



STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
MEETING MINUTES
Tuesday, July 12, 2022, 9:00 a.m.
Via videoconference

1. **Call to Order.** Mark Myers, Board Chair, called the meeting to order at 9:00 a.m. Member Marianne Bowers and Vice-Chair Nan Nash were also in attendance so that a quorum was present.
2. **Approval of Agenda.** The Vice-Chair moved to approve the agenda. The motion was seconded by Member Bowers and carried unanimously upon a roll call vote.
3. **Approval of May 3, 2022 Meeting Minutes.** Member Bowers moved to approve the May 3, 2022 Meeting Minutes. The Vice-Chair 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. There were none.
5. **Voluntary Dismissals.**
 - a. *DFUSE v. Dulce Independent Schools*; PELRB 103-22. The Executive Director informed the Board that although the parties reported that they had resolved their dispute and the item had been placed on the Board's agenda in anticipation of a withdrawal of the complaint, staff has not yet received the withdrawal or entered a Voluntary Dismissal. The matter would likely be addressed again on the Board's August meeting agenda.
 - b. *AFSCME, Council 18 v. N. M. Corrections Dep't.*; PELRB 122-21. The Executive Director informed the Board that the PPC had been withdrawn prior to a hearing and he issued a Voluntary Dismissal. The Board directed staff to close the file.
 - c. *AFSCME v. NMCD*; PELRB 128-21. The Executive Director informed the Board that settlement discussions were in progress but not completed. Therefore, the PPC had not yet been withdrawn and no Voluntary Dismissal issued so that the file could be closed. Shane Youtz, counsel for the union, informed the Board that settlement discussions had not been successful and the case should proceed to a hearing on the merits. The Executive Director stated that he would schedule a Status and Scheduling Conference to set deadlines and a hearing date.
6. **Default Determination.** *LCPOA v. Las Cruces*; PELRB 105-22. The Executive Director informed the Board that this case had been transferred to the Board by operation of law when the Las Cruces local board ceased to exist. There had been some confusion as the underlying events were also the subject of a grievance under the applicable CBA, which had been conflated with the PPC by city staff. After sending a letter to the city stating that the PPC was adequate, no answer was filed by the city so he issued a Determination of Default. However, in the interim, the parties had settled their dispute, after the Determination of Default, the PPC was withdrawn and a Voluntary Dismissal issued. Director Griego asked the Board to advise him whether his acceptance of a Withdrawal and issuing a Voluntary Dismissal after entry of a Default Determination was appropriate and on how to process future cases of the same procedural nature. The Board stated that his course of action was acceptable and to proceed the same way if the situation were to arise again. No action was taken by the Board.

7. Amended Certifications.

- a. *PFUSE & Peñasco ISD*; PELRB 305-22. (Agenda item 7a.) The Executive Director reported that he issued an amended certification accreting middle- and high-school counselors into the bargaining unit. The parties had agreed to the accretion, and Director Griego found that adding the positions would not result in an inappropriate bargaining unit. Member Bowers moved to approve the amended certification. The Vice-Chair seconded the motion and the motion passed unanimously upon a roll call vote.
- b. *SFCFFA & Santa Fe County*; PELRB 306-22. The Director Griego reported that he had issued an amended certification accreting Station Captains into the existing bargaining unit. The parties had agreed to the accretion and after determining that the title “Station Captain” was a new position, not a reclassification of an existing position, Mr. Griego found that adding the position would not result in an inappropriate bargaining unit, he issued the amended certification. Vice-Chair Nash moved to approve the amended certification. Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote.

8. **Employer’s Objections to Employee List Request.** *LAMAW & UNM-SRMC*; PELRB 303-22. After Director Griego informed the Board of the procedural posture of the case, the Chair invited Kevin Gick, counsel for the employer, to address the board first. After delivering his argument, to the effect that inasmuch as the Union petitioned for a card check rather than an election, the rules and law pertaining to information to be provided as part of an employee list pursuant to NMAC 11.21.2.12 did not apply. Mr. Gick answered questions from the Board. The Chair then invited Shane Youtz, counsel for the union to address the Board. Mr. Youtz delivered his argument and answered questions from the Board.

The Chair then moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss agenda item 9, *LAMAW & UNM-SRMC*, PELRB 303-22 and, pursuant to section 10-15-1(H)(2) of the Open Meetings Act, to discuss agenda item 10, Personnel Matters re: staff compensation. Vice-Chair Nash seconded the motion and the motion passed unanimously upon a roll call vote and the Board recessed into closed executive session at 9:50 a.m.

At 10:25 a.m., Chair Myers moved that the Board go back into regular session and stated that pursuant to sections 10-15-1(I) and 10-15-1(J), the only matters discussed in the closed executive session were agenda item 9, *LAMAW & UNM-SRMC*, PELRB 303-22 and agenda item 10, Personnel Matters re: staff compensation. Member Bowers seconded the Motion, which passed unanimously upon a roll call vote. The Board returned to open session at 10:27 a.m.

The Chair moved to deny the employer’s objections to providing the information requested by the Executive Director. The Vice-Chair seconded the motion and the motion passed unanimously upon a roll call vote.

9. Director’s Reports.

- a. *UE & NMSU*; PELRB 313-21. The Executive Director informed the Board that the time for filing an appeal with the District Court passed without an appeal having been filed. Accordingly, he would close the file.
- b. *AFSCME 3022 v. ABCWUA*; PELRB 106-22. The Executive Director told the Board that he granted Summary Judgment dismissing most of the Union’s claims but denied the Employer’s Summary Judgment Motion as to the alleged failure to bargain in violation of section 19(F) of the Act. Conversely, while dismissing most of the Union’s request for Summary Judgment, he granted Summary Judgment in favor of the Union on its section 19(F) claim. While the Summary dismissals were properly before the Board, the time in which the Water Authority could request board review of his granting Summary judgment in favor of the Union on its section 19(F) claim

had not yet passed. Therefore, the Board should expect to see this matter again on its August agenda.

- c. *PFUSE Local 4285, et al. v. Peñasco Independent School District*; PELRB 108-20. The Executive Director informed the Board that he had been informed by the parties that settlement was imminent and invited Dina Holcomb, counsel for the employer, to elaborate. She stated that the parties were currently determining the exact amounts involved and had exchanged the necessary information to do the calculations involved, but they were not yet complete. Upon completion the case may be closed.
- d. *AFSCME 3022 v. ABCWUA*; PELRB 107- & 109-21; D-202-CV-2021-06572. Director Griego told the Board that the District Court stayed its appellate process to accommodate the parties' settlement negotiations. Staff were waiting to learn the outcome of those negotiations and would continue to monitor the case on appeal.
- e. Financial Report. Tanya Montoya-Ramirez apprised the Board of the final figures from FY22, stating that there were minimal funds being reverted. She also informed the Board of the budget for FY23 and gave an update on the progress of the FY22 audit. The Executive Director thanked her for her work and reminded the Board that this year's reversion was much lower than previous years, largely due to her. The Chair expressed his approval of the low reversion number.
- f. *NMCP SO v. Santa Fe County*; PELRB 133-21; D-101-CV-2022-00913. The Executive Director reported that staff timely filed the Record on Appeal. Ms. Holcomb, counsel for the County in this case, observed that the audio record was filed later than the documentary record and Mr. Huchmala explained that this was due to the electronic files being too large to transmit to the Court and special arrangements needed to be made to have digital recording on discs hand-delivered to the District Court in Santa Fe.

Vice-Chair Nash moved for a brief recess before conducting the rulemaking hearing next on the agenda. Member Bowers seconded the motion and the motion carried unanimously upon a roll call vote. The Board recessed at 10:53 a.m. At 11:02 a.m. the Vice-Chair moved to go back into session. Member Bowers seconded the motion, the motion carried unanimously upon a roll call vote, and the Board resumed business at that time.

9. Rulemaking Hearing and Adoption of Rule Amendments. Chair Myers announced that he would go through each rule change individually and solicit comment on each one as it arose unless there were any objections to that procedure; there were none. Director Griego noted that staff received no comments during the notice period preceding the hearing. The Chair announced each proposed amendment to NMAC 11.21.1, 11.21.2, and 11.21.5 as noticed asked for comments from those present. There were no comments from any attendees on any of the proposed changes, with the exception of the proposed change to NMAC 11.21.2.8. Mr. Youtz suggested adding language to clarify the meaning "list of employees" in that section, suggesting a reference to the information required by Section 14 of the Act. Director Griego suggested that when considering Mr. Youtz's suggestion, the Board may want to consider whether it might be better to insert the reference to Section 14 into NMAC 11.21.2.12(B). Mr. Youtz agreed that might be better. After a brief discussion the Board decided to add the phrase "which includes the information required by Section 14(A) of the Act" to end of the first sentence in NMAC 11.21.2.12(B). Member Bowers asked Counsel for the Board whether the additional phrase was acceptable under the State Rules Act, as being reasonably related to the proposed rule change as published. Ms. Glenn summarized the limitations on changes to proposed rules that may be made and opined that, while an argument could be made the additional phrase was not reasonably related to the published proposed change, it was not so obviously unrelated that the Board could not exercise its discretion on that matter. After further discussion, the Board

reached a consensus that the additional language was reasonably related to, and within the scope of, the change as posted in the Notice of Rulemaking because it only clarified what was meant by “list of employees” included in the amendment originally proposed. There were no other comments on any of the proposed changes. Vice-Chair Nash moved to adopt the rules as written and amended. Member Bowers seconded the motion and the motion carried unanimously upon a roll call vote.

10. **Adjournment.** Member Bowers moved to adjourn the meeting. The Vice-Chair seconded the motion and the motion carried unanimously upon a roll call vote. The time was 11:21 a.m.