protect the employee's
20 rights. *Id.* Without this information, the union's ability to provide meaningful representation is
21 significantly diminished or outright denied. *Id.* An employer must provide information to the
employee and the union concerning the subject matter of the interview. *Id.*

22 The *Pac. Tel. & Tel. Co.* cases illustrate that the refusal to provide information about the
23 subject matter of investigatory interviews not only interferes with an employee's right to
24 representation under Weingarten, but also significantly impairs or completely hinders the union's

1 ability to function as an advocate for the member.

2 CCSD violated Weingarten and denied Mr. Salazar the benefits of union representation.
3 If CCSD had accurately informed Mr. Salazar that the meeting could have led to potential
4 discipline, he would have been entitled to union representation. Because Mr. Salazar was told
5 that the meeting was “not disciplinary,” Mr. Salazar had no reason to ask that a Union
6 representative be present at the meeting. However, CCSD engaged in an obvious bait and switch.
7 CCSD lied to Salazar and failed to provide details concerning the subject matter of the August
8 26, 2024, interview. These actions are directly contrary to the well-established body of law under
9 Weingarten.

10 Furthermore, under NRS 288.270(1)(a), the test for interference with employee rights is
11 whether the employer’s action can be reasonably viewed as tending to interfere, coerce, or deter
12 the exercise of protected activity. As established in *AFSCME Local 4041 v. State of Nevada*,
13 Case No. 2020-001, Item No. 861-B (2021), and *Juvenile Justice Supervisors Ass’n v. County of*
14 *Clark*, Case No. 2017-020, Item No. 834 (2018), once the employer’s conduct can be reasonably
15 seen as interfering with the free exercise of employee rights, (such as Weingarten rights), the
16 burden shifts to the employer to justify its actions with a substantial and legitimate business
17 reason.

18 In this case, CCSD cannot provide any substantial or legitimate justification for its
19 violation of this employee’s Weingarten rights. Pursuant to NRS 288.270(a), it is clear that
20 CCSD engaged in a prohibited practice by lying to Mr. Salazar when it informed him that the
21 August 26, 2024, meeting was “not disciplinary.” CCSD’s actions denied him the ability to have
22 union representation in an investigatory interview that could result in discipline. CCSD engaged
23 in a prohibited practice.

24 **B. CCSD VIOLATED NRS 288.270(1)(d) THROUGH A POLICY
25 MAINTAINING A ‘BLACK BOOK’ OF EMPLOYEES WHO FILE
26 GRIEVANCES AND SUBJECTING THEM TO DISCIPLINE AND
SUBPAR WORKING CONDITIONS OR IN THE ALTERNATIVE
THREATENING EMPLOYEES THAT EVEN SUCH A BLACK BOOK
EXISTS**

1 NRS 288.270(1)(d) provides the following:

2 1. It is a prohibited practice for a local government employer or its designated
3 representative willfully to:

4 ... (d) Discharge or otherwise discriminate against any employee because the employee has
5 signed or filed an affidavit, petition or complaint or given any information or testimony under
6 this chapter, or because the employee has formed, joined or chosen to be represented by any
7 employee organization.

8 NRS 288.270(1)(d).

9 Nevada's EMRA was passed as a state level equivalent to the National Labor Relations
10 Act, which provides the following under 29 USC § 158(a)(4). "It shall be an unfair labor practice
11 for an employer- to Discharge or otherwise discriminate against an employee because he has
12 filed charges or given testimony under this subchapter."

13 For an aggrieved employee to proceed under NRS 288.270(1)(d), they must make a prima
14 facie case showing that the protected conduct was a motivating factor for the employer's decision.
15 *Bisch v. Las Vegas Metro Police Dep't*, 129 Nev. Adv. Op. 36, 302 P.3d 1108 (2013). When this
16 is established, the burden shifts to the employer to demonstrate by a preponderance of the
17 evidence that the same action would have taken place even in the absence of the protected
18 conduct. *Id.* at 1116. Moreover, when an employment action is undertaken within close temporal
19 proximity to protected conduct, retaliatory intent may be inferred. *Passantino v. Johnson &*
20 *Johnson Consumer Prod., Inc.*, 212 F.3d 493, 507 (9th Cir. 2000).

21 Here, Mr. Salazar filed grievances after being given job assignments that should have
22 been reserved for Water Treatment Technicians when Mr. Salazar was a Water Treatment
23 Technician (Entry Level). Under the collective bargaining agreement between ESEA and CCSD,
24 he should have been given "responsibility pay," which is essentially a pay promotion for
25 performing the specifically assigned tasks. CCSD did not provide responsibility pay to Mr.
26 Salazar for these specific tasks, even after he requested it. Mr. Salazar then filed a grievance on
August 19, 2024, stating that "Technician Work orders being assigned despite being entry level

1 and the district being told several months ago to not assign us technician work without
2 responsibility pay or being promoted to technician. Work orders say that I am a technician.”

3 Subsequently, on or about August 27, 2024, Mr. Salazar attended a meeting with his
4 supervisor Dave Harris wherein he was told by Mr. Harris that “Doug has a black book of people
5 who have crossed him, and he does everything in his power to make those people’s lives
6 miserable or keep them from promoting or moving on into other positions in their Work careers
7 at the District.” The “Doug” that Mr. Harris was referring to was Manager Doug Diaz. Following
8 this meeting and his filing of grievance, Mr. Salazar’s technician status was stripped from him,
and he was also told that he could no longer work overtime or work alone.

9 This meeting and the actions taken against Mr. Salazar thereafter demonstrates a prima
10 facie case of retaliation based on Mr. Salazar’s filing of a grievance. Mr. Salazar filed the
11 grievance on August 19, 2024, 7 days prior to the first disciplinary meeting on August 26, 2024.
12 On August 27, 2024, he was told by his supervisor that his manager kept a black book of
13 employees who had “crossed him” by filing grievances, and his overtime and technician status
were then taken away.

14 There is nothing that CCSD can demonstrate, beyond outright denial of the veracity of
15 the statements, that could show that Mr. Salazar’s discipline was anything other than
16 discriminating against him for having “formed, joined or chosen to be represented by any
17 employee organization.”

18 Even if CCSD denies that these statements were made, the timing of the removal of Mr.
19 Salazar’s overtime, which was only eight days after his grievance was filed, demonstrates
20 retaliatory intent, as it was an “adverse employment action taken within a reasonable period after
21 complaints of discrimination were made.” *Passantino v. Johnson & Johnson Consumer Prod.,*
22 *Inc.*, 212 F.3d 493. CCSD clearly violated NRS 288.270(1)(d) when it told Mr. Salazar that Mr.
23 Diaz kept a ‘black book’ of employees who filed grievances, as well as when it punished Mr.
24 Salazar by removing his overtime pay after the grievances were filed. The intention of CCSD,
Harris and Diaz was to chill Salazar’s exercise of his rights under the EMRA.

1 **C. CCSD VIOLATED NRS 288.270(1)(c) BY TELLING ITS EMPLOYEES**
2 **THAT FILING GRIEVANCES IS ‘NOT THE WAY TO DO THINGS’**

3 It is unlawful under NRS 288.270(1)(c) to “discriminate in regard to hiring, tenure or any
4 term or condition of employment to encourage or discourage membership in any employee
5 organization.” Discrimination in terms of employment to discourage membership in an employee
6 organization can take many forms but often takes place in the form of statements made by
7 management which discourage and chill union activity. When these statements are made, the
8 Board may draw inferences from and make conclusions on proven facts regarding whether
9 antiunion or animus existed. *National Labor Relations Board v. Electric Steam Radiator Corp.*,
321 F. 2d 733, 738 (6th Cir. 1963).

10 Specific intent to discriminate against or interfere with the union or its members is not
11 required “when the employer’s conduct inherently encourages or discourage union membership.”
12 *Radio Officer’s Union, etc. v. National Labor Relations Board*, 347 U.S. 17, 44, 74 S. Ct. 323,
13 338 (emphasis added.) Furthermore, the existence of discrimination or interference may be
14 inferred by the Board based upon its experience in the labor management relations area. *National*
15 *Labor Relations Board v. Erie Resistor Corp.*, 373 U.S. 221, 227, 83 S. Ct. 1139, 1144 (1963).
16 Here, when Mr. Harris told Mr. Salazar that (1) “filing grievances is not the way to do things,”
17 (2) that Mr. Diaz kept a “black book” of employees who have filed grievances, or (3) that “he
18 could suck it, and that comes straight from Doug” that Mr. Harris and Mr. Diaz’s intent was to
19 discourage membership in the employee organization and to chill Salazar’s rights under the
20 EMRA. By stating that ‘filing grievances is not the way to do things,’ it is abundantly clear that
21 Mr. Harris did not want Mr. Salazar to engage in the protected union activity of filing a grievance.
22 This is direct evidence of interference with Salazar’s participation as a union member. The
23 employer’s actions in then taking away overtime from Salazar and changing his terms and
24 conditions of employment thereafter are discrimination in terms and conditions of employment.
25 For these reasons, CCSD violated NRS 288.270(1)(c).
26

1 **D. CCSD FURTHER VIOLATED NRS 288.270(1)(d) BY SUBJECTING MR.**
2 **SALAZAR TO INCREASED SCRUTINY AND BY TAKING WORK**
3 **OPPORTUNITIES FROM HIM.**

4 As discussed *supra*, NRS 288.270(1)(d) prohibits a local government employer from
5 discriminating against any employee because the employee has filed a complaint or given any
6 information or testimony under the EMRA. NRS 288.270(1)(d). NRS 288.270.(1)(d) requires a
7 prima facie case showing the protected conduct was a motivating factor in the employer's
8 conduct. *See Bisch*, 129 Nev. Adv. Op. 36, 302 P.3d 1108 (2013). As was discussed *supra*,
9 retaliatory intent may be inferred by the fact that the employment action occurs within close
10 temporal proximity to the protected conduct. *See Passantino*, 212 F.3d 493, 507 (9th Cir. 2000).

11 Here, we have exactly that. The Union filed the underlying action on Mr. Salazar's behalf
12 on September 23, 2024. Almost immediately thereafter, Mr. Salazar is informed to report directly
13 to his immediate supervisor every morning, when his coworkers do not have the same reporting
14 requirements. Additionally, shortly after filing the Complaint, Mr. Salazar was informed that
15 according to Mr. Harris and Mr. Diaz's request that he is to provide Mr. Rodella minute-by-
16 minute updates of his activity and that he must call whenever leaving one school and to call upon
17 arrival at the next school in the performance of his duties when his coworkers have no such
18 requirement.

19 On or about October 18, 2024, Mr. Salazar was also required to perform certain
20 pipefitting work at Sunrise Mountain High School by himself, which was above his job
21 classification, and upon completion of that work, he was denied responsibility pay. Four days
22 later, on or about October 22, 2024, Mr. Salazar had work that was within his job classification
23 taken away from him and assigned to other employees who are in a different and lower job
24 classification.

25 The timing of the sudden scrutiny of Mr. Salazar's work, as well as the refusal to pay
26 responsibility pay for some work while taking other work away within a few weeks of filing the
27 underlying, demonstrates retaliatory intent. *See Passantino*, 212 F.3d 493. CCSD clearly violated
28 NRS 288.270(1)(d) when it subjected Mr. Salazar to increased scrutiny as well as punishing him

1 by refusing to pay him responsibility pay for work performed outside of his classification and
2 taking other work that was inside his classification away from him. The intention of these actions
3 was clearly to retaliate against Mr. Salazar's exercise of his rights under the EMRA.

4 **IV. POTENTIAL WITNESS**

5 The Union intends to call the following witnesses:

6 1. Zachary Salazar, Water Treatment Technician, Entry Level, CCSD. Mr. Salazar
7 will testify regarding his grievances on lack of responsibility pay, the investigatory/disciplinary
8 interview held on August 26, 2024, with Doug Diaz, the subsequent meeting held on August 27,
9 2024, with Dave Harris, and the discipline and changed work terms and conditions that Mr.
10 Salazar faced as a result of filing the grievances. Additionally, Mr. Salazar will testify regarding
11 the increased scrutiny he was placed under, the continual refusal by CCSD to pay responsibility
to him, and the taking of work away from him since the filing of the underlying Complaint.

12 2. Johnnie Ortega, Business Agent/Representative for Teamsters Local 14 (Servicing
13 Agent of ESEA). Mr. Ortega will testify concerning the Negotiated Agreement between CCSD
14 and ESEA, and his attempts to have Doug Diaz, director of Facilities Optimization, place Mr.
15 Salazar into the higher-level technician position, and his conversations with Diaz following his
16 change of terms and conditions of employment of Mr. Salazar following the grievance filing and
then the Complaint filing in this matter.

17 3. Kevin Rodella, HVACR Technician at Clark County School District. Mr. Rodella
18 will testify concerning his observations of the September 18, 2024, meeting between Roy
19 Marshall, David Harris, and Mr. Salazar, wherein Mr. Salazar asked his supervisors, Roy
20 Marshall and David Harris, why he was no longer given overtime. Additionally, Mr. Rodella
21 will testify concerning the increased scrutiny Mr. Salazar has been subjected to since the filing
of the underlying Complaint here.

22 4. Cedric Cole, Assistant Human Resources officer for Clark County School District.
23 Mr. Cole will testify regarding CCSD's policies with regards to investigatory reviews, overtime,
24 and the negotiated agreement between ESEA and CCSD.

1 5. Douglas Diaz Jr., Director of Facilities Optimization at Clark County School
2 District. Mr. Diaz is expected to testify regarding his practice of placing employees who file
3 grievances or ‘cross him’ in a ‘black book,’ and the subsequent retaliation against those
4 employees. Mr. Diaz will also testify regarding his statement to Mr. Harris that Mr. Salazar could
5 “suck it” after he filed grievances. Further, Mr. Diaz is expected to testify concerning the facts
6 and circumstances of the August 26, 2024, investigatory interview of Salazar and the increased
post-complaint scrutiny Mr. Salazar was placed under.

7 6. David Harris, Supervisor of Facilities Optimization at Clark County School
8 District. Mr. Harris is expected to testify regarding his refusal to provide Mr. Salazar with
9 overtime at Doug Diaz’s direction, and his discussion with Mr. Salazar on August 26, 2024, in
10 which Mr. Salazar asked Mr. Harris if the meeting would be disciplinary, to which Mr. Harris
11 said “no.” Mr. Harris is further expected to testify as to his statement to Mr. Salazar on August
12 27, 2024, wherein he stated that “filing grievances is not the way to do things at CCSD, especially
13 not with Doug.” Mr. Harris is also expected to testify concerning his discussion with Mr. Salazar
14 wherein he told Mr. Salazar that Mr. Diaz kept a “black book of people who have crossed him.”
15 Mr. Harris is also expected to testify concerning his August 27, 2024, statement to Mr. Salazar
16 that “[t]his is what happens when grievances are filed, and if you have a problem, you can suck
it and that comes straight from Doug.” Additionally, Mr. Harris is expected to testify about
work being taken from Mr. Salazar after the filing of the underlying Complaint.

17 8. The Union reserves the right to amend its list of witnesses as new witnesses
18 become known during the course of this proceeding, including any and all witnesses named by
19 Clark County School District.

20 **V. RELATED PROCEEDINGS**

21 Mr. Salazar filed four grievances through ESEA, which caused the prohibited practices
22 of CCSD to occur. These grievances were filed on August 19, 2024, September 10, 2024, and
23 September 17-18, 2024. The merit of those grievances is not at issue in this proceeding and this
24 matter does not need to be deferred pending resolution of those grievances. The actions

1 complained of here do not touch upon the merits of any grievance and are fully separate from
2 the grievances themselves.

3 There are no other pending or anticipated administrative, judicial, or other proceedings
4 related to the subject matter of this hearing.

5 **VI. ESTIMATED TIME FOR LOCAL 14'S PRESENTATION**

6 The Union estimates that its presentation will take approximately 8 hours, even with the
7 inclusion of additional allegations within the Amended Complaint, depending on the time
8 required for cross-examination.

9 **VII. CONCLUSION**

10 Complainant ESEA requests that the Board declare the Respondent, CCSD, committed
11 a prohibited practice under NRS 288.270(1)(a) by failing to provide sufficient notice of the
12 subject matter of Mr. Salazar's investigatory interview before the interview was conducted. This
13 interfered with the Union's ability to represent its members during the interview by deceiving
14 Mr. Salazar and stating the meeting was not 'disciplinary' when, in fact, it was.

15 Complainant, ESEA, further requests that the Board declare the Respondent, CCSD,
16 committed a prohibited practice under NRS 288.270(1)(c)-(d) by disciplining and changing Mr.
17 Salazar's terms and conditions of employment for exercising his rights under the CBA to file
18 grievances and for his membership and association in the Union including but not limited to
19 subjecting Mr. Salazar to increased scrutiny, refusing to pay him responsibility pay and by taking
20 specific work away from him in retaliation for the exercise of his rights in having ESEA file the
21 underlying Complaint.

22 ESEA requests that the EMRB prohibit CCSD from maintaining any lists, "black books"
23 or other documents used to maintain a record of or punish protected union activity, that CCSD
24 refrain from telling employees that "filing grievances isn't the way to do things," that CCSD
25 refrain from disciplining employees who exercise their right to file grievances under the CBA
26 and that CCSD refrain from subjecting employees to greater scrutiny, refusing to pay

1 responsibility pay, and taking work away from employees in retaliation for filing complaints
2 with the Board. ESEA requests the enhanced remedy that Doug Diaz be required to read before
3 a meeting of his subordinates the Board's Order in this matter. *See Federated Logistics &*
4 *Operations*, 340 NLRB 255, 258 (2003).

5 Date: May 9, 2025

Respectfully submitted,

6 By: /s/ Paul Cotsonis
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CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, NV 89146

/s/ Michelle Wade
An Employee of Reese Ring Velto, PLLC

ESEA (Complainant)

ESEA's Supplemental Witness List to Its Amended Prehearing Statement

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EDUCATION SUPPORT EMPLOYEES
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Case No. 2024-032

**EDUCATION SUPPORT EMPLOYEES
ASSOCIATION'S SUPPLEMENTAL
WITNESS LIST TO ITS AMENDED
PREHEARING STATEMENT**

INTRODUCTION

Comes now Complainant, Education Support Employees Association ("ESEA" or "the Union"), by and through its attorneys of record, pursuant to NAC 288.250, and submits the following Supplemental Witness List to its Amended Prehearing Statement in this action currently pending before the State of Nevada Government Employee-Management Relations Board (the "Board" or "EMRB") against the Clark County School District ("CCSD" or "School District.") ESEA reserves the right to supplement or amend this statement as new or additional information becomes available.

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ESEA'S SUPPLEMENTAL WITNESS LIST TO ITS AMENDED PREHEARING STATEMENT

IV. WITNESSES

The Union intends to call the following witnesses:

1. Zachary Salazar, Water Treatment Technician, Entry Level, CCSD. Mr. Salazar will testify regarding his grievances on lack of responsibility pay, the investigatory/disciplinary interview held on August 26, 2024, with Doug Diaz, the subsequent meeting held on August 27, 2024, with Dave Harris, and the discipline and changed work terms and conditions that Mr. Salazar faced as a result of filing the grievances. Additionally, Mr. Salazar will testify regarding the increased scrutiny he was placed under, the continual refusal by CCSD to pay responsibility to him, and the taking of work away from him since the filing of the underlying Complaint.

2. Johnnie Ortega, Business Agent/Representative for Teamsters Local 14 (Serving Agent of ESEA). Mr. Ortega will testify concerning the Negotiated Agreement between CCSD and ESEA, and his attempts to have Doug Diaz, director of Facilities Optimization, place Mr. Salazar into the higher-level technician position, and his conversations with Diaz following his change of terms and conditions of employment of Mr. Salazar following the grievance filing and then the Complaint filing in this matter.

3. James “Jim” Schreiber, Water Treatment Technician at Clark County School District. Mr. Schreiber will testify regarding incidents of bias/retaliation against Mr. Salazar beginning in September of 2024, including but not limited to, upon being notified on or about September 9, 2024, that he and others would have to absorb routes previously performed by Zachary Salazar and that if that upset him he should be upset with Zachary and Andy (the other Entry-Level employee).

4. The Union reserves the right to amend its list of witnesses as new witnesses become known during the course of this proceeding, including any and all witnesses named by Clark County School District.

//

//

VI. ESTIMATED TIME FOR LOCAL 14'S PRESENTATION

The Union estimates since it has pared down its witness list that its presentation will take a little over ½ of the day, depending on the time required for cross-examination.

Date: September 11, 2025

Respectfully submitted,

By: /s/ Paul Cotsonis

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CERTIFICATE OF SERVICE

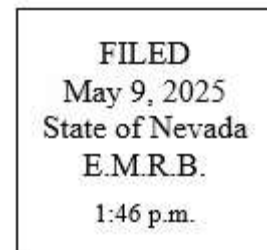
I hereby certify that on September 11, 2025, I have mailed in portable document format as required by NAC 288.070(d)(3), a true and correct copy of **EDUCATION SUPPORT EMPLOYEE ASSOCIATION'S SUPPLEMENTAL WITNESS LIST TO ITS AMENDED PREHEARING STATEMENT** as addressed below and sent certified mail pursuant to NAC 288.200(2). I also have filed the document with the Nevada Government Employee-Management Relations Board via its email address at emrb@business.nv.gov:

CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, NV 89146

/s/ Michelle Wade
An Employee of Reese Ring Velto, PLLC

CCSD (Respondent)

Supplemental Prehearing Statement



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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO.: 2024-032

**CLARK COUNTY SCHOOL DISTRICT'S
SUPPLEMENTAL PREHEARING
STATEMENT**

COMES NOW, Respondent, CLARK COUNTY SCHOOL DISTRICT ("District"), by and through its undersigned counsel, and pursuant to NAC 288.250, submits the following Supplemental Prehearing Statement in this action before the Local Government Employee-Management Relations Board ("Board" or "EMRB"). The District reserves the right to supplement or amend this Statement as new or additional information becomes available.

I.

STATEMENT OF THE ISSUES

Whether the District committed a prohibited labor practice in violation of NRS 288.270(1)(a), (c), and (d)?

...

...

...

...

1 II.

2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **A. INTRODUCTION**

4 The Complainant Education Support Employee Association (“ESEA”) initiated this action
5 against the District based on an alleged prohibited practice concerning actions taken against an
6 employee named Zachary Salazar following his submission of a grievance. More specifically,
7 ESEA claims that Salazar was called into a disciplinary meeting and was told it was not a
8 disciplinary meeting, and therefore, Salazar was not afforded the ability to have a union
9 representative present, thereby violating his *Weingarten* rights. ESEA also claims that Salazar’s
10 Family Medial Leave (FMLA) information was somehow improperly shared with others, he was
11 interrogated for filing a grievance related to responsibility pay under the applicable negotiated
12 agreement, that there is some type of “black book” by an administrator for employees who file
13 grievances or cross him in some way, and that Salazar was retaliated against in no longer being
14 able to work alone or claim overtime. ESEA filed a subsequent Amended Complaint that
15 included allegations that Salazar continues to be retaliated against in three main ways, including
16 that he was required to check in with his supervisor when he reports to work and to give updates
17 on projects, how he was no longer assigned work orders because he is an assistant to the techs,
18 and how he was denied responsibility pay for pipefitting work that he did not actually perform.
19 Overall, the Complaint and Amended Complaint appear premised on conjecture, Salazar’s self-
20 serving perspective, and a vendetta against an administrator without factual support for the same.
21 The District should not be found to have committed a prohibited labor practice in violation of
22 NRS 288.270(1)(a), (c), or (d) under such confounding circumstances.

23 **B. RELEVANT AUTHORITY**

24 NRS 288.270 states, in relevant part:

25 1. It is a prohibited practice for a local government employer or its designated
26 representative willfully to:

27 (a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed
28 under this chapter.

...

1 (c) Discriminate in regard to hiring, tenure or any term or condition of employment to
2 encourage or discourage membership in any employee organization.

3 ...

4 (d) Discharge or otherwise discriminate against any employee because the employee has
5 signed or filed an affidavit, petition or complaint or given any information or testimony
6 under this chapter, or because the employee has formed, joined or chosen to be
7 represented by any employee organization.

8 **C. RELEVANT FACTS**

9 As identified in the introductory paragraph, the allegations in this case leave much
10 information to be identified and disclosed to the District. Despite the District's attempt to better
11 understand the allegations and their integrity, it provides this prehearing statement based on
12 information known and what can be surmised at this time.

13 On September 10, 2024, ESEA filed a grievance under the applicable negotiated
14 agreement between ESEA and the District grieving the alleged non-payment of responsibility pay
15 to Salazar and failure to move to a higher-level position. The matter was designated Grievance
16 # 2425/SK/01/05T and relevantly concerns Article 5-1-2-3 which provides:

17 An Employee who performs the responsibilities of a higher rated support
18 professional vacant position for six (6) consecutive months, will be promoted to
19 that position and placed in the salary schedule at the Step-in accordance with
20 Article 19 or Regulation 4293. The District agrees that it will not utilize this
21 provision to circumvent to the competitive bidding for promotional vacancies.

22 Salazar is employed with the District as a "Water Treatment Technician-Entry Level" and
23 maintained that he was doing the work of higher-level position, "Water Treatment Technician,"
24 and therefore, should be provided responsibility pay for his work and be promoted to the higher
25 level position under Article 5. The grievance was denied and subsequently moved to arbitration
26 by ESEA, on October 30, 2024. The arbitration has not been scheduled.

27 Before the filing of the referenced grievance, Salazar met with Doug Diaz, Director III of
28 Facility Optimization at the District, and David Harris, Maintenance Supervisor at the District, on
or about August 26, 2024. Despite allegations to the contrary, Roy Marshall, Maintenance Leader
at the District, was not present at the meeting. The intent of the meeting was to informally
discuss employee concerns taking place between Salazar and another employee and Salazar's

1 assigned vehicle idling for approximately an hour and thirty minutes on or about August 16, 2024
2 as staff were trying to locate Salazar for an assignment, could not reach him, grew concerned, and
3 found through GPS that his District-assigned vehicle was idling for a prolonged period of time.
4 Diaz did not treat the meeting as a disciplinary meeting and was not discourteous or threatening.
5 He treated the meeting as a supervisory meeting as he was concerned and sought to provide
6 appropriate direction as needed, not discipline. Salazar maintained that he was on a lunch break
7 and taking a telehealth call. He acknowledged that he had not informed anyone he would be
8 unavailable during that time (meaning, staff was unaware of his unavailability or being on lunch)
9 and that his lunch break is only for half an hour, not an hour and a half. Salazar was not
10 disciplined for the incident, as once more, that was not the meeting's purpose.

11 With respect to the Complaint's contention that (1) Salazar's FMLA information was
12 shared by management to others, and (2) Mr. Harris informed Salazar about retaliation from
13 Mr. Diaz and Mr. Diaz maintaining a "black book," there is no support for the allegations.
14 Mr. Harris denies making any of the alleged representations about Mr. Diaz to Salazar.

15 With respect to the Complaint's contention that Salazar's technician status and duties were
16 "stripped away without explanation or justification" and Salazar was informed he could no longer
17 work alone or claim overtime, there is no support for the allegations. Salazar remains a Water
18 Treatment Technician-Entry Level with the same duties and responsibilities afforded under the
19 position and has never been informed he could not claim overtime if overtime was appropriately
20 worked. Salazar is seemingly taking issue with the District ensuring his duties are in line with his
21 entry level position in an effort to continue arguing he is doing the work of higher level position
22 "Water Treatment Technician," and therefore, should be provided responsibility pay for his work
23 and be promoted to the higher level position. Ultimately, what Salazar and ESEA seek is
24 contractual and the subject of a grievance, not one that can be used as a shield and a sword to aver
25 interference or discrimination.

26 The Amended Complaint added allegations regarding further retaliation that Salazar
27 claims he has been subjected to. Specifically, ESEA claims that Salazar has been required to
28 check in with Chiller Tech II Kevin Rosella (Kevin Rodela is his actual name) for information

1 about assignments, and that he is required to report to his supervisor to begin his workday.
2 Contrary to ESEA's allegations, all Entry-Level Technicians are required to check in with their
3 supervisors at the beginning of the day so they may receive assignments, and all technicians are
4 required to check in with their maintenance leads. ESEA also alleges that Salazar was assigned to
5 perform pipefitting work outside of his job class for which he did not receive responsibility pay,
6 and that he has had work orders taken away from him. However, because Salazar is an Entry-
7 Level Technician, he is required to perform tasks under the direct supervision of Water Treatment
8 Technicians and is not given work orders to complete on his own. Further, Salazar did not
9 actually perform any pipe repair work by himself, and he was not entitled to responsibility pay
10 pursuant to the Negotiated Agreement with ESEA.

11 **D. ARGUMENT**

12 ESEA alleges prohibited labor practices against the District under NRS 288.270(1)(a), (c),
13 and (d). The factual allegations in support of such claimed violations appear to be that:
14 (1) Salazar was questioned without a union representative present when Salazar asked if the
15 meeting would lead to discipline; (2) Salazar was questioned or felt threatened concerning his
16 filing of a grievance; (3) Salazar was retaliated against for filing a grievance in having duties
17 removed away from him, not being offered overtime, not being provided work orders, assigned
18 work outside of his class but refused responsibility pay, and having him check in with his
19 supervisor about his location and status of assignments. The allegations improperly contort facts
20 and circumstances in an effort to aver violations known to be false.

21 To begin, the District did not violate Salazar's *Weingarten* rights when it held a
22 supervisory meeting with him, which was not intended to result in discipline, as communicated to
23 him, nor did it result in discipline. This Board has previously determined that a local government
24 employee who is represented by an employee organization has *Weingarten* rights, including the
25 right on request to have a representative of said organization present at an investigatory interview
26 that the employee reasonably believes may lead to discipline or which the employer seeks
27 information to enable it to impose discipline. Case Nos. A1-045459 and A1-045460, *Teamsters*
28 *v. Humboldt General Hospital* (6/11/90), Item No. 246. The employee's belief that a meeting

1 may lead to discipline must be objectively reasonable based upon all the circumstances of the
2 case. *Brian Heitzinger v. Las Vegas-Clark County Library District; Teamsters Local 14; and*
3 *Amanda Lively* (1/30/12), Item No. 728C. As recognized by this Board, *Weingarten* rights do not
4 guarantee an employee a right to representation in every employer-conducted interview. Case
5 No. A1-045964, *North Las Vegas Police Officers Association; and Officer Gianni Cavaricci vs.*
6 *The City of North Las Vegas Police Department* (03/03/11), Item No. 717A. *Weingarten* rights
7 apply in cases in which a “risk of discipline reasonably inheres.” *Id.* Moreover, the chief remedy
8 for a *Weingarten* rights violation is for the employee to be made whole, by restoring to the
9 employee rights lost or other damage for which the violation was a legal cause. Case No. A1-
10 045782, *Education Support Employees Association vs. Clark County School District; Fran*
11 *Juhasz, Juareen Castillo, Alive Favella, Katie Barmettler and Lleeann Love* (10/11/05), Item No.
12 568B.

13 Here, a *Weingarten* right violation cannot be maintained under the sole reason that an
14 employer-conducted interview occurred. Salazar was questioned by his supervisor regarding
15 concerns Salazar had with another employee and to understand why his vehicle was idling during
16 contract time for a prolonged period of time while he was unreachable; however, the meeting was
17 one of concern and to provide appropriate direction as needed, not discipline. That no discipline
18 was issued evidences the veracity of the intent and representation. Even putting aside the factual
19 disagreement, what ESEA and Salazar omit is that there is a procedure in place for how
20 investigatory interviews that may lead to discipline are noticed, issued, and coordinated. Indeed,
21 the negotiated agreement between ESEA and the District provides that “Employees will be
22 provided a minimum of two (2) Days written notice of a mandated investigatory interview.”
23 (Emphasis added). The written notice is a template form that identifies concerns that are the
24 subject of investigation and is generally provided to the employee in person for acknowledgement
25 of receipt. In conformity with the negotiated agreement, an employee is provided time to seek
26 union assistance and representation, if desired, and the District works with the union to ensure an
27 investigatory interview can proceed at a mutually available date and time. None of this occurred
28 with Salazar because, once more, the meeting was supervisory in nature and not disciplinary.

1 A *Weingarten* right violation does not occur every time there is an employer-conducted interview
2 and did not occur under these circumstances.

3 The complaint also fails to provide credible or persuasive allegations that Salazar was
4 questioned or felt threatened concerning his filing of a grievance. The meeting between Salazar
5 and Mr. Diaz took place on or about August 26, 2024. The grievance concerning Salazar was
6 filed on September 10, 2024. Chronologically, it cannot be said that the grievance prompted
7 questioning or threats a month prior, even taking the allegations at face value. Further, while the
8 complaint imputes some “black book” of retaliation on Mr. Diaz, no such “black book” exists,
9 and the complaint is devoid of facts supporting otherwise.

10 Further, the complaint alleges a prohibited labor practice in Salazar allegedly having
11 duties removed away from him and not being offered overtime. Noticeably absent from the
12 complaint is any identification as to what duties were removed from his position; that is, because
13 none were. Salazar remains a “Water Treatment Technician-Entry Level.” ESEA took issue that
14 Salazar was working independently at times and outside his scope of work, and therefore, an
15 effort was made to ensure Salazar’s duties remained in line with his position. This attempt has
16 now seemingly been characterized as “retaliatory.” Overall, it appears that ESEA is seeking to
17 force the District to have Salazar do work outside of his scope of work (while at the same time
18 faulting the District for this) so he may continue seeking responsibility pay and a promotion to a
19 higher-level position. However, those issues are contractual and the subject of a pending
20 grievance. ESEA cannot and should not be permitted to take one position in one matter (*i.e.*
21 contractually what is/is not required) while taking an inconsistent position (*i.e.* this is all
22 retaliatory) in another. Moreover, there is no evidence that Salazar was denied overtime, let alone
23 because of a filed grievance.

24 Finally, ESEA’s additional allegations in the Amended Complaint about continued
25 retaliatory behavior are actually standard practice for an employee in Salazar’s position. There is
26 no evidence that Mr. Salazar was made to perform pipefitting work alone, and there is no
27 evidence that he was entitled to responsibility pay pursuant to the Negotiated Agreement.
28 Additionally, any work orders that were “taken away” from Mr. Salazar should have been

1 removed, as they should have been assigned to a technician, not Mr. Salazar as an Entry Level
2 Technician—that ESEA advocates that this is retaliatory only adds to the perplexity of the
3 allegations in this case. As for the remaining allegations, all Entry Level Technicians are required
4 to check in with their immediate supervisor, and all technicians are required to check in with the
5 Maintenance Lead, so Salazar is not performing any additional work that other employees are
6 exempt from performing. Altogether, ESEA’s allegations do not constitute discrimination
7 intended to discourage membership with or activity through an employee organization, and
8 therefore, the School District has not committed any prohibited practice under NRS 288.270.

9 **E. CONCLUSION**

10 For the reasons stated herein, the District requests that Complainant take nothing by way
11 of its Complaint and that judgment be rendered in favor of the District as follows:

- 12 1. The District did not engage in a prohibited labor practice.
- 13 2. The District did not violate NRS 288.270(1)(a),(c), or (d).
- 14 3. The Complainants are not entitled to attorneys’ fees and the District is entitled to
15 attorneys’ fees.

16 **III.**

17 **LIST OF WITNESSES**

18 1. Douglas Diaz, Director III of Facility Optimization for the Clark County School
19 District, is expected to testify regarding his knowledge and actions concerning Complainant’s
20 allegations.

21 2. David Harris, Maintenance Supervisor with the Clark County School District, is
22 expected to testify regarding his knowledge and actions concerning Complainant’s allegations.

23 3. Roy Marshall, Maintenance Leader with the Clark County School District, is
24 expected to testify regarding his knowledge and actions concerning Complainant’s allegations.

25 4. Kevin Rodela, Chiller Tech II with the Clark County School District, is expected
26 to testify regarding his knowledge and actions concerning Complainant’s allegations.

27 5. The District reserves the right to call additional witnesses as deemed appropriate
28 and necessary.

1 IV.

2 **STATEMENT OF OTHER RELATED PROCEEDINGS**

3 There is a proceeding pending related to the subject of this hearing. It has been identified
4 herein as Grievance # 2425/SK/01/05T and concerns Salazar's request for pay and promotion.
5 The grievance was moved to arbitration on October 30, 2024 and has not yet been scheduled for
6 arbitration.

7 V.

8 **ESTIMATED TIME OF PRESENTATION**

9 It is estimated that the District would need four (4) hours to present its position; however,
10 this is contingent on ESEA's case, as their allegations are broad and, as noted in this statement,
11 there is a level of specificity and detail that is missing.

12 DATED this 9th day of May, 2025.

13 CLARK COUNTY SCHOOL DISTRICT
14 OFFICE OF THE GENERAL COUNSEL

15 By: /s/ Crystal J. Pugh
16 CRYSTAL J. PUGH, ESQ.
17 Nevada Bar No. 12396
18 BETTY J. FOLEY, ESQ.
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20 5100 West Sahara Avenue
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CCSD (Respondent)

CCSD's Second Supplemental
Prehearing Statement

FILED
September 10, 2025
State of Nevada
E.M.R.B.
3:14 p.m.

OFFICE OF THE GENERAL COUNSEL
CLARK COUNTY SCHOOL DISTRICT
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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,

Complainant,

v.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO.: 2024-032

**CLARK COUNTY SCHOOL DISTRICT'S
SECOND SUPPLEMENTAL PREHEARING
STATEMENT**

COMES NOW, Respondent, CLARK COUNTY SCHOOL DISTRICT ("District"), by and through its undersigned counsel, and pursuant to NAC 288.250, submits the following Second Supplemental Prehearing Statement in this action before the Local Government Employee-Management Relations Board ("Board" or "EMRB"). The District reserves the right to supplement or amend this Statement as new or additional information becomes available.

III.

LIST OF WITNESSES

1. Douglas Diaz, Director III of Facility Optimization for the Clark County School District, is expected to testify regarding his knowledge and actions concerning Complainant's allegations.

2. David Harris, Maintenance Supervisor with the Clark County School District, is expected to testify regarding his knowledge and actions concerning Complainant's allegations.

...

1 3. Roy Marshall, Maintenance Leader with the Clark County School District, is
2 expected to testify regarding his knowledge and actions concerning Complainant's allegations.

3 4. Kevin Rodela, Chiller Tech II with the Clark County School District, is expected
4 to testify regarding his knowledge and actions concerning Complainant's allegations.

5 5. Steve Blondin, Director – Employee Engagement and Performance Management
6 for the Maintenance Department with the Clark County School District, is expected to testify
7 regarding his knowledge concerning Complainant's allegations.

8 6. Danielle Palmer, Administrative Secretary I for the Clark County School District
9 Sustainability, Energy & Environmental Services Department, is expected to testify regarding her
10 knowledge concerning Complainant's allegations.

11 7. Demetrius Johnson, Director for the Clark County School District Employee
12 Management Relations Department, is expected to testify regarding his knowledge concerning
13 Complainant's allegations.

14 8. Andrew Quintana, Water Treatment Technician – Entry Level for the Clark
15 County School District, is expected to testify regarding his filing of a grievance in September
16 2024 and his employment with the Clark County School District.

17 9. The District reserves the right to call additional witnesses as deemed appropriate
18 and necessary.

19 DATED this 10th day of September, 2025.

20 CLARK COUNTY SCHOOL DISTRICT
21 OFFICE OF THE GENERAL COUNSEL

22 By: /s/ Crystal J. Pugh

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 Clark County School District

