

**BEFORE THE STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

In re:

VICTORIA GURULE

Petitioner,

and

PELRB No. 301-22

**AMERICAN FEDERATION of STATE, COUNTY
and MUNICIPAL EMPLOYEES, COUNCIL 18,**

Respondent.

ORDER


THIS MATTER comes before the Public Employee Labor Relations Board (“Board”) following the summary dismissal of the petition in this case by the Executive Director. The Board, after reviewing the dismissal and being otherwise sufficiently advised, voted unanimously at its April 5, 2022 meeting to affirm the dismissal and the underlying reasoning.

THEREFORE, the Board hereby affirms the Executive Director’s dismissal of the petition on the grounds that:

- (1) Respondent American Federation of State, County and Municipal Employees has disclaimed its interest in the formerly represented bargaining unit; and
- (2) Following Respondent’s disclaimer, there is no longer a labor organization to be decertified and no purpose is served in proceeding with a decertification petition under NMSA 1978, Section 10-7E-16(A).

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

4/20/2022
Date



Mark Myers, Board Chair



STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MICHELLE LUJAN GRISHAM
Governor

Mark Myers, Chair
Nan Nash, Vice-Chair
Marianne Bowers, Member

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THOMAS J. GRIEGO
Executive Director

February 28, 2022

Victoria Gurule
5901 Zuni Rd. SE
Albuquerque, New Mexico 87108

Re: *Victoria Gurule and AFSCME, Council 18; PELRB No. 301-22*

Dear Ms. Gurule:

After review of NMSA 1978 § 10-7E-16 concerning decertification of an exclusive representative, I have reconsidered my prior position taken in an email to you on February 22, 2022 to the effect that that we should proceed with your decertification petition. Because § 16(A) provides that a decertification petition seeks to decertify a "labor organization as the exclusive representative" and no reference is made to dissolving or decertifying a bargaining unit, no purpose is served by continuing with such a petition after an exclusive representative has disclaimed its interest in the formerly represented bargaining unit. After a disclaimer, there is no longer a labor organization "on the scene" so to speak, to be decertified. Inasmuch as the bargaining unit continues to exist it does so only in a state of quiescence, that is to say it is unable to act in any manner outside of, or apart from, a newly recognized exclusive representative. Recognition of a new substitute or replacement exclusive representative would require a new Petition for Recognition supported by a sufficient showing of interest pursuant to NMSA 1978 § 10-7E-14, including the one-year time bar between elections in § 14(E).

Accordingly, I am summarily dismissing the decertification petition herein as moot. Pursuant to NMAC 11.21.2.22 you may request board review of this decision within 10 days after service of this letter decision.

Sincerely,

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

A handwritten signature in blue ink, appearing to read "Thomas J. Griego", is written over the typed name and title.

Thomas J. Griego
Executive Director

cc: Dina Holcomb, Stephen Curtice