

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:
AFSCME, COUNCIL 18, AFL-CIO,

Petitioner,

and

PELRB No. 309-12

N.M. CHILDREN, YOUTH AND FAMILIES DEP'T.,

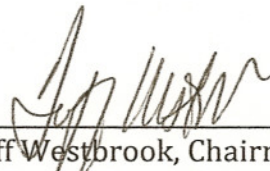
Respondent.

ORDER

THIS MATTER comes before the Board for ratification of the Executive Director's Approval of the Consent Election Agreement entered into by the parties.

Upon a 3-0 vote at the Board's August 28, 2012 meeting the Board approved and ratified the Executive Director's approval of the Consent Election Agreement as amended to reflect the correct polling times and the parties are directed to proceed as called for therein.

Date: 9-9-12



Duff Westbrook, Chairman
Public Employee Labor Relations Board

**NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
CONSENT ELECTION AGREEMENT**

PELRB Case No. 309-12

PETITIONER: American Federation of State, County and Municipal Employees, AFL-CIO, Council 18 ("AFSCME" or "Union")

RESPONDENT PUBLIC EMPLOYER OR LABOR ORGANIZATION: New Mexico Children, Youth and Families Department ("CYFD")

INTERVENING LABOR ORGANIZATION, IF ANY: None

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

2. **ELECTION DATE(S), TIME(S) AND PLACE(S):**

DATE: September 5, 2012
TIME: 11:30 A.M. until 12:30 P.M.
LOCATION: J. Paul Taylor Center
10015 Robert Larson Boulevard
Las Cruces, New Mexico 88007

and

DATE: September 6, 2012
TIME: 11:30 A.M. until 12:30 P.M.
LOCATION: Foothill High School Auditorium
4000 Edith Avenue NE
Albuquerque, New Mexico 87107

3. **THE BARGAINING UNIT:**

INCLUDES: Licensed Teachers and Basic Education Teachers employed in CYFD's Juvenile Justice Services ("JJS") Program in regular full-time, non-probationary, teaching positions in the CYFD's JJS facilities identified in Section 2 above.

EXCLUDES: All PROBATIONARY, MANAGERIAL, CONFIDENTIAL, OR SUPERVISORY EMPLOYEES and all temporary employees, e.g., substitute teachers, and other JJS employees not working in licensed teaching positions in the CYFD facilities identified above.

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. No later than ten (10) days prior to the election, the Employer will submit to the Director and Petitioner 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.

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 August 22, 2012. The times agreed upon by the parties for the September 5 and 6, 2012 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 a 40% of the employees in the unit voted. 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.

C. 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 "yes" to certify AFSCME as the exclusive bargaining agent for the relevant employees, and "no" for these employees to remain

unrepresented. The eligible voters shall mark the square of 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 Agreement thereby binding each party to the contents herein. The undersigned acknowledge that they have (1) read each paragraph of this Consent 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.

Sam Chavez Sam Chavez 8-7-12
For the Petitioner (Print and sign name) Date

Charles V. Garcia Charles V. Garcia _____
For Respondent Public Employer or Labor Date
Organization (Print and sign name.)

Ronald J. Duro 8-20-12
Approved by PEIRB Agent (Print and sign name.)