

STATE OF NEW MEXICO  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

NEW MEXICO COALITION  
of PUBLIC SAFETY OFFICERS

Petitioner,

and

PELRB CASE NO. 307-17

RIO RANCHO POLICE  
AND DISPATCH ASS'N

Respondent.

ORDER

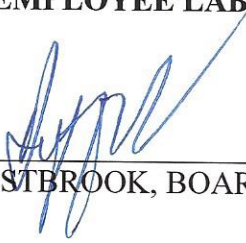
THIS MATTER comes before the Public Employee Labor Relations Board on a Petition by the NMCPSO appealing Director Griego's Summary Judgment Decision dismissing the case. Parties presented oral argument to the Board at its regularly scheduled meeting on January 9, 2018. The Board being sufficiently advised finds by a vote of 3-0 the following:

- A. There is sufficient evidence demonstrating that Director Griego did not err in finding that the petition requesting severance of dispatchers into a separate bargaining unit does not comply with the Board's Rule 11.21.2.41 NMAC.

THEREFORE THE BOARD adopts and ratifies Director Griego's Summary Judgement Decision dismissing the complaint.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

1-17-18  
DATE

  
DUFF WESTBROOK, BOARD 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

2929 Coors Blvd. N.W. Suite 303  
Albuquerque, NM 87120  
(505) 831-5422  
(505) 831-8820 (Fax)

THOMAS J. GRIEGO  
Executive Director

October 31, 2017

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

Rio Rancho Police and Dispatch Ass'n  
500 Quantum Road  
Rio Rancho, New Mexico 87124  
Attn: Corporal Richard Martinez

Holcomb Law Office  
3301-R Coors Blvd. NW #301  
Albuquerque, New Mexico 87120  
Attn: Dina Holcomb

Re: ***NMCP SO & Rio Rancho Police and Dispatch Ass'n; PELRB No. 307-17***

Dear parties:

I have received and reviewed the Petition for Severance herein as well as the Responses to that Petition from both the City of Rio Rancho and from the Rio Rancho Police and Communications Association (purporting to represent the bargaining unit at issue). Following an investigation pursuant to NMAC 11.21.2.13 (C) I have determined that a bar to the processing of the petition exists, requiring dismissal of the Petition.

Upon the filing of a Petition for Representation of a new bargaining unit, some degree of discretion is vested in the PELRB by § 10-7E-13 (A) to determine the propriety of any given bargaining unit:

*"The board or local board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining units for collective bargaining. Appropriate bargaining units shall be established on the basis of occupational groups or clear and identifiable communities of interest in employment terms and conditions and related personnel matters among the public employees involved. Occupational groups shall generally be identified as blue-collar, secretarial clerical, technical, professional, paraprofessional, police, fire and corrections. The parties, by mutual agreement, may further consolidate occupational groups. Essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act."*

NMSA 1978 § 10-7E-13 (A) (2003). (Emphasis added).

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In an initial representation case the Board is not necessarily bound by the delineated occupational groups, i.e. blue-collar, secretarial clerical, technical, professional, paraprofessional, police, fire and corrections, but may also designate an appropriate bargaining unit based on clear and identifiable communities of interest in employment terms and conditions and related personnel matters or by agreement of the parties. See, *NEA-Belen*, 1 PELRB No. 2 (April 11, 1994), citing *Kalamazoo Paper Box Corp.*, 136 NLRB 134 (1962).

The same measure of discretion does not appertain in the context of a severance petition. Our rules permit severance of employees in the occupational groups specifically delineated in § 13 without the ability to fashion an appropriate unit based on clear and identifiable communities of interest:

“A severance petition is a representation petition filed by a labor organization that seeks to sever or slice a group of employees *who comprise one of the occupational groups listed in 10-7E-13 NMSA* from an existing unit for the purpose of forming a separate, appropriate unit...”

11.21.2.41 NMAC (2004) (Emphasis added).

I have looked closely at whether communications workers, who are principally dispatchers, fall within one or more of the several delineated occupational groups and find that they do not. I have considered the Bureau of Labor Statistics Occupational Classification System Manual, which specifically excludes Dispatchers from the “technical” occupation designation so that they could not properly be called “technical” personnel eligible for severance.

Because of the foregoing, severing the unit as proposed would result in an inappropriate unit. Also, the principle of “the orderly operation and functioning of the state and its political subdivisions” espoused by NMSA 1978 § 10-7E-2 disfavors the needless proliferation of bargaining units or fragmentation of the work force. See NMSA 1978 §§ 2 and 13(A). See also, *NEA-Belen*, *supra* (adopting a general anti-fragmentation policy). Accordingly, the Severance Petition herein is **DISMISSED**. This Dismissal is subject to review by the Board.

Finally, I note that throughout this proceeding the “Rio Rancho Police and Communications Association” purports to represent the employees that are the subject of this Severance Petition. However, this Board has found, after extensive litigation, that they are represented by “Rio Rancho Police and Dispatch Association”. Clarification of that discrepancy is not before me and I do not address its solution as part of this proceeding.

Sincerely,

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

  
Thomas J. Griego  
Executive Director