



MINUTES
STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Peggy Nelson, Board Chair

Tuesday, October 3, 2023, 10:00 a.m.

PELRB Offices 2929 Coors Blvd NW, Suite 303; Albuquerque NM 87120

1. **Call to Order.** Chair Nelson called the meeting to Order at 10:00 a.m.; Member Nash and Vice-Chair Myers were also present, constituting a quorum.
2. **Approval of Agenda.** Member Nash moved to approve the agenda. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
3. **Approval of September 5, 2023 Meeting Minutes.** Member Nash moved to approve the September 5, 2023 Meeting Minutes. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
4. **Discussion of Board policy governing Public Comments.** The Chair introduced the topic and suggested limiting comments to subjects relevant to the Board's statutory purposes and not otherwise on the agenda, together with a time limit of three minutes for public comments. Vice-chair Myers indicated his approval. Member Nash agreed that the suggested guidelines were a good idea and that absent compelling reasons, three minutes was a sufficient amount of time for public comments. The Chair suggested publishing the guidelines on future agendas as well as the Chair announcing them when calling for public comment. The Chair called upon the Board's counsel, Todd Baran, appearing telephonically, for his opinion and stated that it was the preferred practice to both publish the guidelines on the agenda itself as well as announcing the limits at the time the Chair calls the agenda item. Staff were directed to add language reflecting the guidelines to future agendas.
5. **Public Comments.** There were no public comments.
6. **Voluntary Dismissals.** *In re: AFSCME, Local 3999 v. City of Santa Fe*; PELRB No. 113-23 & *In re: NMCP SO v. County of Santa Fe*; PELRB 114-23. The Executive Director addressed both cases collectively. He informed the Board that both cases had settled prior to a hearing and the complainant's had withdrawn the complaints, so he had issued Voluntary Dismissals in each case and closed the files. No Board action was required.
7. **Summary Dismissal.** *In re: McKee & AFSCME, Council 18*; PELRB 329-23. The Executive Director informed the Board that this case concerned a Decertification Petition. Prior to the conference at which the decertification election was to be scheduled, the union disclaimed its interest as the exclusive representative of the subject employees and after confirming that the posting of notice requirements in NMAC 11.21.2.42 had been met, he dismissed the Petition pursuant to that rule. He asked the Board to affirm the Disclaimer of Interest and the summary

dismissal of the case. Member Nash moved to affirm the summary dismissal; the motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.

8. **Certification of Bargaining Unit.** *In re: AFSCME, Council 18 & Middle Rio Grande Conservancy District*; PELRB 309-23. The Executive Director informed the Board that this case concerned a petition for certification as the exclusive bargaining representative for a new unit of employees at Middle Rio Grande Conservancy District. After resolving all issues of unit inclusion, timely submission of an additional showing of interest, and whether any of the authorization cards were obtained by fraud or coercion, a card check was conducted that demonstrated the union had the support of a majority of the employees in the bargaining unit. Based on that card check the Executive Director issued the Certification of Representation now before the Board for approval. Member Nash moved to affirm the Certification. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
9. **Amended Certifications.** The Executive Director addressed these cases collectively. He informed the Board that the parties to the cases listed below (except PELRB 330-23) concerned ongoing joint efforts to amend unit descriptions to reflect updated job classifications and titles of those state agency bargaining units represented by either Communications Workers of America or the American Federation of State, County and Municipal Employees, Council 18. In each of the State cases the parties agreed to the new unit descriptions and he issued the Amended Certifications before the Board for approval, reflecting the current composition of the units.

PELRB 330-23, did not concern the ongoing clarification of State agency units, but UNM Hospital and District 1199NM, National Union of Hospital and Health Care Employees similarly agreed to the accretion at issue as reflected in the Certification before the Board for approval. Kevin Gick, on behalf of UNM Hospitals stated that there was no objection from the employer. As stated on the face of the Amended Certification the Executive Director found that the accretion did not render the unit inappropriate and the union had majority support from the employees to be accreted. The Executive Director asked that the Board vote to affirm his findings and approve the Amended Certifications in all of the following:

- a. *In re: State Personnel Office (DOH) & CWA*; PELRB 313-22
- b. *In re: State Personnel Office (DOH-Sequoyah) & CWA*; PELRB 314-22
- c. *In re: State Personnel Office (NMED) & CWA*; PELRB 319-22
- d. *In re: State Personnel Office (TRD) & AFSCME, Council 18*; PELRB 317-23
- e. *In re: State Personnel Office (DCA) & AFSCME Council 18*, PELRB 318-23
- f. *In re: State Personnel Office (ALTSD) & AFSCME, Council 18*, PELRB 326-23
- g. *In re: District 1199NM, NUHHCE & UNM Hospitals*; PELRB 330-23

Member Nash moved to approve the Amended Certifications. The motion was seconded by the Chair and carried unanimously upon a roll call vote.

10. **Remand For Further Proceedings.** *In re: UHPNM & UNM-SRMC*; D-202-CV-2023-02118 (PELRB 304-22). The Executive Director reminded the Board that this matter had been carried over from the September meeting and that the Board could go into closed executive to discuss the case. 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 item 10 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 10:26 a.m.

At 10:40 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 was Item 10 on the agenda. Member Nash seconded the motion and the motion was carried unanimously upon a roll call vote. The Board returned to open session at 10:41 a.m. Member Nash announced that the Board did not take issue with the Hearing Officer's findings of fact but was applying a different legal standard and intends to stand by its previous decision; counsel was drafting appropriate orders to satisfy the District Court's direction on remand.

11. **Discussion of Proposed Rule Amendments.** *In re: NMAC 11.21.1.17, Evidence Admissible and NMAC 11.21.2.37, Unit Clarification.* The Executive Director began by stating that staff had not yet begun the formal rulemaking process, and that this was not a Rulemaking Hearing; rather, this was placed on the agenda to inform the Board of changes staff believe would be appropriate and to ask for further instruction from the Board. He then informed the Board that recent cases had demonstrated that changes to the Board's rules regarding evidence and unit clarifications were warranted. An *ad hoc* rules committee had met and based on those discussions, the Executive Director had drafted some proposed changes to the relevant rules, copies of which had been provided to the Board. Counsel for the Board reminded them and staff that before any changes could be made, the public must be given appropriate notice of and an opportunity to comment on any proposed changes and a properly noticed rulemaking hearing would have to take place. The Board's counsel also offered some advice on the language of the proposed changes. Kevin Gick, counsel for University of New Mexico Hospitals, expressed concerns about the proposed changes' compliance with various state and federal privacy laws pertinent to educational institutions and medical care providers.
12. **Director's Reports.** Tanya Montoya-Ramirez, the agency CFO, reported that the agency was on track to stay within budget; the FY23 annual audit was proceeding according to schedule and an exit conference would most likely take place before the end of the calendar year; and staff would attend a meeting of the Legislative Finance Committee would take place later this month as part of the FY25 budget process. The Board thanked her for her continuing hard work on behalf of the Board.
13. **Adjournment.** The Vice-Chair moved to adjourn. Member Nash seconded and the motion passed unanimously after a roll call vote. The meeting was adjourned at 11:15 a.m.