

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

**CWA LOCAL 7076,**

**Complainant,**

**28 - PELRB - 2013**

**v.**

**PELRB No. 134-11**

**NEW MEXICO PUBLIC  
EDUCATION DEP'T.,**

**Respondent.**


**ORDER**

**THIS MATTER** comes before the Public Employee Labor Relations Board for review of the Hearing Officer's Supplemental Findings after remand from the Second Judicial District Court. Although no appeal was taken by either party from the Supplemental Findings in order to make clear that the parties have a final, appealable order, the Board voted 3-0 to approve and adopt as its own the Hearing Officer's Supplemental Findings and Amended Recommended Decision for the reasons stated therein. In summary, Dismissal of NMPED's Counterclaim was not remanded. Articles 14 and 5 of the parties' CBA, do not constitute a waiver of the union's right to bargain the effects of a changed working condition reserved to management's discretion and the union did not waive bargaining by inactivity. The PED's prohibited labor practice arising out of its intentionally withholding from the union information relevant to enforcing or monitoring compliance with the CBA or otherwise impairing the Union and its President in fulfilling her statutory duty to represent all employees in the bargaining unit, were not remanded. Because it appears that the effects of the RIF identified by the union in this case are covered by

the parties' contract a return to *status quo ante* requested by the union is not an appropriate remedy. Instead, the PED is directed to:

- (1) Cease and desist from failing and refusing to provide relevant information upon request and to refrain from such similar conduct in the future, and;
- (2) Post Notice of its violation in the form accompanying this Decision as Appendix A.

Date: 12-13-13

  
\_\_\_\_\_  
Duff Westbrook, Chair,  
Public Employee Labor Relations Board

**APPENDIX A**

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD  
An Agency of the State of New Mexico**

The Public Employee Labor Relations Board has found that we violated the Public Employee Bargaining Act and has ordered us to post and obey this notice.

You have the right under the Public Employee Bargaining Act §10-7E-17(A)(1), to bargain collectively with the Public Education Department in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties.

It has been found that we violated NMSA §10-7E-19 (F), refusing to bargain collectively in good faith with the exclusive representative, §10-7E-19 (G), by refusing or failing to comply with a provision of the Public Employee Bargaining Act or board rule by intentionally withholding of information necessary to administer the CBA, and to fairly and adequately represent all collective bargaining unit employees during meetings held to discuss employee layoffs that took place July 1, 2011 and §10-7E-19 (H) by refusing or failing to comply with articles 14, 5 and 41 of the parties' CBA

We acknowledge the above-described rights and responsibilities and will not in any like manner intentionally withhold information from CWA Local 7076 or fail to meet obligations under the parties' CBA.

\_\_\_\_\_  
For the New Mexico  
Public Education Department

Date:\_\_\_\_\_