



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

Mark Myers, Board Chair

**Tuesday, March 1, 2022, 9:00 a.m.**

**Via videoconference**

1. **Call to Order.** The Chair called the Board meeting to order at 9:00 a.m. Vice-Chair Nan Nash and Member Marianne Bowers were also in attendance so that a quorum was present.
2. **Approval of Agenda.** Member Bowers moved to approve the agenda. The motion was seconded by Vice-Chair Nash and carried unanimously upon a roll call vote.
3. **Approval of February 1, 2021 Meeting Minutes.** Member Bowers moved to approve February 1, 2022 Meeting Minutes. Vice-Chair Nash seconded the motion and the motion passed unanimously upon a roll call vote.
4. **Public Comments.** The Chair asked if there were any public comments. Cassandra Olivas requested to speak to the Board regarding Agenda Item 9 concerning Tierra Encantada Charter School. The Chair acknowledged her and ceded the floor. She stated that she had been mentioned in the objections to the card check in PELRB 314-21 as someone who had provided misleading information about unionization to TECS employees. She denied having ever done so. She further stated that she felt she had been singled out because she no longer worked at TECS; she had been informed of the contents of the objections by former colleagues and felt compelled to address the Board in order to clear her name. The Chair thanked her for her comments and stated her comments would be addressed when that agenda item came up.
5. **Voluntary Dismissal.** *AFSCME v. Santa Fe*; PELRB 126-21. The Executive Director informed the Board that the case has settled prior to a hearing and no Board action was necessary. The Board invited counsel for the parties to comment. Stephen Curtice, on behalf of the union, and Christopher Ryan, on behalf of the employer, both concurred that the case had been resolved to the satisfaction of the parties. Staff were directed to close the file.
6. **Joint Motion For Clarification/Amendment of Orders.** *United Electrical, Radio and Machine Workers of America & University of New Mexico Board of Regents*; PELRB 307-20. Stephen Curtice, on behalf of the union informed the Board that the parties both agreed that a clarification of the Board's previous order was called for to make clear that the employees at issue in the petition were graduate students holding assistantships, not all graduate students. Kevin Glick, on behalf of the employer, stated that Mr. Curtice had accurately reflected the agreement of the parties.

Member Bowers stated that the motion submitted to the Board referred to a settlement on all issues in the case and asked the parties if they would elaborate in light of a recently filed Amended Notice of Appeal in the District Court. Mr. Curtice informed the Board that the parties had reached a settlement, and one aspect of the settlement involved the amendment of the Board's order as requested by the parties in their motion. The amended notice of appeal was filed due to approaching deadlines to preserve appellate rights in case the Board chose not to amend their order. The Vice-Chair moved to approve the proposed order after

adding the Board's vote tally, which had been left blank. Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote.

7. **Motion for Voluntary Recognition.** *Peñasco Federation of United School Employees-AFT & Peñasco Independent School District*; PELRB 317-21. The Executive Director informed the Board that the parties had resolved their dispute over the composition of the petitioned-for unit and he had determined that it was an appropriate bargaining unit so that voluntary recognition was appropriate. Member Bowers moved to approve the voluntary recognition; Vice-Chair Nash seconded the motion and the motion passed unanimously upon a roll call vote.
8. **Results of Decertification Election.** *Amanda Macias and New Mexico Coalition of Public Safety Officers*; PELRB No. 315-21. The Executive Director informed the Board that a decertification election had been conducted, but less than 40% of the bargaining unit had participated, so the election was invalid and no objections or requests for review has been received. He recommended the Board affirm the results of the election and dismiss the decertification petition. Member Bowers moved to affirm the results of the election and dismiss the decertification petition. Vice-Chair Nash seconded the motion and the motion passed unanimously upon a roll call vote.
9. **Results of and Objection to Representation Card Check.** *Tierra Encantada Charter School - NEA and Tierra Encantada Charter School*; PELRB 314-21. The Chair announced the item and stated that this would be a fact-finding hearing. He invited the parties' representatives to introduce themselves. Jerry Todd Wertheim of The Jones Firm stated that he was appearing on behalf of the union. Daniel Peña, Director of TECS, announced his appearance for the school. The Chair asked the Executive Director to give a summary of the case. He stated that there were two interrelated issues before the Board: The first was the results of the card check conducted in the case on February 7, 2022; the second was the submission of objection to the card check by the employer on February 16, 2022. He referred the Board to his Investigative Report on the objections issued on February 24, 2022 and provided to the Board.

The Chair invited Mr. Peña to address the Board first. Mr. Peña stated that he believed there were some inaccuracies in the Report. He stated that the statements in the objections to the card check regarding alleged misleading and incorrect statements by union organizers were not his own, nor did he solicit them from the employees; his objections contained accurate portrayals of statements made to him by employees. He called no witnesses and offered no evidence for the Board's consideration. The Chair inquired if the other members of the Board had any questions for Mr. Peña; they had none. The Chair then invited Mr. Wertheim to address the Board. Mr. Wertheim began by reminding the Board the Mr. Peña had offered no evidence to support his objections and had therefore failed to meet his burden of proof. He further stated that any "factual quibbles" presented by Mr. Peña were not material to the Board's decision and offered to answer any questions the Board might have, requesting the Board adopt the Director's Report and affirm the Card Check Results.

The Executive Director reminded the Board that Cassandra Olivas had offered comments on this matter during the Public Comment portion of the meeting and inquired as to how they would like to proceed. The Vice-Chair stated that Mr. Peña had not mentioned Ms. Olivas in his presentation but thought she might want to further address the Board in light of Mr. Peña's statements. The Chair asked counsel for the Board if it would be appropriate for Ms. Olivas to make a statement when she wasn't called as a witness by either party. The Board's counsel stated that it was within the Board's prerogative to ask Ms. Olivas to testify if they so wished. Member Bowers stated she was hesitant to receive testimony from

someone who had not been called as a witness by either party. The Vice-Chair stated that she agreed the Board should not *sua sponte* call any witnesses and that she was satisfied she understood the context of Ms. Olivas's statements in regard to the Director's Report. The Chair agreed and thanked Ms. Olivas for her prior comments before moving that the Board go into closed executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss PELRB 314-21. Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote. The time was 9:42 a.m.

At 9:54 a.m. the Chair moved to go back into regular session and stated the only matter discussed during the closed session was PELRB 314-21. Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote. The Chair then moved that the Board find that TECS had failed to meet its burden to provide evidence of conduct that improperly interfered in the card check so the objections were therefore dismissed and that the Board affirm the results of the card check and the certification of exclusive representation. The Vice-Chair seconded the motion and the motion passed unanimously upon a roll call vote. The Chair then directed the Board's counsel to prepare an order consistent with the Board's decision for signature.

10. **Summary Dismissal.** *CWA v. State Personnel Office*; PELRB 132-21. The Executive Director informed the Board that he had dismissed this case with leave to amend and no amendment or request for Board review of the dismissal had been received. There was no action required of the Board. The Chair directed staff to close the file.

11. **Director's Reports**

- a. **Budget report.** The Executive Director reported that our proposed budget had been approved without significant modification as part of the general appropriations bill that the legislature had approved during the legislative session.
- b. **Senate Bill 41.** The Executive Director informed the Board that amendments to the URPEDA declaring employees of University Research Parks that operated health care facilities public employees for the purposes of the PEBA.

12. **Pending Litigation** The Chair moved under Sections 10-15-1(H)(2) and (7) of the Open Meetings Act, to discuss *University of NM v. United Electrical Radio and Machine Workers of America*; D-202-CV-2021-06615 and *SRMC v. PELRB et al.*; D-202-CV-2021-06067. Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote. The Board recessed to closed executive session at 10:02 a.m.

At 10:15 a.m. the Chair moved to return to open session and stated that and pursuant to sections 10-15-1(I)(l) and 10-15-1(J), the only matters discussed in the closed executive session were *University of NM v. United Electrical Radio and Machine Workers of America*; D-202-CV-2021-06615 and *SRMC v. PELRB et al.*; D-202-CV-2021-06067 and the limited personnel matters. No action was taken by the Board as a result of the closed session.

13. **Adjournment.** Member Bowers moved to adjourn. The Vice-Chair seconded the motion and the motion passed unanimously upon a roll call vote. The time was 10:16 a.m.