



**MINUTES**  
**STATE OF NEW MEXICO**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**  
Peggy Nelson, Board Chair  
**Tuesday, September 5, 2023, 9:00 a.m.**  
**Via Videoconference**

1. **Call to Order.** The Executive Director announced that Peggy J. Nelson had been re-appointed to another three-year term on the Board. He also announced that by operation of NMAC 11.21.1.33 the Chair had passed to Ms. Nelson, with Mr. Myers assuming the Vice-Chair and Ms. Nash remaining on the Board as a member. Chair Nelson called the meeting to Order at 9:03 a.m.; Member Nash and Vice-Chair Myers were also present, constituting a quorum.
2. **Approval of Agenda.** The Vice-Chair moved to approve the agenda. The motion was seconded by the Member Nash and carried unanimously upon a roll call vote.
3. **Approval of July 11, 2023 Meeting Minutes.** Member Nash moved to approve the July 11, 2023 Meeting Minutes. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
4. **Approval of August 1, 2023 Meeting Minutes.** Member Nash moved to approve the July 11, 2023 Meeting Minutes. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
5. **Public Comments.** The Chair asked the other Board members to consider, for action at a future meeting, establishing some policies regarding public comments to the Board. She suggested limiting comments to subjects relevant to the Board's statutory purposes and not otherwise on the agenda, and limiting comments to a specific period of time, e.g. three or five minutes. She then asked if anyone present wished to address the Board. There were no public comments.
6. **Voluntary Dismissal.** *In re: UE v. Regents of New Mexico State University*; PELRB 112-23. The Executive Director informed the Board that the parties had settled the dispute prior to a hearing and a Voluntary Dismissal was issued after the withdrawal of the Complaint. The file had been closed and no action was required by the Board. Counsel for both parties were present and had nothing to add to the Director's comments.
7. **Amended Certifications.**
  - a. *In re: CWA & State of New Mexico, Department of Cultural Affairs*; PELRB 312-22
  - b. *In re: NUHHCE & UNM Hospital*; PELRB 308-23
  - c. *In re: State Personnel Office (DHSEM) & AFSCME, Council 18*; PELRB 310-23
  - d. *In re: State Personnel Office (DVR) & AFSCME, Council 18*, PELRB 311-23
  - e. *In re: State Personnel Office (ECECD) & AFSCME, Council 18*; PELRB 312-23
  - f. *In re: State Personnel Office (NMDOT) & AFSCME, Council 18*; PELRB 313-23

- g. *In re: State Personnel Office (OSI) & AFSCME, Council 18*; PELRB 314-23
- h. *In re: State Personnel Office (PRC) & AFSCME, Council 18*; PELRB 315-23
- i. *In re: State Personnel Office (RLD) & AFSCME, Council 18*; PELRB 316-23

Chair Nelson asked Director Griego to address the Amended Certifications listed under this agenda item as a group. He stated that all were based on joint petitions without any dispute over composition of the unit and except for the cases appearing as agenda items 7(a) and (b), all the Amended Certifications were part of an ongoing effort by AFSCME and the State Personnel Office (SPO) to clarify the units of State employees at various agencies represented by AFSCME. Agenda item 7(a) was part of the same type of effort by the SPO, but with the Communications Workers of America (CWA); and (b) was a petition for accretion of 11 new positions into an existing unit at UNM Hospital supported by a sufficient showing of interest. In each case he had determined there were no questions concerning representation or issues of unit inclusion and issuing an amended certification would not result in an inappropriate bargaining unit. Accordingly, he had issued Amended Certifications in each of the cases. Member Nash moved to approve the Amended Certifications and the findings therein regarding the absence of questions concerning representation and the appropriateness of the bargaining units. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.

#### 8. **Summary Dismissals.**

- a. *In re: SFCFFA & Santa Fe County*; PELRB 307-23 The Executive Director informed the Board that he dismissed the petition because he had found that the affidavits submitted after his request for additional information indicated that the petitioned-for employees were excluded from bargaining as management employees. (See NMSA 1978 § 10-7E-4(N) (2020)). Because there had been no request for review of the dismissal, there was no action required of the Board.
  - b. *In re: Kelli McKee & Grant County*; PELRB 327-23 The Executive Director informed the Board that this was a Petition for Decertification he had dismissed the Petition without prejudice because it named the Employer rather than the Exclusive Representative as the Respondent. Although the Petitioner originally requested Board review of the dismissal, she subsequently filed a new petition, found to be adequate, naming the correct parties and was not present to address the Board. Therefore, no action was required of the Board.
9. **Decision on the Merits.** *FOP & LCPOA v. City of Las Cruces and Las Cruces Police Dept.*; PELRB 104-23. Director Griego reported that prior to conducting a hearing on the merits, the parties agreed to submit the matter to him on stipulated facts and legal briefs. After receiving both parties' simultaneously submitted briefs, he issued his Report and Recommended Decision on August 11, 2023 finding that the City committed prohibited practices and directing the parties to proceed with arbitration and post notice of the violation. No request for review had been filed so the decision was binding on the parties and the Director is informed that the City is complying with his Decision. Staff will close the file but monitor the progress of the arbitration.

#### 10. **Requests for Stay of Proceedings.**

- a. *In re: UHPNM v. UNM-SRMC*, PELRB 109-23
- b. *In re: UHPNM v. UNM-SRMC*, PELRB 110-23
- c. *In re: UHPNM v. UNM-SRMC*, PELRB 111-23

The Executive Director opined that all three cases involved substantially the same issues and could be heard together. The Chair asked counsel for the parties for their positions concerning

hearing the cases as a group. Michael Calderon, counsel for UNM-SRMC, said that the Respondent did not object to proceeding in that way. Shane Youtz, counsel for UHPNM, also agreed that the issues in each case were sufficiently similar that they should be heard together. Director Griego then informed the Board that as an initial matter, the Board must decide whether to hear the requests as an interlocutory appeal under NMAC 11.21.1.27. The Board then heard argument from counsel as to that issue. After hearing from the parties, the Chair stated that the Board would discuss the matter when the Board went into closed session later in the meeting. Member Nash clarified that if the Board found that interlocutory appeal was appropriate the Board would hear argument from the parties on the substantive issues after returning to open session.

11. **Remand For Further Proceedings.** *In re: UHPNM & UNM-SRMC*; D-202-CV-2023-02118 (PELRB 304-22). The Executive Director informed the Board that its decision in PELRB 304-22 had been reversed by the District Court and remanded to the Board to explain its reasons for its determination that that per diem or “PRN” employees in the unit are “regular” employees under the PEBA, and for any other proceedings that may be necessary. He suggested hearing from “counsel” (meaning the Board’s counsel) about how best to proceed. Because he was not clear about which “counsel” he meant, Michael Calderon addressed the Board concerning how he thought they should proceed. Administrative Assistant Matt Huchmala interjected that he had just spoken with Samantha Hulst of the Rodey Law Firm, the attorney of record for SRMC in this particular case, and she indicated that Assistant University Counsel Kevin Gick was prepared to address the Remand issue. The Board then heard from Kevin Gick, who stated that it was UNM-SRMC’s position that the case had been fully argued and further submissions from the parties would not be appropriate. Chair Nelson explained that she interpreted calling upon “counsel” to mean the Board’s counsel but that the Board would discuss procedure with its counsel, Todd Baran, in the upcoming closed session. However, having already heard from counsel for UNM-SRMC, the Chair called upon Shane Youtz, counsel for UHPNM. Mr. Youtz stated that requesting proposed findings from the parties was not necessary and would only lead to further delay.

12. **Discussion of Pending Litigation.** The Chair called for a motion to go into closed session. Member Nash moved that the Board go into executive session pursuant to section 10-15-1(H)(3) and (7) of the Open Meetings Act, to discuss items 10, 11, and 12 from the agenda; the motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote. The Board went into closed session at 9:50 a.m.

At 11:24 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 Items 10, 11 and 12 on the agenda. Member Nash seconded the motion and the motion carried unanimously upon a roll call vote. The Board returned to open session at 11:24 a.m.

Member Nash then moved to deny the Requests for Stay in PELRB Nos. 109-23, 110-23, and 111-23 due to their interlocutory nature. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.

The Chair then announced that the Board would not ask for proposed findings from the parties and would assign a Board member the task of drafting the Board’s findings in collaboration with Mr. Baran, for approval at the October meeting.

13. **Director’s Reports.** The Executive Director informed the Board that the audit of FY23 was

proceeding as planned and the next step would be meeting with the accountants to discuss their report. The Audit Report will be posted on the website when the State Auditor releases it for publication. There was a larger reversion at the end of FY23 than expected due to a mix-up in the billing from Office Depot. The FY25 budget proposal had been submitted; it included a request for additional funding for outside Hearing Officers from the AHO if the caseload increases due to local boards ceasing to exist.

14. **Adjournment.** The Board was informed by staff of a typographical error on Agenda Item 7(i): the case number should have been 316-23. Member Nash moved to amend the agenda to reflect the appropriate case number. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote. The Chair moved to adjourn. The Vice-Chair seconded and the motion passed unanimously after a roll call vote and the meeting was adjourned at 11:38 a.m.