



MINUTES
STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Peggy Nelson, Board Chair

Tuesday, January 9, 2024, 9:00 a.m.

Via videoconference

1. **Call to Order.** 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.** 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 December 5, 2023 Meeting Minutes.** Vice-Chair Myers moved to approve the December 5, 2023 Meeting Minutes. The motion was seconded by Member Nash and carried unanimously upon a roll call vote.
4. **Public Comments.** There were no public comments.
5. **Voluntary Dismissals.** Two Voluntary Dismissals were taken up at the same time: *AFSCME, Council 18 v. Dep't of Vocational Rehabilitation*; PELRB 120-23 and *LAMAW v. UNM-SRMC*; PELRB 115-23. The Executive Director informed the Board that in both cases the Complainants withdrew their complaints before hearings on the merits commenced. Therefore, there was no Board action required and staff would close each of the cases following this meeting.
6. **Certification of Bargaining Unit** *UWUA v. Village of Bosque Farms*; PELRB 339-23. The Executive Director reported that on October 25, 2023, Utility Workers Union of America, AFL-CIO, petitioned for recognition as the exclusive representative for Utility Operators working for the Village of Bosque Farms. That Petition also sought to include the Administrative Assistant who interacts with the Utility Operators and other Village Departments. The Village objected to including the Administrative Assistant in the bargaining unit, claiming that they did not share a community of interest. Director Griego held a hearing on the objection on December 20, 2023 and issued his report two days later finding that because he could not separate the Administrative Assistant from the other workers into a bargaining unit of one person, the necessary effect of finding no community of interest would be to deny the Administrative Assistant's right to collectively bargain through the representative of her choice. His report found that all the positions petitioned for, including the Administrative Assistant, shared a sufficient community of interest despite some differences in direct supervision workplace and scheduled hours. They all are paid hourly from the same Village budget, have similar benefits, and the same work rules. After a card check, the Director certified the Union as the exclusive representative for all five employees in a single bargaining unit on December 22, 2023. The

Board voted 3-0 to affirm the Executive Director's findings and to issue an Order affirming the certification.

7. **Amended Certifications.** Chair Nelson recommended addressing all four cases on the agenda as a group and the other members agreed to do so. The Executive Director gave a summary of the procedural history of each case and asked the Board to approve the Amended Certifications issued in each case and affirm findings contained in the certifications. Member Nash moved to approve all of the Amended Certifications and to affirm the findings contained therein for the cases listed below:
 - a. *LAFF Local 4625 & City of Las Vegas*; PELRB 328-23.
 - b. *CSEC-LC Local #4994 & Las Cruces Public Schools*; PELRB 331-23.
 - c. *AFSCME, Council 18, Local 1782 & Santa Fe County*; PELRB 340-23.
 - d. *State Personnel Office (CYFD) & AFSCME, Council 18*, PELRB 341-23.

The motion was seconded by Vice-Chair Myers and carried unanimously upon a roll call vote.

8. **Approval of Consent Agreement For Decertification Election in re: *Urbaniak & AFSCME, Council 18*; PELRB 335-23.** The Executive Director informed the Board that a facially valid Decertification Petition had been filed and the parties executed a Consent Election Agreement for a decertification election to be conducted via electronic and mail-in ballots on January 11, 2024. Such agreements require Board review and approval under the Board's rules. Member Nash moved to approve the agreement. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.
9. **District Court Remand for Further Proceedings in re: *AFSCME, Council 18 v. Doña Ana County*, Case Nos. A-1-CA-39783 and D-307-CV-2020-02329; PELRB No. 123-23.** The Executive Director reported that this matter concerns a case originating with the Doña Ana County LMRB. Its Decision dismissing the Union's claim of discriminatory discipline of an employee had been appealed to the District Court, which reversed the local labor board. The County sought further review and its Petition for a Writ of Certiorari was granted. Subsequently, the Court of Appeals quashed the Writ so that the District Court's decision stands. That decision contained several findings and conclusions but remanded to the local board further action concerning the amount of damages to be paid to the suspended employee. In the interim, the local board ceased to exist on January 1, 2022 and jurisdiction passed to the PELRB, with the only outstanding issue being the calculation of damages. The Union was not able to provide its evidence supporting its claim for damages as requested prior to the meeting, but James Montalbano, on behalf of the Union, stated that a final accounting was being reviewed and he hoped to have an agreement on the amount of damages to be paid soon. At the request of Director Griego the Chair set January 19, 2024 as the deadline for the parties to submit an agreement as to damages or the Director would schedule a hearing on damages in sufficient time for this matter to be taken up by the Board at its February meeting.
10. **Request for Interlocutory Board Review in re: *UHPNM, AFT v. UNM Sandoval Regional Medical Center*; PELRB 107-23.** After introducing the matter, the Chair invited counsel for the employer, Linda Vanzi, to address the Board first. She then invited counsel for the union, James Montalbano, to address the Board. After hearing from counsel, Member Nash

suggested the Board go into closed session to deliberate. The other members agreed and the Chair moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss item 10(a) on 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 9:53 a.m.

At 11:00 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(a) on the agenda. Member Nash seconded the motion and the motion was carried unanimously upon a roll call vote. The Board resumed open session at 11:01 a.m.

Member Nash moved that the Board find that absent a Writ of Mandamus from the District Court, the Board has jurisdiction over the matter and further moved to deny the petition for interlocutory review without prejudice to any other item on the agenda. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.

11. **Review of H.O. Reports and Recommended Decisions** The Chair suggested the Board consider all of the requests for review and Items 13 and 14 in one closed session after hearing from the parties, to which there was agreement from the other members of the Board.
- a. *UHPNM, AFT v. UNM Sandoval Regional Medical Center*, PELRB 107-23. The Chair announced the item and asked if either party wished to further address the Board, but they declined.
 - b. *UHPNM, AFT v. UNM Sandoval Regional Medical Center*, PELRB 109-23. The Chair announced the Item, and after resolving some technical issues, the Board heard from Michael Calderon, counsel for the employer, and then James Montalbano, counsel for the union. After hearing from both parties and having their questions answered, the Board moved on to the next Item.
 - c. *UHPNM, AFT v. UNM SRMC*; PELRB 110-23 The Chair announced the Item, and again heard from Michael Calderon, counsel for the employer, and James Montalbano, counsel for the union. After hearing from both parties and having their questions answered, the Board moved on to the next Item.
 - d. *UHPNM, AFT v. UNM SRMC*; PELRB 111-23 The Chair announced the Item and, the union being the party requesting review, heard from James Montalbano, counsel for the union first, followed by Michael Calderon, counsel for the employer. After hearing from both parties and having their questions answered, the Board thanked counsel for their presentations.

The Chair then 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 11(a), (b), (c), and (d), Item 13(a), and Items 14 (a), (b), and (c) on 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 11:56 a.m.

At 12: 19 p.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(a) on the agenda. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote. The Board resumed open session at 12:19 a.m.

Vice-Chair Myers then moved to affirm the denial of the Motion to Quash in *UHPNM, AFT v. UNM Sandoval Regional Medical Center*; PELRB 107-23. The Chair seconded the motion and the motion passed 2-1 with Member Nash voting no.

Member Nash then moved to affirm the findings and recommendations in the Hearing Officer's Report and Recommended decision in *UHPNM, AFT v. UNM Sandoval Regional Medical Center*; PELRB 109-23. The Chair seconded the motion and the motion passed unanimously upon a roll call vote.

Member Nash then moved to affirm the findings and recommendations in the Hearing Officer's Report and Recommended decision in *UHPNM, AFT v. UNM SRMC*; PELRB 110-23. The Chair seconded the motion and the motion passed unanimously upon a roll call vote.

The Vice-Chair then moved to affirm the findings and recommendations in the Hearing Officer's Report and Recommended decision in *UHPNM, AFT v. UNM SRMC*; PELRB 111-23. Member Nash seconded the motion and the motion passed unanimously upon a roll call vote.

12. Director's Reports

- a. **Local Board Affirmations under § 20(D) of the PEBA.** The Executive Director explained that December 31, 2023 was the deadline for local labor boards to submit the biennial affirmations required by Section 10(E) of the PEBA. He asked the Board to consider whether or not to issue orders in light of the fact that the boards would continue to operate or cease to exist, as the case may be, by operation of law without any action by the Board and reported the results for each board individually:
 - i. *City of Albuquerque.* The City of Albuquerque Board timely submitted the required affirmation and would continue to operate.
 - ii. *Town of Silver City.* The Town of Silver City Board timely submitted the required affirmation and would continue to operate.
 - iii. *City of Roswell.* At least one union representing city employees informed staff that it elected not to continue to operate under the local board and no affirmation had been submitted so its local board ceased to exist as of January 1, 2024.
 - iv. *Alamogordo Public Schools.* No affirmation had been submitted so it ceased to exist as of January 1, 2024.
 - v. *Albuquerque Public Schools.* The Albuquerque Public Schools Board timely submitted the required affirmation and would continue to operate.
 - vi. *City of Deming.* No affirmation had been submitted so it had ceased to exist as of January 1, 2024.
 - vii. *Los Alamos County.* The local wrote to staff that one of the unions representing county employees elected not to continue to operate under the local board. Without the

required affirmation indicating the assent of *each* union representing county employees, the local board ceased to exist as of January 1, 2024.

- viii. *Zuni Schools*. As reported to the Board at its December meeting, the Zuni School District school district had a vacancy on its local board lasting longer than 60 days and had consequently ceased to exist pursuant to Section 10(F) of the PEBA.

The Chair then opened the floor to anyone who wished to address the Board regarding these local boards. There were no comments. She then asked the other member for their opinion on issuing an order regarding the status of the local boards. Member Nash stated that a posting on the website with a statement regarding the Board's assumption of jurisdiction from local boards no longer extant would be helpful and if that required a motion, she so moved. After further discussion, the Board voted 3-0 to affirm the continued existence of the local boards that had submitted timely affirmations complying with Section 10(E) of the PEBA as reported by the Director, to assume jurisdiction over any matters before those that ceased to exist, and to place a notice on the website to that effect. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote.

- b. **Memorandum of Understanding between the PELRB and the AHO.** The Executive Director informed the Board that PELRB and the State's Administrative Hearings Office executed a Memorandum of Understanding calling for hearing officers from the AHO to be assigned cases from the PELRB if the need arises, depending on legislative funding for the MOU. Funding for the MOU was included in the current budget request, now pending.
- c. **Aztec Holding one-year lease extension.** The Executive Director reported that a one-year lease extension had been approved and entered into for the Board's offices in Albuquerque. Due to General Services Department regulations, the lease may not be further extended and a new lease will have to be newly negotiated by the end of the year. Measures have been taken to ensure that the Director's anticipated retirement does not disrupt the negotiations for a new lease.
- d. **Union Disclaimer of Interest in re: *Int'l. Union of Police Associations & Chaves County*; PELRB 343-23.** The Executive Director informed the Board that the IUPA disclaimed its interest as the exclusive representative of a group of employees in Chaves County after a petition for decertification had been filed. Notice of the disclaimer was posted by the employer and no objections were received. Consequently, the decertification petition was dismissed pursuant to NMAC 11.21.2.42. He asked the Board if they wished to issue an order acknowledging that the parties no longer had a bargaining obligation and that any collective bargaining agreement was no longer effective, or whether the meeting minutes would suffice for such notice. After a brief discussion, the consensus was that the meeting minutes would be sufficient and an order was not necessary. Staff were directed to close the file and include in the closing letter a statement that there is no longer a duty to bargain.
- e. **CFO Quarterly Report.** The Board's Chief Financial Officer, Tanya Ramirez, delivered a report on the state of the budget. A Legislative Finance Committee hearing was scheduled for later in the week to approve a recommended budget. The FY23 annual audit had been completed with no findings or issues. All end-of-year deadlines had been met. A Budget

Adjustment Request would be utilized to move funds to pay for a temporary worker to help staff complete revisions to the Practice Manual and Keyword Digest.

13. **Petition for Writ of Mandamus in re: *UNM Sandoval Regional Medical Center, Inc. v. New Mexico Public Employee Labor Relations Board and United Health Professionals of New Mexico, AFT, AFL-CIO, D-202-CV-2023-09345.*** The Board discussed this matter in its earlier closed session. No action was taken by the Board.
14. **Cases on Appeal** The Board discussed the cases on appeal listed below in the closed session. No action was taken by the Board.
 - a. Re-Filed Statement of Appellate Issues in re: *UNM Sandoval Regional Medical Center, Inc., v. International Association of Machinists and Aerospace Workers, AFL-CIO, D-202-CV-2023-00132 (PELRB 303-22).*
 - b. Notice of Appeal in re: *UHPNM, AFT v. UNM SRMC; D-202-CV-2023-09603 (PELRB 105-23).*
 - c. Notice of Appeal in re: *UHPNM, AFT v. UNM SRMC; D-202-CV-2023-09660 (PELRB 304-22).*
15. **Adjournment.** Member Nash moved to adjourn. The motion was seconded by the Vice-Chair and carried unanimously upon a roll call vote. The meeting was adjourned at 12:42 p.m.