



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

Nan Nash, Board Chair  
**Tuesday, February 7, 2023, 9:00 a.m.**  
**Via videoconference**

1. **Call to Order.** Chair Nan Nash called the meeting to order at 9:00 a.m. Member Mark Myers was also present, constituting a quorum.
2. **Approval of Agenda.** Member Myers moved to approve the agenda. The motion was seconded by Chair Nash and carried unanimously upon a roll call vote.
3. **Approval of January 3, 2022 Meeting Minutes.** Member Myers moved to approve the January 3, 2022 Meeting Minutes. The Chair seconded the motion and the motion passed unanimously upon a roll call vote.
4. **Public Comments.** There were no public comments.
5. **Voluntary Dismissals.** Two cases were discussed under this agenda item:
  - a. *BCDSA v. Bernalillo Co. & BCSO*; PELRB 121-22. The Executive Director informed the board that after the denial of the County's Motion for Summary Judgment, the complaint had been withdrawn by the union before a hearing. He then issued a Voluntary Dismissal in accordance with the Board's rules and the file would be closed. No action was required or taken by the Board.
  - b. *LVFFA v. City of Las Vegas*; PELRB 101-23. As with agenda item 5(a), the complaint had been withdrawn by the union before a hearing. Therefore, the Executive Director Voluntarily Dismissed the case in accordance with the Board's rules and the file would be closed. No action was required or taken by the Board.
6. **Amended Certifications.** The Executive Director informed the Board that CWA and the State Personnel Office are in the process of clarifying the composition of all the state employee bargaining units represented by CWA, originally certified around 2004 after the passage of the PEBA. These cases are part of that ongoing effort. The following Certifications were presented to the Board as the Director's Report clarifying the unit required by NMAC 11.21.2.37.
  - a. *CWA & NM Comm. for the Blind*; PELRB 311-22. Mr. Griego stated the parties had agreed to the clarified unit description shown on the Amended Certification in their packets issued on January 10, 2023. Chair Nash moved to ratify the Amended Certification. Member Myers seconded the motion and the motion carried unanimously on a roll call vote.
  - b. *State Personnel Office/Early Childhood Education and Care Department & CWA Local 7606*; PELRB 316-22. Mr. Griego explained that this case differed from the others in that

the positions in the bargaining unit at the Early Childhood Education and Care Department (ECECD) had originally been part of the bargaining unit at the Public Education Department (PED) certified in 2004. After the ECECD was created in 2020, those employees were transferred from the PED to ECECD with no disagreement that they would continue to be represented by the CWA, but no Certification of Representation was sought or issued at that time. Because there was no question concerning representation and there was no prior certification of the unit, the Executive Director issued a Certification for the ECECD unit, rather than an Amended Certification. He asked that the Board ratify that Certification in their packet issued January 20, 2023. Chair Nash moved to ratify the Certification as proposed. Member Myers seconded the motion and the motion carried unanimously on a roll call vote.

- c. *State Personnel Office/Public Education Dep't. & CWA, Local 7076; PELRB 321-22.* Because of the procedural history of the ECECD unit outlined in the discussion of agenda item 6(b) above, Executive Director Griego expressed his opinion that Certification of the ECECD unit necessitated issuing an Amended Certification for PED reflecting the positions taken from it in 2020 and moved to the ECECD following the position description sent to him by the SPO when the parties' Joint Petition for Clarification was filed. Mr. Griego shared a series of email messages from both representatives of SPO and the Union expressing reservations about approving the unit as described in the proposed Amended Certification; the SPO expressing concern that removed classifications may still be in use at PED, while CWA sought a more direct expression that the unit was a "wall-to-wall" unit. The Executive Director found that neither of those concerns should impede amendment of the unit as proposed in the Amended Certification issued January 23, 2023 and asked the Board to ratify it. Chair Nash moved to ratify the Amended Certification. Member Myers seconded the motion and the motion carried unanimously on a roll call vote.

Before moving on to the next Item, the Chair announced that the Board would go into a closed executive session after hearing all agenda items requiring a closed session, rather than having a closed session after each item.

7. **Motion for Stay in *IAMAW & UNM-SRMC*; PELRB 303-22.** The Chair asked Mr. Griego to provide the procedural background for Motion. After doing so, the Chair asked the representatives of the parties to enter their appearances. Melissa Kountz appeared on behalf of UNM-SRMC and Stephen Curtice appeared on behalf of the union. As the movant, Ms. Kountz was invited to address the Board first, followed by Mr. Curtice. After hearing from counsel the Chair thanked them for their presentations and stated the Board would take up the matter in closed session. A summary of the Board's action concerning this agenda item appears in that portion of these minutes below outlining its actions taken after returning from its closed session at 11:41 a.m.
8. **Request for Board Review of the H.O. Report and Recommended Decision Concerning Designation of an Appropriate Bargaining Unit in *UHPNM & UNM-SRMC*; PELRB 304-22.** After receiving the procedural history summarized by Executive Director Griego, the Chair asked counsel for the parties to enter their appearances. Melissa Kountz appeared on behalf of UNM-SRMC and Stephen Curtice appeared on behalf of the union. The Request for Review having been made by UNM-SRMC, Ms. Kountz was invited

to address the Board first, followed by Mr. Curtice. After hearing from counsel, the Chair thanked them for their presentations and stated the Board would take up the matter in the upcoming closed session. A summary of the Board's action concerning this agenda item appears in that portion of these minutes below outlining its actions taken after returning from its closed session at 11:41 a.m.

9. **Card Check Results in *UHPNM & UNM-SRMC*; PELRB 304-22.** Before taking up the card check results in this case Chair Nash announced that the Board recently received a Motion to Strike the Card Check Results as premature and to remove the scheduled item 9(a) from the Agenda. Consequently, that motion would also be considered as part of agenda item 9(a). Upon request by the Chair, Executive Director Griego provided the procedural posture of the Card Check Results and Motion. The Chair asked counsel for the parties enter their appearances. Melissa Kountz appeared on behalf of UNM-SRMC and Stephen Curtice appeared on behalf of the union. Mr. Curtice stated that the Union was prepared to dispense with a written response to the Motion and proceed on oral argument at today's meeting. After consulting in open session with the Board's counsel about the propriety of considering UNM SRMC's motion under the same agenda item as the card check results and receiving his assurance that doing so was proper, the Chair invited Ms. Kountz to address the Board first, followed by Mr. Curtice. After hearing from counsel, the Chair thanked them for their presentations and stated the Board would take up the matter in the upcoming closed session.

A summary of the Board's action concerning this agenda item appears in that portion of these minutes below outlining its actions taken after returning from its closed session at 11:41 a.m.

10. **Request to Permit Interlocutory Review of H.O.'s Denial of Motion to Quash in *UHPNM, AFT*; and *AFT and IAMAW, AFL-CIO v. UNM SRMC*; PELRB 119-22, 122-22 and 123-22.** The Chair announced the agenda item and asked counsel for the parties to enter their appearances. Melissa Kountz appeared on behalf of UNM-SRMC and Stephen Curtice appeared on behalf of the union. After Chair Nash asked for and received a recitation of the procedural background of the case from Executive Director Griego the Chair invited Ms. Kountz to address the Board first, followed by Mr. Curtice. After hearing from counsel, the Chair thanked them for their presentations and stated the Board would take up the matter in the upcoming closed session. A summary of the Board's action concerning this agenda item appears in that portion of these minutes below outlining its actions taken after returning from its closed session at 11:41 a.m.
11. **Cases on Appeal.** There were three cases on appeal scheduled for discussion on the agenda. The first of these *LAMAW & UNM-SRMC*; Case No. D-202-CV-2023-00132 (In re: PELRB 303-22) did not require a closed session inasmuch as the Executive Director simply reported that staff had filed the Record on Appeal in accordance with Rule 1-074 NMRA, on January 31, 2023, ahead of the February 09, 2023 deadline. Director Griego briefly referred to the Motion for Stay in this case filed after the Notice of Appeal already before the Board at today's meeting under agenda item 7.

With regard to the other two cases, *Gallup-McKinley County Schools v. McKinley County Federation of United School Employees Local 3313, AFT-NM* and *State of New Mexico Public Employee Labor Relations Board*; Case No. D-202-CV-2022-07617 (PELRB 104-22) and *Albuquerque Bernalillo*

*County Water Utility Authority v. AFSCME, Council 18, Local 3022 and New Mexico Public Employee Labor Relations Board*; Case No. D-202-CV-2023-00071 (In re: PELRB No. 114-22), The Chair announced that the Board would discuss them as pending litigation in closed session.

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 items 7(a) *LAMAW & UNM-SRMC*; PELRB 303-22; 8(a) *UHPNM & UNM-SRMC*; PELRB 304-22; 9(a) *UHPNM & UNM-SRMC*; PELRB 304-22; and 10(a) *UHPNM, AFT; and AFT and LAMAW, AFL-CIO v. UNM SRMC*; PELRB 119-22, 122-22 and 123-22; and pursuant to section 10-15-1(H)(7) of the Open Meetings Act, to discuss items 11(a), (b), and (c); and pursuant to section 10-15-1(H)(2) of the Open Meetings Act, to discuss item 12(c). Member Myers seconded the motion and the motion carried unanimously on a roll call vote. The Board went into closed session at 10:37 a.m.

At 11:41 a.m. the Chair moved that the Board go back into regular session, and pursuant to sections 10-15-1(I)(l) and 10-15-1(J), the only matters discussed in the closed executive session were agenda items 7(a), 8(a), 9(a), 10(a), 11(a), 11(b), 11(c), and 12(c). Member Myers seconded the motion and the motion carried unanimously on a roll call vote.

The Chair invited a motion regarding Item 7(a) *LAMAW & UNM-SRMC*; PELRB 303-22. Member Myers moved to find that the PELRB had jurisdiction over the matter and to deny the Motion. The Chair seconded the motion and the motion carried unanimously on a roll call vote.

The Chair then moved to adopt the Hearing Officer's Report and Recommended Decision concerning the designation of an appropriate bargaining unit in agenda item 8(a). Member Myers seconded the motion and the motion carried unanimously on a roll call vote.

With regard to agenda Item 9(a) Chair Nash stated that as part of their discussion the Board had considered UNM-SRMC's Motion to Strike the Card Check Results. She then invited a motion. Member Myers moved to deny the Motion to Strike, to affirm the Card Check Results and to certify the collective bargaining unit as found by the Executive Director. The Chair seconded the motion and the motion carried unanimously on a roll call vote.

The Chair then moved to affirm the Executive Director's denial of the motion to quash in agenda item 10(a). She stated that UNM-SRMC is free to negotiate a protective order, but the Board would not be involved in those negotiations. Member Myers seconded the motion and the motion carried unanimously on a roll call vote.

12. **Director's Reports.** The Executive Director reported on two of the matters listed under this agenda item; i.e. the 2022 Annual Report and the Executive and LFC Budget recommendations and budget hearing. The Executive Director gave a summary of PELRB operations in 2022 and stated that the report had been posted and was available for viewing on the Board's website.

Regarding the legislative budget hearing on January 25, 2023, Director Griego summarized the status of agency's budget request now pending before legislative committees.

Concerning agenda item 12(c), staff salary and benefits discussion and retirement planning,

the Chair stated that this item had been discussed in the closed session and no Board action was taken.

12. **Scheduling In-Person meetings and Adjournment.** The Executive Director asked if the Board members would like to designate any of their scheduled monthly meetings as being in-person at the PELRB offices, as they had previously indicated they would like to do. Chair Nash suggested the June 6, 2023 meeting be in-person. Member Myers had no objection to her proposal. Future in-person meeting would be addressed after a third member had been appointed by the governor. Member Myers moved to adjourn. The Chair seconded the motion and the motion carried unanimously on a roll call vote. The time was 12:00 noon.