

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

COMMUNICATION WORKERS OF
AMERICA,

Petitioner,

and

PELRB CASE NO. 310-17

THIRD JUDICIAL DISTRICT
ATTORNEY'S OFFICE,

Respondent.

ORDER

THIS MATTER comes before the Public Employee Labor Relations Board on a Petition by the Communication Workers of America for approval of the Consent Election Agreement seeking to represent trial attorneys, assistant trial attorneys, senior trial attorneys and deputy district attorneys in the Third Judicial District Attorney's Office. At its regularly scheduled meeting on January 9, 2018, Director Griego presented the Board with the agreement reached between the parties for an election to be held on January 26, 2018 from 12:00 pm to 3:00 pm at the Third Judicial District Attorney's Office in Las Cruces, N.M. The Board being sufficiently advised, with a roll call vote of 3-0 approved the Consent Election Agreement.

THEREFORE THE BOARD Orders Director Griego to proceed with the election to be held on January 26, 2018 as agreed by the parties.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

1-17-18

DATE



DUFF WESTBROOK, BOARD CHAIR

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
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CONSENT ELECTION AGREEMENT

PELRB Case No. 310-17

PETITIONER: COMMUNICATIONS WORKERS OF AMERICA

RESPONDENT: THIRD JUDICIAL DISTRICT ATTORNEY'S OFFICE

1. CERTIFICATION ELECTION. A secret ballot election will be held under the supervision of the Public Employee Labor Relations Board, with Thomas J. Griego designated as the Election Supervisor.

2. ELECTION DATE(S), TIME(S) AND LOCATION(S):

Friday, January 26, 2018 - 12:00 PM to 3:00 PM
Third Judicial District Attorney's Office Main Conference Room
845 N. Motel Blvd, Suite D, Las Cruces, NM 88007

3. THE BARGAINING UNIT.

INCLUDES Trial Attorneys, Assistant Trial Attorneys, Senior Trial Attorneys and Deputy District Attorneys, except those holding positions excluded below.

EXCLUDES: All Probationary, Managerial, Confidential, or Supervisory Employees.

4. ELIGIBLE VOTERS.

A. The bargaining unit employees who were employed during the last payroll period preceding the date of the consent agreement and are still employed on the date of the election.

B. Within five (5) work days following signing the consent election agreement, the Employer will submit to the Petitioner(s) a list with the names of the eligible voters.

C. The Union shall review the voter eligibility list and raise any objections it may have within five (5) workdays of receipt. If no objections are timely raised, the list shall be deemed to be true and accurate.

D. Employees in the bargaining unit who are eligible to vote but who will be absent on the day of voting because of hospitalization, temporary assignment away from normal post of duty, leave of absence, vacation at a location more than fifty (50) miles distant from the polling place, or other legitimate cause, may request an absentee ballot from the director. Except for good cause shown, such a request must be received by the director at least ten (10) days before the election, in which case the director, after preliminarily determining the employee's eligibility to vote, shall provide the employee with a ballot to be submitted to the director by mail. To be counted, an absentee ballot must be received by the director at least one day before the ballot count.

5. **NOTICE OF ELECTION.** The Notice of Election, along with a Sample Ballot, shall be posted in all common area(s) where regular notices are posted at least ten (10) workdays prior to the election, and no later than January 12, 2018. The times agreed upon by the parties for the opening and closing of the polls will be enforced by the Election Supervisor, PROVIDED however that the poll may close early if all eligible employees have voted prior to the designated closing time.

6. **OBSERVERS.** Each party shall be entitled to one (1) observer to assist and observe in the polling place and to witness the counting of ballots. The observers shall not be supervisory or managerial employees, union officers, or union employees; however, representatives of the parties in addition to observers may observe the counting of the ballots. Observers shall not wear or display any insignia, emblems, or clothing that advocates or promotes a party's position.

7. **DUTIES OF THE ELECTION SUPERVISOR.**

A. The Election Supervisor shall hand the ballot to each eligible voter appearing at the polling place after the voter identifies himself or herself and signs the eligibility list. Said eligible voters shall produce a picture I.D. before signing the eligibility list.

The voter will mark the ballot in secret and fold it. The voter will then personally deposit the ballot in the ballot box under the supervision of the Election Supervisor.

B. After the closing of the polls, the Election Supervisor will count the names from the voter eligibility list to determine whether 40% of the employees in the unit voted.

C. If the Election Supervisor determines from the voter eligibility list that less than forty percent (40%) of the employees in the unit voted, then the ballots will not be counted.

D. If the Election Supervisor determines from the voter eligibility list that forty percent (40%) or more of the employees in the unit voted, then the ballots will be counted in the presence of observers.

8. **THE BALLOT.**

- A. The secret ballot shall include the choice of: "COMMUNICATIONS WORKERS OF AMERICA" to certify the Union as the exclusive bargaining agent for the relevant employees, and "NO REPRESENTATION" for those employees to remain unrepresented.

The eligible voters shall mark the square corresponding to his/her choice.

THERE SHALL BE NO NAMES SIGNED ON THE BALLOT AND ANY OTHER MARKINGS ON THE BALLOT WILL INVALIDATE THE BALLOT.

B. **SECRET BALLOT.** The election will be by secret ballot and the Petitioner and Public Employer mutually agree that the voters will be allowed to vote without interference, restraint, or coercion. No electioneering shall be permitted within 50 feet of any room in which balloting is taking place. At the conclusion of the election, a Results of Secret Ballot Election form signed by authorized representatives for Petitioner and Public Employer and the Election Supervisor will be issued to the parties.

C. **CHALLENGED BALLOTS.** Any party to an election through its observer, or the Election Supervisor, may challenge the eligibility to vote of any person who presents him- or herself at the poll and shall state the reason for the challenge. The Election Supervisor shall challenge any voter whose name does not appear on the list of voter eligibility. The challenge to a voter must occur prior to that person casting a ballot.

9. **ACCOMMODATIONS.** Petitioner and/or the Public Employer should notify the Election Supervisor as soon as possible of any voters, potential voters, or other participants in the election with disabilities—as defined by the appropriate sections of the Rehabilitation Act and American with Disabilities Act and implementing regulations—who, in order to participate in the election, need appropriate auxiliary aids and request necessary assistance.

10. **OBJECTIONS.** Within five (5) workdays following the service of the Results of Secret Ballot Election form (the written tally of ballots), a party may file objections to the conduct of the election. A violation of this Consent Agreement is a basis for an objection and such a violation may cause the election to be rescheduled and/or the results to be invalidated.

11. The undersigned are designated by his or her respective party to act as principal and authorized to sign this Consent Election Agreement thereby binding each party to the contents herein.

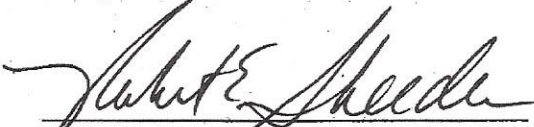
The undersigned acknowledge that they have (1) read each paragraph of this Consent Election Agreement; (2) been afforded an opportunity to ask questions of the Election Supervisor about the contents of each paragraph as well as discussed it with the other party; and (3) voluntarily and in good faith accepted the terms and conditions specified in the Consent Agreement.



For Communications Workers of America
Stanley M. Gosch, Attorney at Law

12/28/17


Date



For Third Judicial District Attorney's Office
Robert E. Sheeder, Attorney at Law

12/29/17

Date



Approved by PELRB Agent
Thomas J. Griego, Executive Director

12/29/17

Date