

68-PELRB-2023

STATE OF NEW MEXICO PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

**PROFESSIONAL FIRE FIGHTERS OF
TORRANCE COUNTY, IAFF LOCAL 5441,**

Petitioner,

and

PELRB No. 332-23

TORRANCE COUNTY,

Respondent.

ORDER

THIS MATTER came before the Public Employee Labor Relations Board (hereinafter the “Board”) at its regularly scheduled meeting on December 5, 2023 upon the petition filed by the Professional Fire Fighters of Torrance County, IAFF Local 5441 dated September 28, 2023. The petition sought certification as the exclusive representative of the unit comprised of firefighters up to and including the rank of lieutenant. Following allegations of coercion by the County contending that the showing of interest was improperly obtained, Executive Director Griego investigated the matter and issued a Report finding that the County did not present sufficient evidence to rebut the presumption under NMAC 11.21.2.13 that the showing of interest is valid. No request for review of the decision was filed, and Executive Director Griego issued a Certification of Representation as requested by Petitioner on November 8, 2023.

Pursuant to the Public Employee Bargaining Act, NMSA 1978, Sections 10-7E-1 to 25 (2003, as amended through 2020), and being otherwise sufficiently advised, the Board voted 2-0 (Vice-Chair Myers being absent) to affirm the Report on Allegations of Coercion and approve Executive Director Griego’s Certification of Representation dated November 8, 2023.

68-PELRB-2023

THEREFORE, the Certification of Representation dated November 8, 2023 is hereby
APPROVED.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DocuSigned by:

Peggy Nelson

9E7076C2FDCE437...

PEGGY NELSON, BOARD CHAIR

12/14/2023

DATE

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

In re:

**PROFESSIONAL FIRE FIGHTERS OF
TORRANCE COUNTY, IAFF LOCAL 5441,**

Petitioner,

and

PELRB No. 332-23

TORRANCE COUNTY,

Respondent.

DIRECTOR'S REPORT ON ALLEGATIONS OF COERCION

STATEMENT OF THE ISSUE AND INVESTIGATION: This matter comes before the Board's Executive Director, Thomas J. Griego, on the allegations by Torrance County that the Union's showing of interest submitted in support of its Petition for Recognition were obtained by coercion. Whenever there are allegations of fraud, forgery or coercion related to the showing of interest, the hearing examiner shall investigate the matter while still maintaining the confidentiality of the showing of interest. See 11.21.2.13 NMAC. The showing of interest is presumed valid, however, unless there is clear and convincing proof of fraud, forgery or coercion. Id. Any rulings concerning the adequacy of the showing of interest is made in the complete discretion of the hearing examiner and are not subject to review.

On October 18, 2023 Torrance County responded to my October 5, 2023, request for a statement of any issue that could affect the outcome of the proceeding, reporting that it "received information" stating that the Petitioner "...already collected membership dues from some Torrance County employees who would be considered eligible to be in the

bargaining unit as proposed.” Also, Torrance County reported that Ms. Julie Fill, a Torrance County employee union organizer, “... may have also harassed at least one employee when she gave that employee an invoice in an attempt to collect membership dues.” Torrance County expressed concern that those actions could amount to coercion, and thereby a violation of NMSA 1978, Section 10-7E-20.¹ Appended to this Report as Exhibit 1 is a copy of the Torrance County Manager’s letter of October 18, 2023, in which those issues were raised.

I began my investigation by requesting that Torrance County identify the employees that were subject to the harassment and/or coercion as alleged in the October 18 letter including that employee who was given the invoice for dues payable. Torrance County timely responded to that request on October 23, 2022. A copy of the emailed request by the Board’s Administrative Assistant, Matt Huchmala on October 23, 2023 is appended as Exhibit 4.

As part of my investigation, I examined a photo, provided by Torrance County in response to my request, of either an email or letter or invoice from Julie Fill, President of IAFF Local 5441, to Ms. Felicia Braman Mahan, setting forth a statement of union dues owed for the period July, 2023 through August of 2023 totaling \$45.00. See Exhibit 2 appended to this report. In Exhibit 2, Ms. Fill explains the consequences under the Union’s By-Laws of not remaining current with monthly dues. I compared Exhibit 2 to a copy of the Union’s By-

¹ NMSA 1978 Section 10-7E-20(B) provides that public employees and labor organizations shall not: “... interfere with, restrain or coerce any public employee in the exercise of a right guaranteed pursuant to the provisions of the Public Employee Bargaining Act;” Among those protected rights is, not only the right to “form, join or assist a labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion” but the right to “refuse those activities.” See, NMSA 1978 Section 10-7E-5.

Laws provided by the Union President upon request and determined that Exhibit 2 accurately reflects the Union By-Laws, appended as Exhibit 3.

I made several phone calls to the putative bargaining unit members on October 23, 2023 and spoke with all five members of the proposed unit. None reported any problems with the unions collection of dues except one – Felicia Braman-Mahan, and she simply didn't want to pay dues. She did not complain of being coerced to sign and submit a union authorization card and after checking the authorization cards submitted, I found that that she, in fact, did not submit one. None of the other putative bargaining unit members who did submit authorization cards reported being coerced by the Union, or Julie Fill specifically, to do so.

Discussion of Torrance County's Objections Based on Coercion. I note that Torrance County's concerns about coercion of its employees are not based on any articulated facts demonstrating coercion but upon "information and belief" and what Ms. Fill "may" have done "by collecting membership dues and by harassing employees to pay dues."

In Exhibit 1 the County implies that a union may not collect dues until after it has been recognized by this Board as the exclusive representative: "Ms. Julie Fill *already collected membership dues from some Torrance County employees who would be considered eligible to be in the bargaining unit as proposed.* (Emphasis added). Torrance County cites no authority for the proposition that Professional Fire Fighters of Torrance County, IAFF Local 5441, must not or should not solicit and collect union dues until its Petition for Recognition is filed or a Certification of the bargaining unit is issued. Such a requirement would pose an unreasonable restriction on public employees' rights to organize guaranteed by § 2 of the Act. Likewise, such a requirement would pose an unreasonable restriction on public employees' § 5 rights to assist a labor organization for the purpose of collective bargaining through representatives

chosen by those employees. Any perceived coercion was not so great as to compel Ms. Braman Mahan to pay dues or submit an authorization card. My interviews of both Julie Fill and Ms. Braman Mahan specifically, as well as all other members of the proposed unit generally, established that Ms. Braman Mahan never told Julie Fill or anyone else in the Union that she did not want to participate in the union or did not want to pay dues, so it does not strike me as odd that the union would bill her for accrued monthly dues, until such time Ms. Braman Mahan communicated to the union that she did not want to participate. Black's Law Dictionary online defines "coercion" as "Compulsion; force; duress. It may be either actual, (direct or positive) where physical force is put upon a man to compel him to do an act against his will, or implied, (legal)." I conclude from the facts that the acts complained about here, do not rise to the level of "coercion." Receiving a bill that one ignores and is not otherwise compelled to pay, does not strike me as coercive. Ms. Fill's persistence in collecting union dues does not remotely approach the kind of conduct that would be considered to be the kind coercion requiring stopping a card check or an election. For example, in *NLRB v. Americold Logistics, Inc.*, 214 F.3d 935 (7th Cir. 2000,) the employer complained of an "angry, profane argument" before a union election between a union supporter and a union opponent, an incident when a union supporter "maneuvered his forklift next to [a co-worker] several times before the election and extolled the virtues of the union in a manner that intimidated and bothered [the co-worker]." The Seventh Circuit held that the union organizer's actions would need to "...have created an atmosphere of fear and reprisal that his fellow workers would have been rendered incapable of voting in a rational, uncoerced manner. [Internal citation omitted]. [The Union organizer's] lobbying of [the co-worker], even if a bit pushy, does not rise to the level of bullying that would necessitate a

hearing. See *Lovejoy*, 904 F.2d at 402 (“[e]mployees’ apprehension is not itself sufficient to spoil the vote”).

If that kind of conduct was insufficient to constitute coercion, dunning a co-worker for unpaid union dues falls far short of the mark.

Conclusions. NMAC 11.21.2.34 provides for objections to conduct affecting the determination of majority support in the context of a card check. Additionally, NMAC 11.21.2.13 provides that after the director determines any significant issues of unit scope, unit inclusion or exclusion, labor organization or public employer status; a bar to the processing of the petition; or other matters that could affect the proceedings, the director shall check the showing of interest against the list of employees in the proposed unit filed by the public employer to determine whether the showing of interest has been signed and dated by a sufficient number of employees and that the signatures are sufficiently current. If signatures submitted for a showing of interest meet the requirements set forth Section 11 of these rules, they shall be presumed to be valid unless the director is presented with clear and convincing evidence that they were obtained by fraud, forgery or coercion. In the event that evidence of such fraud, forgery or coercion is presented to the director, the director shall investigate the allegations as expeditiously as possible and shall keep the showing of interest confidential during the investigation. The director’s determination as to the sufficiency of a showing of interest is an administrative matter solely within the director’s authority and shall not be subject to questions or review. Section 11 referred to in NMAC 11.21.2.13 also requires that a showing of interest shall be presumed valid unless contradicted by the submission of clear and convincing evidence that they were obtained by fraud, forgery or coercion. See NMAC 11.21.2.11.

Having investigated the allegations of improper coercion, I find no evidence that Ms. Fill's collection of union dues created an atmosphere of fear and reprisal. There is no evidence of actual or threatened physical force, direct or implied, to compel anyone to pay dues or otherwise show union support against their will. Even if any employees complained that such collection efforts subjectively made them feel fearful (which they have not) such subjective feelings are not reasonable and are not the standard by which coercion is judged.

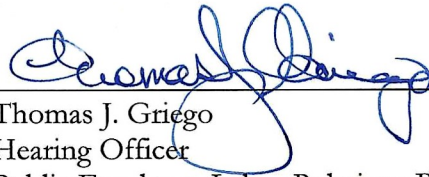
See *Overnite Transp. Co. v. NLRB*, 104 F.3d 109 (7th Cir. 1997), 104 F.3d 109 (1997):

“... only if the conduct ‘created such an atmosphere of fear and reprisal that the rational, uncoerced selection of a bargaining representative was rendered impossible.’ *Tuf-Flex Glass*, 715 F.2d at 296. Again, this is a fact-specific inquiry, for which the substantial evidence rule is particularly important ... Overnite presented no testimony that any employee felt intimidated...or felt distracted in voting... In the absence of this kind of evidence, we are unable to say that the hearing officer’s conclusion that the environment was not unduly coercive lacks support in the record. See *Milchem, supra; Del Rey, supra*. Indeed, even if we had found above that the demonstrators were all agents of the union, we would still conclude that the record does not show that the conduct ‘interfered with the employees’ exercise of free choice to such an extent that [it] materially affected the results of the election.’”). See also *Owens-Corning Fiberglas Corporation and Glass Bottle Blowers Ass’n of the United States and Canada*, 179 NLRB 39 (October 20, 1969) (The specific question posed is whether in the absence of actual physical violence, union representatives’ conduct in confronting an employee and threatening to remove her “Vote No” badge, did not create an atmosphere of fear and intimidation.) Statements by pro-union supporters – made in a climate of no violence whatever – even if constitutes “overzealous partisanship” does not substantially affect employees’ free choice of a Union representative. See *American Wholesalers, Inc. and Textile Workers Union of America, AFL-CIO*, 218 NLRB 50 (June 6, 1975).”

For the foregoing reasons I conclude that allegations of coercion in this case are without merit. Because I have found no clear and convincing evidence that the submitted interest cards were obtained by fraud, forgery or coercion, NMAC 11.21.2.13 requires that the showing of interest in this case is presumed to be valid. I further conclude based on the parties’ Statements of Issues that there are no significant issues of unit scope, unit inclusion or exclusion, labor organization or public employer status; a bar to the processing of the

petition; or other matters that could affect the proceedings. Therefore, I will check the showing of interest against the list of employees in the proposed unit filed by the public employer to determine whether the showing of interest has been signed and dated by a sufficient number of employees and that the signatures are sufficiently current so that the unit shall be certified by card check or an election scheduled, pursuant to NMAC 11.21.2.13.

Issued, Wednesday, November 08, 2023.



Thomas J. Griego
Hearing Officer
Public Employee Labor Relations Board
2929 Coors Blvd. N.W., Suite 303
Albuquerque, New Mexico 87120



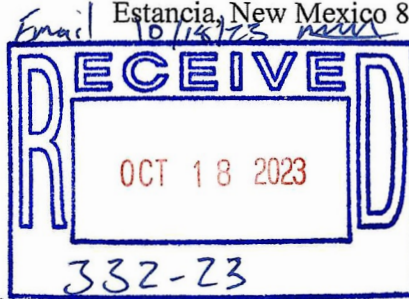
TORRANCE COUNTY

County Manager's Office

PO Box 48
205 South Ninth Street
Estancia, New Mexico 87016

Office: (505) 544-4700
Fax: (505) 384-5294
www.torrancecountynm.org

October 18, 2023



PFFTC #5441
PO Box 993
Moriarty, NM 87035
Attn: Julie Fill

Public Employee Labor Relations Board
State of New Mexico
2929 Coors Blvd. N.W. Suite 303
Albuquerque, NM 87120
Attn: Thomas J. Griego, Executive Director

RE: Torrance County's Response to Letter Dated October 5, 2023

Dear Ms. Fill and Mr. Griego:

I am in receipt of Mr. Griego's letter to Torrance County and to PFFTC, #5441, dated October 5, 2023, stating that the ambiguities previously identified in the origination Petition filed by the Professional Firefighters of Torrance County, #5441, were resolved and that the Petition is facially valid and is supported by a sufficient showing of interest.

In compliance with NMAC 11.21.2.12 (B) and NMSA 10-7E-14 (A), the County is providing the Union and Mr. Griego with a list of employees who would be in the bargaining unit as proposed, along with the required information. The following list includes Torrance County Fire Department non-probationary full-time paid employees engaged in firefighting, emergency medical or rescue service activities, or related services. Torrance County Fire Department employees serve a one-year probationary period.

Julie Fill

Job Title: EMT-Firefighter
Date of Hire: 12/05/2019
Work Location: District 3 Main Station, 757 Salt Missions Trail, McIntosh, NM 87032
Home Address: 27 Longhorn TR/PO Box 1045, Moriarty, NM 87035
Personal Email Address: juliefill1991@gmail.com
Home/Cell Phone: 505-362-8485

Christopher Sanchez

Job Title: EMT-Firefighter
Date of Hire: 7/06/2021
Work Location: District 3 Main Station, 757 Salt Mission Trail, McIntosh, NM 87032
Home Address: 206 South Wilson, Mountainair, NM 87036
Personal Email Address: chris13509@gmail.com
Home/Cell Phone: 505-357-2239

COMMISSIONERS

Ryan Schwebach, Chair, District 2 Kevin McCall, Vice Chair, District 1 Samuel Schropp, District 3

ELECTED OFFICIALS

Jesse Lucero, Assessor Linda Jaramillo, Clerk Josie Chavez-Eaton, Probate Judge David Frazee, Sheriff Kathryn Hernandez, Treasurer

COUNTY MANAGER

Janice Y. Barela

Felicia Braman-Mahan

Job Title: EMT-Firefighter

Date of Hire: 11/12/2021

Work Location: District 3 Main Station, 757 Salt Missions Trail, McIntosh, NM 87032

Home Address: 12 Jemez ST., Moriarty, NM 87035

Personal Email Address: cricket.braman@gmail.com

Home/Cell Phone: 505-382-7910

Elijah Fetherolf

Job Title: EMT-Firefighter

Date of Hire: 6/07/2022

Work Location: District 3 Main Station, 757 Salt Missions Trail, McIntosh, NM 87032

Home Address: 637 Monroe ST, Apt. A, Albuquerque, NM 87110

Personal Email Address: fetherolfeli@gmail.com

Home/Cell Phone: 505-554-0489

Larry Hughes

Job Title: EMT-Firefighter

Date of Hire: 6/07/2022

Work Location: District 3 Main Station, 757 Salt Missions Trail, McIntosh, NM 87032

Home Address: 5 Valle Oscuro, Pecos, NM 87552

Personal Email Address: ahughes0305@yahoo.com

Home/Cell Phone: 719-645-9929

Pursuant to NMAC 11.21.2.12 (A), Torrance County is providing a statement of an issue that could affect the outcome of the proceeding. Torrance County received information stating that Ms. Julie Fill already collected membership dues from some Torrance County employees who would be considered eligible to be in the bargaining unit as proposed. She may have also harassed at least one employee when she gave that employee an invoice in an attempt to collect membership dues. Torrance County is concerned that these actions could amount to coercion, and thereby a violation of NMSA 1978, Section 10-7E-20. Public employees; labor organizations; prohibited practices. This relevant state statute states the following:

“A public employee or labor organization or its representative shall not:

B. interfere with, restrain or coerce any public employee in the exercise of a right guaranteed pursuant to the provisions of the Public Employee Bargaining Act;”

Upon information and belief that Ms. Fill unlawfully coerced Torrance County employees by collecting membership dues and by harassing employees to pay dues, Torrance County respectfully requests that these actions be considered by the Public Employee Labor Relations Board and that proper action be taken.

Sincerely,



Janice Y. Barela

Torrance County Manager

Ms. Felicia Braman-Mahan ID 1562718

RE: Delinquent Dues

As of to date total dues due are:

July 18, 2023	\$15.00
August 1, 2023	\$15.00
August 16, 2023	\$15.00
TOTAL	\$45.00

Per Union bylaws that were emailed to you:

Article 3 section 7 States

Members who fail to pay their monthly dues or assessments by the fifteenth (15th) day following the month such dues are payable shall be notified by the Local officer whose duty it is, that they are delinquent and will be automatically suspended and lose their good standing if payment is not made within sixty (60) days following such notification. Delinquent and suspended members are not entitled to any voice or vote in the Local or in the affairs of the International.

If your dues are not caught up and kept caught up then your status with IAFF Union Local 5441 will be placed in an inactive status until such time as all past dues are brought up to date and reinstatement charge of \$10.00 is paid.

Thank you for your attention regarding this matter.

Julie Fill
President
IAFF Local 5441



LOCAL NUMBER: 5441

NAME/LOCATION: Professional Fire Fighters of Torrance County

CONSTITUTION AND BY-LAWS

July 7, 2023

(Date of Membership Approval)

(Authorized Local Officer)

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LOCAL UNION CONSTITUTION AND BY-LAWS

ARTICLE 1 NAME

Section 1. Local Number and Name.

The name and Local number of this organization shall be:

Professional Fire Fighters of Torrance County, Local _____.

Section 2. Definitions.

References in this Constitution and By-Laws to “Local” or “Local Union” shall refer to the Local as set forth in Section 1 above, and references to “Association” or “International” shall refer to the International Association of Fire Fighters.

Section 3. Compliance.

This Local Union, its officers, representatives, and members shall recognize, observe, and be bound by the provisions of the Constitution and By-Laws of the International Association and the interpretations rendered by the International General President, the resolutions, decisions and directives of the Executive Board or officers of the Association, when made in conformity with the authority granted by the Constitution and By-Laws of the Association, and the resolutions adopted and policies established by the delegates at conventions. Article XIII of the Constitution and By-Laws of the Association is recognized as providing the basic rules governing this Local.

ARTICLE 2 JURISDICTION

Jurisdiction shall be as follows: Captains, Lieutenants, non-probation full-time paid employees engaged in firefighting, emergency medical or rescue service activities, or related services.

ARTICLE 3 MEMBERSHIP

Section 1. Active.

Any person of good moral character who at the time of making application is engaged in service within the jurisdiction of this Local, as given in Article 2, is eligible for active membership.

Anyone eligible for membership in the Association shall not be refused membership or upon acceptance, be discriminated against because of age, race, color, religion, creed, national origin, sex, gender identity or expression, sexual orientation, marital or family status, by reason of disability, or status as military veteran.

Section 2. Honorary.

For meritorious service to the Local or for distinguished public service, persons may be elected honorary members by majority vote. Honorary members shall not pay initiation fees, dues or other charges and shall have no voice or vote in the Local. Such membership may be revoked for cause.

Section 3. Retiree.

Members who have retired from this Local or have otherwise withdrawn as members in good standing may be allowed to return to this Local within 6 months as active-retired members.

Section 4. Maintenance of Good Standing.

Membership in good standing includes any person who has fulfilled the requirements for membership in this Local and who has not voluntarily withdrawn, become ineligible for continued membership, or been suspended or expelled as provided in the Constitution and By-Laws of the International Association of Fire Fighters or the Constitution of this Local.

Section 5. Separation.

When any member in good standing is separated from the fire service, the Local Union may allow said member to retain active membership or, in lieu thereof, upon request of said member shall issue a withdrawal card. The Local Union may issue withdrawal cards only to those members who leave the fire service or EMS in good standing or who are precluded by law or local ordinance or contractually from maintaining union membership by virtue of their fire department position. A former member holding a valid withdrawal card will not be charged a reinstatement fee upon reentry into the organization. A member who is duly elected as an officer of the International Association of Fire Fighters or elected or appointed as a representative of or to an affiliated labor organization, shall retain his/her active membership in this Local.

Section 6. Resignation.

A member who by their own free will chooses to resign from Local shall fill out a Membership resignation form. Resignation (Termination) forms must be signed by the Union Secretary/Treasurer and may be submitted during the first five (5) business days of January and the first five (5) days of July only. A twenty-four (24) hour "cool down" period is required before a letter of resignation will be processed and submitted to the IAFF and employer payroll. Assessed dues or fees which have been paid to the Local and International are not refundable. Upon resignation, the member loses any membership rights, privileges, or voice bestowed by this Local or the International.

Section 7. Delinquent Members.

Members who fail to pay their monthly dues or assessments by the fifteenth (15th) day following the month such dues are payable shall be notified by the Local officer whose duty it is, that they are delinquent and will be automatically suspended and lose their good standing if payment is not made within sixty (60) days following such notification. Delinquent and suspended members are not entitled to any voice or vote in the Local or in the affairs of the International.

ARTICLE 4 MEETINGS

Section 1. Time and Place.

Regular meetings of this Local shall be held on the 2nd Thursday of each month at Victory Faith Fellowship 1100 8th St, Moriarty, NM at 10:00. Depending on space availability.

Section 2. Special Meetings.

Special meetings may be called by President of the Local. All members in good standing shall be notified of such special meeting at least seven (7) days prior to the same. The notice shall state the business to be considered at such meeting, and no other business than that stated in the notice shall be in order at such meeting.

Section 3. Quorum.

The quorum for any meeting of this Local, either regular or special shall be 3 members in good standing.

Section 4. Rights of Members.

Every member in good standing shall have the right to attend any meeting and to participate in such meeting in accordance with the recognized rules set forth in the manual of parliamentary procedure adopted by this Local. Members shall conduct themselves in such a manner as to not interfere with the legal or contractual obligations of the International or this Local.

Section 5. Rules for Meetings.

The rules contained in *Robert's Rules of Order* shall govern the meetings of this Local in all cases not in conflict with this Constitution and By-Laws, or the Constitution and By-Laws of the International, or interpretations of these documents.

ARTICLE 5 OFFICERS AND ELECTIONS

Section 1. Number and Titles.

The officers of this Local shall consist of a President, Secretary, and Treasurer, who shall hold office for 2 years, and until the election and installation of their successors, unless removed from office as provided in the Constitution and By-Laws of the International or this Constitution and By-Laws. Elections shall be held at the December meeting. The offices of Secretary and Treasurer may be held by the same individual.

Section 2. Eligibility for Office.

Any member in good standing shall be eligible to be a candidate for office in this Local.

Section 3. Rights of Candidates.

Every candidate for office shall have the right to request distribution of campaign literature, by mail or otherwise, to all members in good standing, at the candidate's own personal expense. "A candidate for office" includes a candidate for membership on the Executive Board. There shall be no discrimination in favor of or against any candidate with regard to the use of membership lists.

Section 4. Use of Funds Prohibited in Elections.

No funds received by this Local through initiation fees, dues or assessments or otherwise, shall be contributed or applied to promote the candidacy of any person in election of officers.

This section does not prevent the expenditure from Local funds for notices, factual statements of issues and other necessary expenses to conduct elections so long as they do not involve promotion of any candidate.

Section 5. Method of Nomination and Election.

Each member in good standing shall be given advance notice, in writing, of the date, time and place at which nominations shall be made, and at least fifteen (15) days advance notice, in writing, sent by U.S. mail to the last known address of the member, of the date, time and place at which elections shall be held. Any member in good standing may nominate eligible members for office.

Elections shall be by secret ballot; write-in voting shall not be permitted. If there is only one candidate for a given office, such candidate shall be declared elected. There shall be no voting by proxy in the election of Local officers. The candidate receiving a majority of the ballots cast shall be declared elected. If no candidate receives a majority of the ballots cast, there shall be a run-off election between the two candidates who received the most votes. If the final ballot of any officer election results in a tie between the candidates, the winning candidate for office shall be selected by the drawing of lots in the presence of both candidates.

Section 6. Elections Committee.

The President shall appoint an Elections Committee which shall be responsible for distributing and tabulating the ballots. Each candidate for office shall be entitled to appoint one observer who shall be permitted to witness the manner of distribution and casting of ballots and attend the meeting of the Elections Committee at which the votes are tabulated.

Section 7. Ballots Preserved.

The ballots and all other records of an election shall be preserved by the Secretary for one (1) year following such election.

Section 8. Vacancies in Office.

When an office becomes vacant by reason of death, resignation, or removal of the incumbent, the Executive Board shall elect a successor by majority vote, no later than thirty (30) days from the date the office is vacated.

ARTICLE 6 DUTIES OF OFFICERS

Section 1. Local President.

It shall be the duty of the President to preside at all meetings of the Local and at meetings of the Executive Board. He/She shall be the executive head of the Local. He/She shall be a member ex officio of all committees. He/She shall appoint such committees as may be provided for in this Constitution and By-Laws and such special committees as may be authorized by the Local. Together with the Treasurer, he/she shall sign all orders and checks lawfully and properly drawn. He/She shall enforce strict observance of the Constitution and By-Laws of the International as this document relates to the Local, and the Constitution and By-Laws of the Local and shall have the final authority, subject only to internal appeal to the International pursuant to Article XVIII of the IAFF Constitution and By-Laws, to decide questions of parliamentary rules and questions involving interpretation of this Constitution and By-Laws. He/She shall have general supervision of the activities of the other officers and the chair of committees.

The President shall discharge on behalf of the Local such duties as may be imposed upon him/her by applicable law including the execution and filing of any reports to federal or state authorities, and he/she shall cause to be maintained by the Local such records as the law requires to be kept in support of reports filed by the Local.

The President, by virtue of his/her election, shall be a delegate of this Local to the convention of the International.

Section 2. Local Vice President.

The Vice President shall assist the President in such a manner as the President may determine. In the absence of the President, he/she shall preside at meetings of the Local and of the Executive Board. If the office of President becomes vacant, the Vice President shall be acting President until the office of President is filled by election by the Executive Board.

Section 3. Local Secretary.

The Secretary shall have custody of all documents, records, books and papers belonging to the Local, except as may be otherwise provided by this Constitution and By-Laws. He/She shall keep an accurate record of the meetings of the Local and of the Executive Board, of which he/she shall be the Secretary. He/She shall attest all official documents with his/her signature and the seal of the Local. He/She shall conduct the correspondence of the Local promptly. He/She shall maintain the official list of members in good standing, which shall be kept accurately and on a current basis.

The Secretary shall discharge on behalf of the Local such duties as may be imposed upon him/her by applicable law including the execution and filing of any reports to federal or state authorities, and he/she shall cause to be maintained by the Local such records as the law requires to be kept in support of reports filed by the Local.

The Secretary shall due the duties of the Vice President until one is elected by the Local.

Section 4. Local Treasurer.

The Treasurer shall receive all monies due the Local, from whatsoever source, and shall disburse the same only by voucher signed by the President in conformity with a vote of the Local. Such disbursement shall be by check, which shall also be signed by the President. He/She shall maintain and keep current a record of members with their due's payments, assessments and all financial transactions promptly and accurately entered. He/she shall be prepared to exhibit receipts and vouchers upon the audit of his/her books. He/She shall forward the annual audit of the Local to the International General Secretary-Treasurer over the seal of the Local.

Section 5. Local Executive Board.

The Executive Board shall consist of the President, Vice President, Secretary and Treasurer, and members who are elected in accordance with the provisions of Article V. It shall be the duty of the Executive Board to exercise general supervision and control of the invested funds and property of the Local. It shall have the authority to act in the name of the Local during intervals between meetings, such acts being subject to confirmation by the membership at the next regular meeting of the Local. It shall provide for an annual audit of the Treasurer's books. It shall meet at the call of the President or on call signed by a majority of its members. A majority shall constitute a quorum.

Section 6. Bonding.

All officers and employees of the Local who handle funds or property of the Local shall be bonded in such amounts as may be required by the Board of Trustees and the International General Secretary-Treasurer in compliance with applicable law. The expense for the first \$5,000 of bond shall be borne by the International. If additional bond is necessary, the Local shall pay the additional premium. The Local shall have sufficient bond to cover at least ten percent (10%) of its current liquid assets.

ARTICLE 7

DELEGATES AND ALTERNATES TO INTERNATIONAL CONVENTIONS

Section 1. Delegates.

If, in accordance with Article IV, Section 2 of the International Constitution and By-Laws, this Local is entitled to delegates in addition to the President, they shall be elected by secret ballot of the members in good standing.

Section 2. Alternates.

Alternates to conventions shall be elected by secret ballot of the members in good standing. The credentials of delegates and alternates must certify to this method of election.

Section 3. Notice of Nominations and Elections of IAFF Delegates and Alternates.

Each member in good standing shall be given advance notice, in writing, of the date, time and place at which nominations shall be made, and at least fifteen (15) days advance notice, in writing, sent by U.S. or Canadian mail to the last known address of the member, of the date, time and place at which elections shall be held.

ARTICLE 8 INITIATION FEES, DUES AND ASSESSMENTS

Section 1. Initiation Fees.

Initiation fees shall be paid in the amount of \$10.00. Ten dollars (\$10.00) of this amount shall be submitted to the IAFF.

Section 2. Dues.

Dues are to be \$15.00 per paycheck, not including probationary employees, including IAFF and TSAFF per capita.

Section 3. Assessments.

Assessments may be made only in the following manner: Each member in good standing shall be notified in writing at least thirty (30) days in advance of the date on which the vote for an assessment is to occur. The proposed assessment shall become effective upon a majority vote of the members in good standing, by secret ballot, at a general or special meeting.

Section 4. Increases in Rates.

Increases in rates of initiation fees, reinstatement fees or dues shall require notice of such proposed increase to be given to the members in good standing at least thirty (30) days in advance of the date on which the vote for such increase is to occur. The proposed increase shall become effective upon a majority vote of the members in good standing, by secret ballot, at a general or special meeting.

Section 5. Reinstatement Fees.

Reinstatement fees shall be ten dollars (\$10.00), plus all back dues and assessments. Ten dollars (\$10.00) of this amount shall be submitted to the IAFF.

ARTICLE 9 MISCONDUCT, TRIALS AND APPEALS

Section 1. Misconduct and Trials.

Any member charged with misconduct as defined in Article XV of the International Constitution and By-Laws shall be served with written specific charges as required by Article XVI of the International Constitution and be given a reasonable time to prepare his/her defense and afforded a hearing as provided in Article XVII of the International Constitution.

Section 2. Appeals.

Appeals may be made in accordance with Article XVIII of the International Constitution and By-Laws. Such appeal must be filed with the General President of the Association within thirty (30) days of the action to be appealed.

ARTICLE 10 AUDIT

As required by Article XIII, Section 9 of the IAFF Constitution and By-Laws, this local shall have an independent inspection of all its books and accounts performed annually. A financial report of this inspection, on a form provided by the IAFF General Secretary-Treasurer's office, shall be prepared, signed and forwarded each year to the IAFF General Secretary-Treasurer within 180 days of the close of the local's fiscal year.

ARTICLE 11 AMENDMENTS

Section 1. Proposed Amendments.

This Constitution and By-Laws may be amended by a two-thirds (2/3) vote (except for changes in dues and assessments, and initiation and reinstatement fees, which shall require a majority vote, as provided in Article 8, Sections 3 and 4) at a regular meeting, provided that each member in good standing is notified in writing of the proposed amendment at least fifteen (15) days in advance of the meeting at which the vote will be taken.

Section 2. Adopted Amendments.

A proposed amendment to this Constitution and By-Laws shall be submitted for approval to the International General President after it has first been adopted by the membership and prior to its printing or issuance.

ARTICLE 12 BUDGET

Section 1 Budget Committee

The Budget Committee shall be comprised of the President, Secretary, and Treasurer

The Budget Committee shall:

- a. Determine the actual expenses of the Union.
- b. Ascertain the actual income of the Union and set up funds to meet these expenses.
- c. Have the budget ready by December 1 of each year, for presentation at the December Union meeting.
- d. Meet whenever deemed necessary by the Committee Chairman to review the budget and make necessary recommendations to the body.

Section 2 Preparation and Adoption

This Union shall administer its funds under a budget coinciding with the Fiscal Year. The Fiscal Year of this Union shall be from January 1 through December 31. Budgeted items shall be included in and monies for same drawn from the Union's General Fund. The Annual Budget shall be prepared and presented to the Union membership for approval by the Budget Committee at the regular December Union meeting.

A simple majority of votes by those voting shall adopt the budget. In the event the first proposed budget is not adopted, the Union shall continue to operate under the previous year's budget, on a monthly-prorated basis, until such time as a new budget is approved, not to exceed three (3) months.

Appendix

APPENDIX A - Initiation

PRESIDENT: "Brother Sergeant-at-Arms, see that the candidates in waiting have been duly elected and introduce them for initiation."

When the Sergeant-at-Arms arrives with the candidates at the inside door, he/she will give the alarm.

The members will rise to their feet when the door is opened. The Sergeant-at-Arms will have the candidates at his/her right and left and will say:

SERGEANT-AT-ARMS: "Brother/Sister President, permit me to introduce these fire fighters of good character and elected in regular meetings who come of their own free will to be admitted to the privilege of membership in the International Association of Fire Fighters."

PRESIDENT: "Brother Firefighters, it is my duty to inform you that the International Association of Fire Fighters requires perfect freedom of inclination in every candidate for membership in its body. An obligation of fidelity is required; but let me assure you that this obligation contains nothing contrary to your civil and religious duties. With this understanding, are you willing to take an obligation which binds you upon your honor to keep the same as long as life remains?"

(Answer)

PRESIDENT: "You will now, each of you, place your right hand upon your left breast while I recite the obligation."

Oath to be administered to Candidates.

"You, of your own free will, do sincerely promise to abide by the laws of the International Association of Fire Fighters and its subordinate local of which you are a member?"

"Do you also promise to bear true allegiance to the International Association of Fire Fighters and all for which it stands, and never consents to subordinate its interests to those of any other labor organization of which you may now, or hereafter be a member?"

"Do you further promise that you will never knowingly wrong a Brother or Sister, or see him/her wronged, if in your power to prevent it, and that you will endeavor to subordinate every selfish impulse to the task of elevating the material, intellectual, and moral condition of the entire laboring class?"

"Do you further solemnly promise, on our honor, that you will, whenever and wherever possible, purchase only strictly Union Made goods and you will use your best endeavors to influence others to do likewise and never become faithless to your obligation?"

"To all of this you pledge your honor to observe and keep as long as life remains, or until you may be absolved from this obligation by the International Association of Fire Fighters."

"Do you thus promise?"

(Answer)

APPENDIX B - Installation of Officers

Installation Obligation

(May be Repeated or Recited)

"I, _____, do hereby sincerely pledge my honor to perform the duties of my office as prescribed by the laws of this Union; and to bear a true allegiance to the International Association of Fire Fighters. I will deliver to my successor in office all books, papers, and other property of this Union that may be in my possession at the close of my official term. I will also deliver all property of the International Association of Fire Fighters to the President of the same upon demand. All of this I solemnly promise with the full knowledge that, to violate this pledge is to stamp me as a person devoid of principle and destitute of honor.

APPENDIX C - Order of Business

1. Opening Ceremony
 - A. President appoint Sergeant-at-Arms (one or more)
 - B. Pledge of allegiance to flag
 - C. Prayer
 - D. Moment of silence for members who have passed on.
 - E. Roll Call
2. Reading and adopting the minutes
 - A. Applications for membership
 - B. Balloting of candidates
 - C. Initiation of candidates
3. Treasurer's statement
4. Reports of standing committees
5. Reports of special committees
6. Special orders
7. Unfinished business
8. New business
9. Communications
10. Good and welfare
11. Adjournment

APPENDIX D - Rules of Order

Rule No. 1.

The regular meeting of this Union shall be called to order promptly at 18:00. and shall remain in session until the order of business has been completed.

Rule No. 2.

Rule for meetings. The rules contained in Roberts Rules for Meetings shall govern the meetings of this Local in all cases not in conflict with this Constitution and By-Laws, or the Constitution and By-Laws of the International, or interpretations of these documents.

Rule No. 3.

When the President takes the podium, the officers and members shall take their respective places, and at the sound of the gavel, all shall be silent.

Rule No. 4.

Each meeting shall be opened with prayer and attended with proper reverence by each member present.

Rule No. 5.

No member shall be admitted to a meeting under the influence of intoxicants.

Rule No. 6.

Every officer and member shall be designated, in debate or otherwise, by his/her proper title, according to his/her standing in the Association; and the President shall name the member to whom he/she gives the floor in debate before such member shall proceed to speak.

Rule No. 7.

The presiding officer shall have the authority to require any motion to be submitted in writing.

Rule No. 8.

A member shall not speak or otherwise interrupt the business of the Union when the minutes or other papers are being read, or when any member is speaking in debate.

Rule No. 9.

Committee reports shall be subject to amendments and/or substitutions from the floor.

Rule No. 10.

In order to gain privilege of the floor, a member must be officially recognized by the chairman: This rule shall apply to any member making a motion, seconding a motion, making or seconding a nomination or for the purpose of raising any parliamentary question.

Rule No. 11.

Any introducer of a pending question may at any time, withdraw said question, providing he/she has the consent of his/her second.

Rule No. 12.

No question shall be considered by the membership until it has been properly moved, seconded, and so stated by the Chair.

Rule No. 13.

When a member speaks, he/she shall address the President. A member shall not disturb another member in his/her speech unless to call him/her to order. Brothers/Sisters shall confine their remarks to the question in debate and avoid all personality and reflection on the Union or its members.

Rule No. 14.

If a member, while speaking, be called to order, he/she shall promptly take his/her seat until point of order has been decided.

Rule No. 15.

If at any time a member feels that the Chair has erred in making a decision, he/she may appeal the decision to the membership present.

Rule No. 16.

No member shall speak more than once on the same subject until all the members desiring the floor shall have spoken, nor more than five (5) minutes at any time without consent of two-thirds (2/3) of members present and voting.

Rule No. 17.

The Chair is duty bound to comply with the request of a member who, before voice vote has been taken, requests a show of hands, a standing vote, or secret ballot.

Rule No. 18.

The presiding officer shall not participate in debate on any pending question, unless he/she retires from the Chair.

Rule No. 19.

The presiding officer shall not exercise his/her right to vote excepting in case of a tie, then he/she shall cast his vote.

Rule No. 20.

A motion shall not be subject to debate until it has been seconded and stated by the Chair.

Rule No. 21.

When the reading of any paper or any other matter is called for, and the same is objected to by any member, it shall be determined by a vote of the Union without debate.

Rule No. 22.

Before putting the question, the President shall say: "Is the Union ready for the question?" If no one arises to speak and the Union is ready for the question, he/she shall arise and put it, after which a member may not speak on it. While the President is putting the questions, none shall walk out or cross the room or entertain private discourse.

Rule No. 23.

A member misbehaving himself/herself in a meeting of the Union either by abusive, disorderly or profane language or conduct, or by refusing obedience to the presiding officer, shall be duly censured for his/her offense by the Chair; and if he offends again, he/she may be dealt with as the Union may determine.

Rule No. 24.

All pertinent communications shall be presented through a member of the Union and a brief statement of the contents entered on the minutes.

Rule No. 25.

A motion to adjourn is not in order until necessary business is transacted.

APPENDIX E – Affiliation

This association shall be affiliated with the New Mexico State Association of Fire Fighters.

From: [Janice Barela](#)
To: [Griego, Tom, PELRB](#)
Cc: [Huchmala, Matt, PELRB](#)
Subject: [EXTERNAL] RE: 332-23 PFFTC & Torrance County
Date: Monday, October 23, 2023 11:58:53 AM
Attachments: [image002.png](#)
[image003.jpg](#)
[Braman-Mahan, Felicia - Invoice from Julie Fill.HEIC](#)

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning, Mr. Griego,

Attached please find a copy of the invoice for union membership dues that was given to EMT/Firefighter Felicia Braman-Mahan, RE: Delinquent Dues, attempting to collect dues dating back to July. It is signed off on by Julie Fill.

Below is a list of individuals who allegedly were asked to pay membership fees:

Christopher Sanchez

Job Title: EMT-Firefighter
Personal Email Address: chris13509@gmail.com
Home/Cell Phone: 505-357-2239

Felicia Braman-Mahan

Job Title: EMT-Firefighter
Personal Email Address: cricket.braman@gmail.com
Home/Cell Phone: 505-382-7910

Elijah Fetherolf

Job Title: EMT-Firefighter
Personal Email Address: fetherolfeli@gmail.com
Home/Cell Phone: 505-554-0489

Larry Hughes

Job Title: EMT-Firefighter
Personal Email Address: ahughes0305@yahoo.com
Home/Cell Phone: 719-645-9929

From what I was told, all but EMT/Firefighter Felicia Braman-Mahan paid membership dues. I received the information and attachment from Acting Fire Chief Hanna Sanchez. Her contact information is as follows:

Hanna Sanchez

Job Title: Acting Fire Chief
County Email: hsanchez@tcnm.us
County Cell Phone: 505-705-5351

Please let me know if you need anything else from me.

Sincerely,

Janice



Janice Y. Barela

Torrance County Manager
office: 505-544-4703
PO Box 48 / 205 S. Ninth St.
Estancia, NM 87016
www.torrancecountynm.org

From: Huchmala, Matt, PELRB <Matt.Huchmala@pelrb.nm.gov>

Sent: Monday, October 23, 2023 9:42 AM

To: Janice Barela <jbarela@tcnm.us>

Cc: Griego, Tom, PELRB <Tom.Griego@pelrb.nm.gov>

Subject: 332-23 PFFTC & Torrance County

You don't often get email from matt.huchmala@pelrb.nm.gov. [Learn why this is important](#)

Ms. Barela:

The Executive Director has instructed me to ask you to identify the employees that were subject to the harassment and/or coercion alleged in your letter dated October 18, 2023, so that he may conduct an investigation of the allegations. He would like to know the names of, and contact information for, any employees involved and the dates/times of any alleged incidents of harassment or coercion, including the employee who was given the invoice. He is currently experiencing technical issues with his email, so please cc me on your response.

Feel free to contact me using the information below if you have any questions or concerns.

Matthew Huchmala

Executive Administrative Assistant
Public Employee Labor Relations Board
2929 Coors Blvd NW, Suite 303
Albuquerque, NM 87120
matt.huchmala@pelrb.nm.gov
Ph: 505.831.5422
Fax: 505.831.8820

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

In Re:

**PROFESSIONAL FIRE FIGHTERS OF
TORRANCE COUNTY, IAFF LOCAL 5441,**
Petitioner,

and

PELRB No. 332-23

TORRANCE COUNTY,
Employer.

RESULTS OF CARD CHECK

On November 8, 2023 pursuant to NMAC 11.21.2.33, after resolving all unit composition issues and challenges to the validity of interest cards submitted by the union, and after the expiration of the intervention period, there being no intervention filed, I compared the union's showing of interest with the employee list provided by the employer. The following is the result of that comparison:

1.	Total Number of Employees in Bargaining Unit	<u>5</u>
2.	50% of Employees in Bargaining Unit Equals:	<u>3</u>
3.	Total Interest Cards Indicating Support	<u>4</u>
4.	Number of Challenged Cards	<u>0</u>
5.	Challenged Cards Rejected by Director	<u>0</u>
6.	Challenged Cards Accepted by Director	<u>0</u>
7.	Percent of Employees in Bargaining Unit indicating support	<u>60%</u>

WHEREFORE, the showing of interest demonstrates majority support for Professional Fire Fighters of Torrance County, IAFF Local 5441, so that certification of its recognition as the exclusive representative of the unit in question shall issue.



Thomas J. Griego, Executive Director

Date: November 8, 2023

State of New Mexico

Public Employee Labor Relations Board



Certification of Representation

The undersigned hereby certifies that the Professional Fire Fighters of Torrance County, IAFF Local 5441 (Union) has demonstrated a sufficient basis such that it should be recognized as the exclusive bargaining representative for those employees in the following bargaining unit comprised of employees of Torrance County:


Fire Department Captains, Lieutenants, non-probationary full-time paid employees engaged in firefighting, emergency medical or rescue service activities, or related services.

The undersigned makes this certification based on the following:

1. By a Petition filed September 28, 2023 the Union informed Torrance County that it was prepared to demonstrate sufficient support among employees in the unit for its recognition as the exclusive collective bargaining representative for those employees.
2. On October 5, 2023 the Board's Executive Director determined that the Union's Amended Petition was facially valid and that a preliminary review demonstrated a sufficient showing of interest to proceed toward a card check.
3. On October 18, 2023, the Employer provided a copy of a unit employee list. That list shows that there were five employees in the unit thereby confirming the preliminary finding of sufficiency.
4. On November 8, 2023 the Director conducted a card check pursuant to NMSA 1978 § 10-7E-14(C) with the result that 60% of the bargaining unit were in favor of representation by the Union. Accordingly, after review by the PELRB at its December 5, 2023 meeting, the undersigned hereby certifies that the Union is certified as the exclusive bargaining representative for the unit described above.

ISSUED in Albuquerque, New Mexico on this 8th day of November, 2023 by:

PUBLIC EMPLOYEE LABOR RELATIONS BOARD


Thomas J. Griego
Executive Director

