

STATE OF NEW MEXICO  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

NEW MEXICO COALITION OF  
PUBLIC SAFETY OFFICERS,

Petitioner,

vs.

PELRB CASE NO. 118-17

SANTA FE COUNTY,

Respondent.

ORDER

**THIS MATTER** comes before the Public Employee Labor Relations Board on a Petition by the New Mexico Coalition of Public Safety Officers (NMCP SO) appealing the hearing officer's decision to partially dismiss the NMCP SO's prohibited practices complaint against Santa Fe County for facial inadequacy leaving only the acts alleged violating the Public Employee Bargaining Act Section 19(H) for hearing. After hearing oral argument by both parties, and the Board being otherwise sufficiently advised, finds by a vote of 3-0 the following:

- A. There is sufficient evidence supporting the hearing officer's August 10, 2017 decision to partially dismiss claims against Santa Fe County for facial inadequacy.

**THEREFORE THE BOARD** upholds Director Griego's August 10, 2017 Decisions in PELRB Case No. 118-17 and Orders NMCP SO to amend its complaint and file the amended complaint with the Board within five (5) days.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

10/3/17  
DATE

R.E. Bartosiewicz, Vice Chair  
R.E. BARTOSIEWICZ, BOARD VICE-CHAIR



STATE OF NEW MEXICO  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SUSANA MARTINEZ  
Governor

Duff Westbrook, Chair  
Roger E. "Bart" Bartosiewicz, Vice-Chair  
John Bledsoe, Member

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THOMAS J. GRIEGO  
Executive Director

August 10, 2017

The Terry Firm  
P.O. Box 846  
Edgewood, New Mexico 87015  
Attn: Adrian Terry, Esq.

Santa Fe County  
P.O. Box 276  
Santa Fe, New Mexico 87504-0276  
Attn: Rachel Brown, Esq.

Re: ***N. M. Coalition of Public Safety Officers v. Santa Fe County; PELRB 118-17***

Dear Mr. Terry and Ms. Brown:

I am in receipt of a prohibited practice complaint (PPC) filed by the New Mexico Coalition of Public Safety Officers (Union) against the County of Santa Fe (Employer). I have completed a preliminary review of the PPC herein pursuant to NMAC 11.21.3.12(A) and find that the complaint is facially adequate except as follows:

I do not find the PPC to adequately state a claim for breach of the duty to bargain. All factual allegations related to the claim that the duty to bargain under the PEBA §17 was breached, and thereby the employer violated NMSA §10-7E-19(F), are based entirely on the Union's disagreement with the Employer's interpretation or application of Standard Operating Procedures. That is contrasted with substantive changes to those procedures that might affect a mandatory subject of bargaining. It would be an untenable position that whenever a manager applies an SOP the duty to bargain is implicated. I am therefore dismissing the Union's claims for violation of §19(F). For similar reasons, any allegation that the Employer refused or failed to comply with a provision of the Public Employee Bargaining Act or board rule in violation of §19(G) are also dismissed. This Board has long held that to substantiate a claim under §19(G) a Complainant must allege and prove that the PEBA provision alleged to have been violated is the same breach of the duty to bargain alleged to have violated §19(F). Because it is unlikely the Legislature intended every violation of a subsection of § 19 to result in two separate counts of liability I am also dismissing the union's claims pursuant to §19(G).

What remains is a claim that the acts alleged violated the PEBA §19(H) - refusal or failure to comply with the parties' collective bargaining agreement.

Therefore, the County is required to file an answer within 15 workdays from receipt of the complaint. Failure to file an answer could result in the entry of a finding by default.

Pursuant to NMAC 11.21.3.12(B) I am also requesting that the complainant present to me all evidence now available to the complainant in support of the complaint, including provisions of the CBA referenced in the Complaint and alleged to have been violated and an outline of the testimony of any witnesses or their affidavits, within 10 days of this letter. There is no need to duplicate submissions already made. Failure to respond to this request may result in dismissal of the PPC.

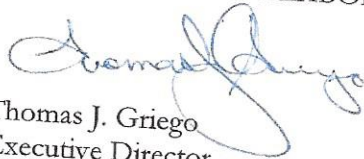
Please also take note that the hearing examiner may, on motion of any party, defer hearing a PPC that alleges a contract violation in favor of having the parties first proceed through the negotiated grievance-arbitration procedures. See NMAC 11.21.3.22. In addition to the above submissions I am asking both parties to state their positions with regard to whether this matter should be deferred within the time periods ascribed to them above.

The complainant is further directed to initiate contact with the employer or its representative to confer concerning a mutually acceptable date and time for a 20 minute Status and Scheduling Conference anytime on **September 1, 5, or 7, 2017** and inform this office of the agreed-upon date by **Friday, August 25, 2017**.

The Public Employee Bargaining Act (§§ 10-7E-1 through 10-7E-26), the PELRB rules and forms can be accessed on our website at [www.state.nm.us/pelrb](http://www.state.nm.us/pelrb).

Sincerely,

PUBLIC EMPLOYEE LABOR RELATIONS BOARD



Thomas J. Griego  
Executive Director