



State of New Mexico

Public Employee Labor Relations Board



2023 ANNUAL REPORT

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INTRODUCTION

New Mexico's Public Employee Bargaining Act (PEBA), (NMSA 1978 §§ 10-7E-1 through 10-7E-26, (2020)), vests the Public Employee Labor Relations Board (PELRB) with authority over all general collective bargaining matters among public employers, labor organizations and individual public employees subject to the Act. The PELRB also has jurisdiction to ensure that ordinances, charters or resolutions of any special districts or local governments establishing a local labor board, comport with the PEBA.

The PEBA provides the following basic rights and responsibilities:

- Public employees may form, join or assist a union for the purpose of collective bargaining through representatives of their choice, or refrain from such activities without interference, restraint or coercion, See §§ 10-7E-2 and 5 of the PEBA.
- Public employees have the right to engage in other concerted activities for mutual aid or benefit. This right shall not be construed as modifying the prohibition against public employee strikes. See § 10-7E-5(B).
- Whenever a petition is filed by a labor organization containing the signatures of at least thirty percent of the public employees in an appropriate bargaining unit, the Board or local board shall conduct a secret ballot election or a card check to determine whether and by which labor organization the public employees shall be represented. Within ten days of accepting for filing such a petition, the Board or a local board shall require the public employer to provide the labor organization the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in the proposed bargaining unit. This information shall be kept confidential by the labor organization and its employees or officers. See § 10-7E-14.
- Public employers and unions must negotiate in good faith over mandatory subjects of bargaining such as wages; hours and all other terms and conditions of employment except for retirement programs provided pursuant to the Public Employees Retirement Act or the Educational Retirement Act and payroll deduction of membership dues if a party requests bargaining that subject. They must also bargain over the impact of professional and instructional decisions made by the employer, in the case of public schools and educational employees in state agencies. This duty to bargain in good faith is ongoing even after the parties have entered into a collective bargaining agreement and during its term, unless it can be demonstrated that the parties clearly and unmistakably waived the right to bargain regarding a particular subject. However, no party may be required to renegotiate the existing terms of collective bargaining agreements already in effect. See §§ 10-7E-17(A), (D) and (G).
- The PEBA imposes affirmative and reciprocal duties on exclusive representatives and public employers to “bargain in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties.” See §

17(A)(1). See also § 19(F) and § 20(C) prohibited the violation of that reciprocal duty by either party. A request by the exclusive representative to the State for the commencement of initial negotiations shall be filed in writing no later than June 1 of the year in which negotiations are to take place. Negotiations shall begin no later than July 1 of that year. In subsequent years, negotiations agreed to by the parties shall begin no later than August 1 following the submission of written notice to the State no later than July 1 of the year in which negotiations are to take place. See § 10-7E-18(A)(1).

- Effective July 1, 2020, no new local labor boards may be created as was previously permitted. However, local boards existing as of July 1, 2021, may continue operating after December 31, 2021, if they have submitted to the PELRB an affirmation that the public employer has elected to continue operating under the local board and each labor organization representing its employees has submitted written notice to the PELRB that it also elects to continue to operate under the local board. A local board that fails to timely submit the affirmation shall cease to exist. See § 10-7E-10. Thereafter, the required affirmation of this section shall be re-submitted to the Board by each local board between November 1 and December 31 of each odd-numbered year. This reporting period, being an odd-numbered year, will reflect any local boards that went out of existence for lack of the required affirmation. (A local board that fails to timely submit the affirmation by the December 31, 2023 deadline shall cease to exist as of January 1, 2024.
- Beginning on July 1, 2020, if at any time thereafter a local board has a membership vacancy exceeding sixty days in length, the local board shall cease to exist. A local board may also cease to exist upon: (1) a repeal of the local ordinance, resolution or charter amendment authorizing continuation of the local board; or (2) a vote of a local board, the result of which vote is filed with the board. Once a local board ceases to exist for any reason, it may not be revived.
- A public employer must provide an exclusive representative with the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in a proposed bargaining unit under § 10-7E-15(F). See also, *American Federation of Teachers and International Association of Machinists and Aerospace Workers v. University of New Mexico Sandoval Regional Medical Center*, PELRB No. 112-22; 29-PELRB-2022 (11-28-22) and *SSEA, Local #3878 v. Socorro Consolidated School District*, 05-PELRB-2007 extending similar rights to organizing labor organizations prior to their recognition by the Board.

The Board's activities to enforce the PEBA fall within one of the following categories:

1. Representation proceedings.
2. Review of Local Board Ordinances, Resolutions or Charters and their compliance with NMSA 1978 § 10-7E-10(D), (E), (F) and (G) (2020).
3. Prohibited Labor Practice proceedings
4. Impasse Resolution
5. Rulemaking Activity

Representation Cases

Unit Certification. Under the PEBA, one of the Board's major functions is to determine the appropriateness of collective bargaining units based on guidelines established in PEBA and relevant case law. The Board also determines whether the employees in an appropriate bargaining unit wish to be represented by a particular labor organization. This is principally done by card check or a secret ballot elections supervised by the Board. Employee representatives seeking to represent a bargaining unit file a petition with the Board that must be supported by at least 30 percent of the employees in the unit.

Units may be certified without conducting elections if an employer does not question either the appropriateness of the unit or the majority status of a petitioning labor organization and agrees with the petition to certify the proposed unit or if the petitioning union submits authorization cards from a majority of the employees in an appropriate bargaining unit. Upon verification that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards, this Board shall certify the labor organization as the exclusive representative of all public employees in the appropriate bargaining unit. The employer may challenge the verification of the board or local board; the board or local board shall hold a fact-finding hearing on the challenge to confirm that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards.

Once certified, a labor organization is the exclusive bargaining agent for the employees in the bargaining unit. As exclusive representative, the union owes a duty to represent all employees in the recognized bargaining unit without discrimination or regard to membership in the labor organization. PEBA § 15(A).

Unit Decertification. Just as employees may petition the Board for recognition of a collective bargaining representative, they may also seek decertification of a previously recognized representative. A member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if 30 percent of the public employees in the bargaining unit file a petition for a decertification election. See PEBA § 16. Decertification elections are held in a manner substantially the same as that for certification.

Amendment of Certification. The Board's rules provide a procedure for parties to petition the Board for amendment of certification to reflect changes such as a change in the name of the exclusive representative or of the employer, or a change in the affiliation of the labor organization. (NMAC 11.21.2.35). The Board has also established procedures to clarify the composition of an existing bargaining unit where the circumstances surrounding the creation of an existing collective bargaining unit are alleged to have changed sufficiently to warrant a change in the scope and description of that unit, or a merger or realignment of previously existing bargaining units represented by the same labor organization, (NMAC 11.21.2.37) and for the accretion of unit employees who do not belong to an existing bargaining unit, but who share a community of interest with the employees in the existing unit. (NMAC 11.21.2.38). The accretion procedure is frequently used to allocate newly created positions to appropriate bargaining units or to merge two or more existing units.

All petitions for recognition, decertification, amendment or clarification of a unit or its representative, such as described above, are generally referred to as a “representation proceeding” on which the Board maintains data. (NMAC 11.21.2.35).

Staff notes a general increase in the number of Representation Petitions filed during the reporting period, with 45 such Petitions filed during this reporting period compared with 28 petitions filed in 2022 and 17 filed in 2021. The increase is an anomaly resulting from 14 joint petitions filed by the State and the Communications Workers of America seeking clarification of their bargaining units due to changes in job titles and classifications that are largely undisputed. Please refer to the Operations Summary herein for details on all representation issues brought to the Board for resolution during the 2023 reporting period.

Monitoring Local Board Ordinances, Resolutions or Charters

As noted above, this reporting period includes one of the biennial periods during which local boards must take action to continue in existence, November 1 through December 31, 2023. The result of the required reaffirmation is reported and staff is continually monitoring local board operations to ensure that there are no vacancies exceeding sixty days in length prohibited by subsection 10(F) or that those entities operating under local boards have not repealed their local ordinances, resolutions or charter amendments authorizing continuation of the local board; or that the local boards themselves have not voted to cease operations. See NMSA 1978 § 10-7E-10(G). Please refer to the “Local Boards” section of the Operations Summary below for detailed information about the local boards ceasing or continuing to be operational.

Prohibited Labor Practice Cases

The Board enforces and protects the rights guaranteed both public employers and employees under PEBA through the investigation and adjudication of charges of prohibited labor practice charges (PPC). The Board has the power to enforce the provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies. (NMSA § 10-7E-9).

After initial screening and investigation of a PPC but before conducting a hearing on the merits of any claim the Board’s Director will facilitate settlement discussions in order to further the Board’s preference for peaceful resolution of disputes thereby promoting its statutory objective of “promoting harmonious and cooperative relationships between public employers and public employees.”

If the complaint cannot be settled by the parties prior to the hearing, the matter shall proceed to hearing. The hearing examiner has the discretion to examine witnesses, call witnesses, or call for the introduction of documents (NMAC 11.21.3.16) after which the hearing examiner issues his or her report and recommended decision.

A party may obtain Board review of the report and recommended decision by filing a notice of appeal within ten days following service of the hearing officer’s report, whereupon the Board will either determine an appeal on the papers filed or, in its discretion, may also hear

oral argument. The Board's Decision may adopt, modify, or reverse the hearing examiner's recommendations or take other action it may deem appropriate such as remanding the matter to the hearing examiner for further findings or conclusions. Even when no appeal to the Board is taken the hearing examiner's decision is transmitted to the board which may pro forma adopt the hearing examiner's report and recommended decision as its own. In that event, the report and decision so adopted shall be final and binding upon the parties but shall not constitute binding board precedent. See NMAC 11.21.3.19. The Board is empowered to remedy PPCs through the imposition of appropriate administrative remedies (PEBA § 9). The Board has authority to petition the courts for enforcement of such orders. See, PEBA § 23.

The number of Prohibited Practices Complaints filed during this reporting period is the same as those filed during the prior reporting period - 25. That number of filings is remarkably constant over the years with the exception of 33 filings in 2022, which proved to be an anomaly. Please refer to the Operations Summary herein for details on the Prohibited Practices Complaints brought to the Board for resolution during the 2023 reporting period.

Impasse Resolution

The Board has limited powers related to bargaining impasses between employers and employees under the Act, acting primarily as a monitor and facilitator of mediation and arbitration performed by other entities. Similar but distinct procedures apply to the State and its employees and employees of other political subdivisions of the state or special districts under the PEBA. Although both procedures call for mediation of bargaining impasses under the auspices of the Federal Mediation and Conciliation Service impasse procedures followed by the state and exclusive representatives for state employees are employed within a specific period pursuant to Section 17 of the PEBA and the Uniform Arbitration Act [44-7A-1 NMSA 1978].

The impasse procedure followed by all other public employers and exclusive representatives is similar in that, if an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations and unless the parties agree on a mediator one from the FMCS is assigned. The specific period for requesting bargaining, declaring impasse and proceeding to arbitration applicable to the state as an employer are not applicable to public employers other than the state. If the impasse continues after a thirty-day mediation period, either party may request arbitration from the FMCS. As under the process followed by the State as an employer the arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offers and is "final and binding" as that term is understood under Section 17 of the PEBA and the Uniform Arbitration Act [44-7A-1 NMSA 1978]. There were five impasse files opened during this reporting period:

1. *United Steelworkers Local 9424 & City of Las Cruces*, PELRB 501-23.
2. *AFSCME, Council 18 & Grant County*; PELRB No. 502-23.
3. *Central New Mexico Employees Union & N.M. Community College*; PELRB No. 503-23.
4. *Peñasco Federation of United School Employees (AFT) & Peñasco ISD*; PELRB No. 504-23.
5. *NMCP SO & Santa Fe County*; 505-21.

The number of impasse proceedings in this reporting period is consistent with those filed over time, correlating with bargaining new contracts on a two-or-three-year schedule with the number of negotiations resulting in impasse growing or waning depending on employers' and exclusive representatives' negotiation schedules.

Please refer to the Operations Summary herein for details on these impasse proceedings.

Rulemaking Activity

The PELRB is empowered by NMSA § 10-7E-9(A) to promulgate rules necessary to accomplish and perform its functions and duties as established in the Public Employee Bargaining Act, including the establishment of procedures for the designation of appropriate bargaining units, the selection, certification and decertification of exclusive representatives and for the filing of, hearing on and determination of complaints of prohibited practices. The Board has enacted such rules and over time the need to amend those rules may arise either to correct apparent errors or simply to adjust procedures to better serve the Board's mission or to comport with changes in the substantive law.

In June and July of 2023, the Board's Executive Director convened an ad hoc committee to advise him concerning possible changes to the Board's rules resulting in suggestions for amendment to two of the Board's rules:

1. NMAC 11.21.1.17 EVIDENCE ADMISSIBLE: The technical rules of evidence shall not apply, but, in ruling ~~of~~ on the admissibility of evidence, the hearing examiner or board may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.
 - A. Upon receiving a timely objection by a party or by any person who may be aggrieved by its admission, the hearing examiner or the Board may exclude ~~Irrelevant, immaterial, unreliable, unduly repetitious or cumulative evidence, or and~~ evidence that is confidential or protected by the rules of privilege (such as attorney-client, physician-patient or special privilege) ~~shall be excluded upon timely objection unless admissibility is otherwise authorized or required by law or court order.~~
 - B. The hearing examiner or board may receive any evidence not objected to, or may, upon the hearing examiner's or board's own initiative, exclude such evidence ~~if it is irrelevant, immaterial, unreliable, unduly repetitious, cumulative or privileged.~~
 - C. Evidence may be tentatively received by the hearing examiner or board, reserving a ruling on its admissibility until the issuance of a report or decision.
 - D. Nothing in this rule requires the hearing examiner or board to provide notice of a tentative or final decision on admissibility of evidence to any person who is not a party to the pertinent proceedings.
2. NMAC 11.21.2.37 UNIT CLARIFICATION:

- A. Except as provided in Section 24(A) of the Act, a unit clarification petition is appropriate for resolving ambiguities concerning the unit placement of individuals who come within a newly established classification; where the circumstances surrounding the creation of an existing collective bargaining unit are alleged to have changed sufficiently to warrant a change in the scope and description of that unit; or where a merger or realignment of previously existing bargaining units represented by the same labor organization occurs. ~~either~~ Either the exclusive representative or the employer may file with the director a petition for unit clarification. Such a petition seeking realignment of existing units into horizontal units may be filed and processed only when it relates to state employees.

These proposed amendments were presented to the Board for discussion at its regularly scheduled meeting held October 3, 2023. After suggesting a few minor changes, the proposed amendments were not published for public comment during the current reporting period. Notice and public comment will occur in early 2024 and will be reported in the Annual Report for that period.

Adjudication and Settlement

The Board’s adjudicatory function serves the critical purpose of resolving those PPCs that could not be settled amicably among the parties themselves. Historically, the claims most often requiring adjudication are those involving alleged discrimination or retaliation for union activities or claims that either labor or management have refused or failed to comply with the Public Employee Bargaining Act or board rule or have refused or failed to comply with a collective bargaining agreement. Adjudication of disputes most commonly arises in the context of PPCs but the Board is also often called upon to decide questions concerning positions’ inclusion in or exclusion from a particular bargaining unit, appropriateness of a proposed unit or majority status, commonly referred to as “QCRs.”

Over the past several reporting periods, at least 30% of those cases brought to the Board requiring adjudication of some issue, settled without the necessity of a hearing on the merits of their respective issues. In the current reporting period, only 20% of cases settled prior to hearing. The *number* of cases settled in this reporting period, however, is consistent with that over the preceding two reporting periods, (17 in 2022 and 17 in 2021) indicating that the ongoing prompts to encourage and facilitate settlement of disputes built into the hearing scheduling procedure, are effective and should continue.

The decline in the percentage of cases settled despite a rather consistent number of cases settled, may be attributed to the number of bargaining unit composition issues in litigation with the *University of New Mexico – Sandoval Regional Medical Center*. See for example, PELRB Case Nos. 303-22 and 304-22, wherein the Medical Center opposes the inclusion of per diem employees, technician leads and lead housekeepers, appealed in 2023 to the District Court as Case Nos. D-202-CV-2023-00132; D-202-CV-2023-02118 and D-202-CV-2023-01330. There were nine Prohibited Practices Complaints filed during the reporting period stemming from the ongoing dispute over unit composition, based generally on failure to bargain,

discrimination and retaliation claims. See *LAMAW, AFL-CIO v. UNM SRMC*, PELRB 103-23; *UHPNM, AFT v. UNM SRMC*, PELRB 105-23; *UHPNM AFT v. UNM Sandoval*; PELRB No. 107-23; *LAMAW v. UNM SRMC*, PELRB 108-23; *UHPNM, AFT v. UNM SRMC*, PELRB 109-23; *UHPNM, AFT v. UNM SRMC*, PELRB 110-23; *United Health Professionals of N.M., AFT v. UNM Sandoval Regional Medical Center*, PELRB No. 111-23; *LAMAW v. UNM Sandoval Regional Medical Center*, PELRB 115-23; *UHPNM, AFT v. UNM- SRMC*; PELRB 117-23; *UHPNM, AFT v. UNM SRMC*, PELRB 121-23.

Unlike prior reporting periods, PPCs did not constitute the most commonly filed actions requiring adjudication. Rather, Representation Petitions constituted the greatest number of cases filed during this reporting period. (45 Representation Petitions were filed compared to 25 PPCs). The primary reason for this change from prior years was because of the laudable effort by the State and other public employers to update the job titles of those employees recognized as being within their respective existing bargaining units, to eliminate from those descriptions outmoded classifications and to accrete new positions as may be appropriate. 28 of the Representation Petitions filed during the reporting period fall within that category of cases. See Tables C, D and F appended hereto.

There was a significant shift in the public employers whose actions prompted unions to file Prohibited Practices Complaints. Of the 25 PPCs filed in 2023, 10 were filed against UNM Hospitals or UNM-SRMC. Four were filed against municipalities, four against counties and none were filed against School Districts. State agencies (excluding UNM-related medical centers) accounted for only two PPCs. The remaining cases were filed against a “Special District,” i.e., the Albuquerque-Bernalillo County Water Utility Authority or one of the State’s institutions of higher education. Further information about these cases can be found in the Operations Summary, *infra*.

Case Resolution Time Frame

One of the PELRB’s primary performance measures is the number of filed PPCs resolved within 180 days. The combined average number of days for resolution of all filed PPCs during this reporting period was 159 days compared with an average 121 days in the prior reporting period and 92 days on the average in 2022. The 159-day average in 2023 is still within the agency’s goal and the increase over prior years may be attributed to the cases on appeal or stayed for more than a year involving UNM-SRMC (*LAMAW, AFL-CIO v. UNM SRMC*, PELRB 103-23; *UHPNM, AFT v. UNM SRMC*, PELRB 105-23; *UHPNM AFT v. UNM Sandoval*, PELRB No. 107-23; *LAMAW v. UNM SRMC*, PELRB 108-23; *UHPNM, AFT v. UNM SRMC*, PELRB 109-23; *UHPNM, AFT v. UNM SRMC*, PELRB 110-23; *United Health Professionals of N.M., AFT v. UNM Sandoval Regional Medical Center*, PELRB No. 111-23; *LAMAW v. UNM Sandoval Regional Medical Center*, PELRB 115-23; *UHPNM, AFT v. UNM- SRMC*; PELRB 117-23; *UHPNM, AFT v. UNM SRMC*; PELRB 121-23, and *AFSCME, Council 18 v. New Mexico Corrections Department*, PELRB 116-22, which the parties reported as having been settled, but no settlement agreement was ever executed for more than a year until the case was dismissed for lack of prosecution.

If those cases are removed from the calculation the average number of days for resolution of all filed PPCs falls to 71 days.

The average number of days for closure of all Representation Petition filed in the reporting period was 118 days, again, well within the performance measure of 180 days. This compares favorably with the 2022 average of 121 days and the 2021 average of 96 days.

2023 OPERATIONS SUMMARY

A total of 75 case files in all categories were opened in 2023, compared to 53 cases filed in the prior reporting period. Although the number of case filings increased by approximately 30% over the prior reporting period, as noted above that increase correlates the 21 petitions for Unit Clarification filed in 2023 by AFSCME and CWA referred to above seeking to “clean up” their unit descriptions – the number of PPCs filed in 2023 was the same as that in 2022, i.e., 25.

More detailed analysis of the statistical data by case category are detailed in the Case Summaries below and the Tables appended.

Local Boards

Staff continued to monitor those remaining local boards operating in 2023 to ensure that they remained fully functional without vacancies on their boards for more than sixty days and that they have not been voted out of existence by the public employer or by the local board itself. See NMSA 1978 § 10-7E-10(F) and (G) (2020). Additionally, because this is an odd-numbered year, pursuant to NMSA 10-7E-10(E), the local boards then still existing (listed below) were required to submit an affirmation by December 31, 2023 that the local body and all exclusive representatives representing employees of that body had elected to continue to operate under the local board. The result of those requirements was that several local boards ceased to exist by operation of law:

1. **City of Albuquerque** - The necessary affirmations were submitted so that they continue to operate as of 2023-2024.
2. **Town of Silver City** - The necessary affirmations were submitted so that they continue to operate as of 2023-2024.
3. **City of Roswell** - As reported to the Board in December, one of the unions representing employees of the City of Roswell informed this Board that it did not elect to continue to operate under the Roswell local board. That union did not change its position, the notice that it was not going to affirm continuation of the local board was not withdrawn and proper re-affirmations were not submitted by December 31, 2023. Therefore, the Roswell local board ceased to exist by operation of law in January 2024.
4. **Alamogordo Public Schools** - No required affirmations were received as required Sections 10-7E-10(D) and (E). Therefore, the Alamogordo Public Schools local board ceased to exist by operation of law in January 2024.
5. **Albuquerque Public Schools** - The necessary affirmations were submitted on December 8, 2023 so that so that they continue to operate as of 2023-2024.

6. **City of Deming** - The necessary affirmations were submitted on December 29, 2023 so that they continue to operate as of 2023-2024.
7. **Los Alamos County** - On December 29, 2023, Liaison for the Los Alamos County Labor Management Relations Board, submitted an affirmation stating in part that one of the several labor organizations representing employees of Los Alamos County, the International Brotherhood of Electrical Workers (IBEW), Local 611 elected not to continue to operate under the Los Alamos County Labor Management Relations Board. The requirement of NMSA 1978 Sections 10-7E-10(D) and (E) do not allow for a local board to continue upon submission of affirmations by *most* or *some* of the labor organizations representing employees of Los Alamos County. Therefore, the Roswell local board ceased to exist by operation of law in January 2024.
8. **Zuni Schools** – In December of 2023, the Human Resources Director for Zuni Public Schools informed the PELRB that its local board experienced a vacancy exceeding sixty days in length, which resulted in the local board ceasing to exist by operation of NMSA 1978 § 10-7E-10(F). Therefore, the Zuni Schools local board ceased to exist by operation of law in December 2023.

Prohibited Labor Practice Cases

Of the 75 new case filings in 2023, 25 were prohibited practices complaints (PPCs), compared with 25 PPCs filed in 2022. Staff concludes that that the number of PPC filing has reached a zenith consistent with the long-term trend toward and increasing number of cases filed overall. That several local boards ceased to operate in 2023 is not expected to result in an increased number of PPC filed in the next reporting period because the employers losing their local boards, Zuni Schools, Los Alamos County, Alamogordo Public Schools and the City of Roswell, are not significant sources of union complaints. Staff expects that the number complaints filed in 2024 will remain fairly constant. The Executive Director considers the agency to be fully staffed despite the increase in the number of cases overall, as explained in the section analyzing the Representation case increase.

The status of PPCs filed in 2023 is summarized below:

1. *Las Vegas New Mexico Firefighter's Association, Local 4625, IAFF v. City of Las Vegas*; PELRB 101-23 (January 6, 2023). The union filed a PPC alleging the City unilaterally changed the way they determined years of service for pay calculations, in violation of Sections 17(A) (requiring the District to bargain in good faith with the union); 19(F) (making it a prohibited practice to “refuse to bargain collectively in good faith with the exclusive representative”); and 19(H) (making it a prohibited practice to “refuse or fail to comply with a collective bargaining agreement). The parties settled their dispute and the complaint was withdrawn on January 20, 2023. The file was closed January 26, 2023.
2. *AFSCME Council 18 v. New Mexico Human Services Department*; PELRB 102-23 (January 23, 2023). The union alleged that the HSD unilaterally changed terms and conditions of employment by rescinding a telework policy previously negotiated by the parties during the COVID 19 pandemic. The PELRB denied the Union’s request for a preliminary injunction included in the PPC seeking to prevent the rescission

- from taking effect pending resolution of the PPC. HSD filed a Motion for Summary Judgment seeking its dismissal as a party on the ground that the telework policy and its rescission were the actions taken by the State Personnel Office, not HSD, so that HSD was not a proper party as it did not commit the acts complained of and could not provide the requested relief. Executive Director Griego, as the designated Hearing Officer, granted the Motion to Dismiss. That dismissal was appealed to the Board which affirmed the dismissal in Order 13-PELRB-2023 issued on April 4, 2023. The file was closed May 16, 2023.
3. *International Association of Machinists and Aerospace Workers, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 103-23 (February 7, 2023). The union, filed a PPC alleging that the University of New Mexico Sandoval Regional Medical Center, violated Sections 19(A), 19(B), 19(C), 19(D), 19(E), and 19(G) of the PEBA, by interfering with two union representatives who were on hospital premises to conduct concerted activity, and by selectively enforcing their anti-solicitation policy. The PPC was amended on February 14, 2023 to include allegations that managers were confiscating union paraphernalia such as badges and buttons. An Answer was filed on February 28, 2023 generally denying the PPC's allegations. Prior to convening a Merits Hearing scheduled for April 24, 2023, the union withdrew its PPC and a Voluntary Dismissal issued on April 24, 2023. Staff closed the file on May 3, 2023.
 4. *Las Cruces Police Officers Association v. City of Las Cruces and the City of Las Cruces Police Department*; PELRB 104-23 (February 23, 2023). A City Police Officer was fired in July 2020 and grieved his dismissal pursuant to the parties' Collective Bargaining Agreement. The parties completed all steps of the grievance procedure except the arbitration phase, which was never completed. Over two years later, Smelser sought to resume the arbitration process, which the City declined to do, claiming that he waived his right to arbitrate. As a result, Complainant filed a Prohibited Practice Complaint alleging that the City failed or refused to abide by the parties' CBA and City policies incorporated therein by refusing to cooperate in resuming arbitration of Smelser's grievance. The City Answered the PPC on February 24, 2023 and moved for Summary Judgment on April 17, 2023 seeking dismissal based on the employee's and the Union's inaction and because the PPC was barred by the two-year statutory limitation for cases against the City on contract-based claims. The PELRB Hearing Officer denied the Motion by letter decision on May 2, 2023. The parties agreed to have the Hearing Officer decide the case by briefs in lieu of a hearing and on August 11, 2023, the Hearing Officer concluded that the City of Las Cruces violated the duty to bargain in good faith imposed by Section 17 of the Act and that the City violated its grievance procedure, Article 34 of the parties' CBA – a prohibited practice under Section 19(H) and 19(G) of the Act. The City and its Police Department were Ordered to resume arbitration. If the selected FMCS arbitrator is no longer available or willing to serve, the parties were Ordered to cooperate in the selection of a replacement arbitrator who shall determine any remaining questions of arbitrability. The City was also required to post notice of its violation containing assurances that it will comply with the law in the future, for a period of 30 days. Neither party filed a request for Board review and the file was closed on September 6, 2023.

5. *United Health Professionals of New Mexico, AFT, AFL-CIO v. UNM-SRMC*; PELRB 105-23 (March 9, 2023). The union filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. University of New Mexico Sandoval Regional Medical Center filed its Answer on March 31, 2023 generally denying the Union's claims. United Health Professionals of New Mexico, AFT, filed a Motion to Amend the PPC on May 1, 2023 and the Hearing Officer granted it the same day. An Amended PPC was filed on June 1, 2023 alleging additional discriminatory behavior by the Respondent relating to a work injury. SRMC Answered the Amended PPC on June 16, 2023. After an Offer of Proof filed on July 10, 2023, SRMC filed a Motion for Summary Judgment on July 21, 2023. Complainant's Response was filed on August 5, 2023. The Hearing Officer denied Summary Judgment as to the Union's claimed violations of Sections 5(A) and (B); Sections 19(A), (B), (D), (E) and (G) but granted summary dismissal of its claims that the employee's *Weingarten* rights were violated and that SRMC breached an obligation to bargain discipline of individual unit employees prior to imposing that discipline. A Hearing on the Merits of the surviving claims was held on September 12, 2023. Closing briefs in lieu of oral argument were submitted on September 29, 2023 and the Hearing Officer rendered his Decision on October 10, 2023 concluding that the Union failed to meet its burden of proof so that no prohibited practice was found to have occurred and the Complaint was dismissed. The Board affirmed the Director's dismissal on November 16, 2023. See Board Order 60-PELRB-2023. The Union appealed the Board's Decision to the District Court on December 18, 2023 as Case No. D-202-CV-2023-09603 and the case remains open on appeal as of the date of this report. It remains for the next reporting period to analyze the outcome of that appeal.
6. *AFSCME, Local 3022 v. ABCWUA*; PELRB 106-23 (March 24, 2023). The union filed a PPC alleging the Albuquerque Bernalillo County Water Authority violated the parties' CBA by creating a new "standby list" for calling in employees after hours that could result in employees doing work outside their classifications. The Water Authority filed an answer and Motion for to Dismiss on April 17, 2023. The parties reached a settlement before the merits hearing and the PPC was withdrawn on May 17, 2023 and a Voluntary Dismissal was issued the same day. The file was closed June 6, 2023.
7. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 107-23 (April 10, 2023). The union filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An answer was filed on April 28, 2023. A Stipulated Protective Order issued June 28, 2023 followed by a Joint Motion for a Stay granted on August 24, 2023 to allow the PELRB to comply with a District Court Remand in PELRB 303-24. At its September meeting the Board assigned member Nan Nash to work with counsel to draft decision on remand. That Order was issued on November 20, 2023 as 59-PELRB-2023 affirming its prior Orders. Further scheduling was again stayed

pending argument on another Writ of Mandate to be argued on February 6, 2024 in case number D-202-CV-2023-01330. The case remains pending and will be reported on in the next reporting period.

8. *International Association of Machinists and Aerospace Workers, AFL-CIO, v. University of New Mexico Sandoval Regional Medical Center*; PELRB 108-23 (April 12, 2023). The International Association of Machinists and Aerospace Workers filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), (F), and (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. After SRMC filed its Answer and a Status and Scheduling Conference was held on May 2, 2023. A Hearing on the Merits was scheduled to take place on July 28, 2023. Prior to that Hearing the parties settled their dispute on July 21, 2023, so the Merits Hearing was vacated. A signed settlement agreement was received by the IAMAW on September 11, 2023. After affirming that arrangements for payments due under the settlement agreement are being made, the parties stipulated a voluntary dismissal and the file was closed on November 20, 2023.
9. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 109-23 (May 5, 2023). The union filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (C), (D), (F), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 26, 2023 along with a Motion to Stay the Proceedings. A Response was filed on June 12, 2023. Motion to Stay was denied by letter decision on July 26, 2023. A Status and Scheduling Conference was held on August 4, 2023 to set deadlines for dispositive motions and to schedule a merits hearing to be held on October 30, 2023. SRMC filed a Motion to Dismiss on August 22, 2023 and a separate Motion for Summary Judgment on September 1, 2023. The Union filed separate Responses to both on September 13, 2023. The Executive Director denied both motions on September 14, 2023. A Merits Hearing was scheduled for October 30, 2023, but stayed pending a Hearing on an alternative Writ of Mandate scheduled to be heard on February 6, 2024 in Case No. CV-2023-9345. The case will be reported on in the next reporting period.
10. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 110-23 (May 5, 2023) The union filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (C), (D), (F), and (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 26, 2023 along with a Motion to Stay the Proceedings. Motion to Stay was denied by letter decision on July 26, 2023. A Motion to Dismiss by UNM-SRMC filed August 24, 2023 was denied for the most part, but the issue of whether and to what extent the Final Memorandum Opinion and Order issued in Cause No. D-202-CV-2023-02118, affects the Union's claim for violation of Section 19(F) of the PEBA was taken under advisement. A Merits Hearing was held November 1, 2023, after which the Board's Hearing Officer concluded on December 08, 2023 that SRMC breached a statutory duty to bargain with AFT over layoffs announced in April, 2023 and carried out in May of 2023. See, Report and Recommended Decision issued in *United Health Professionals of New*

Mexico, *AFT v. UNM Sandoval Regional Medical Center, Inc.*; PELRB 109-23 (December 5, 2023). No double recovery was permitted by a separate identical conclusion in this case; however, relief in the form of a bargaining order and the tolling of any statutory deadlines for challenging majority status would not constitute duplicate relief.

The Hearing Officer also concluded that SRMC breached its statutory duty to bargain with AFT by its failure or refusal to provide requested information by the union on April 20, 2023 for bargaining dates, by its failure or refusal to respond to the April 10, 2023 request by Ms. Enghouse for an updated list of bargaining unit employees and by its failure or refusal to respond to a similar request by Mr. Lehto made on April 20, 2023. The Hearing Officer dismissed without prejudice the Union's claims that SRMC breached a statutory duty to bargain with AFT by its failure or refusal to provide requested information by Adrienne Enghouse on and about January 20, 2023; February 1, 7 and 22, 2023, and March 30, 2023.

Having found that the Respondent violated Sections 5(A), 5(B), 19(B), 19(C), 19(F) and 19(G) of the Public Employee Bargaining Act by failing and refusing to bargain with the Union in good faith during its first contract negotiations, an affirmative bargaining order was found to be appropriate in this case as being consistent with the purpose of the PEBA espoused in NMSA 1978 § 10-7E-2 and the rights of the unit employees, guaranteed by NMSA 1978 § 10-7E-5 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, to engage in other concerted activities for mutual aid or benefit. Those employees were denied the benefits of collective bargaining by SRMC's refusal to bargain in good faith with the Union. By refusing to bargain in good faith and thereby frustrating the possibility of securing a first contract, SRMC unlawfully deprived unit employees of the opportunity to obtain the stability and predictability such an agreement would provide. Traditional remedies of posting notice of the violation and enjoining further violations of the Act are inadequate to remedy the violations sustained because they would permit a challenge to the Union's majority status before the taint of the Respondent's unlawful conduct has dissipated, and before the employees have had a reasonable time to regroup and bargain through their representative in an effort to reach a first contract. Such a result would be particularly unjust in the circumstances presented here, where the Respondent's unlawful conduct frustrated any real progress toward achieving a collective bargaining agreement for which unit employees, not privy to the Respondent's conduct, would probably fault their bargaining representative, at least in part, further tending to undermine the unit employees' support for the Union. Thus, the Respondent's failure to bargain in good faith would likely have a continuing effect, tainting any employee disaffection from the Union for a period of time after the issuance of this decision and order. Moreover, the imposition of a bargaining order would signal to employees that their rights guaranteed under the Act will be protected. We find that these circumstances outweigh the temporary impact the affirmative bargaining order will have on the rights of the Employer who opposes union representation.

An affirmative bargaining order also serves the purpose of the Act by fostering meaningful collective bargaining and labor peace by removing the Employer's incentive to delay bargaining in the hope of further discouraging support for the Union. Additionally, under the circumstances of this case, a reasonable period during which the Union's majority status cannot be challenged, will foster meaningful collective bargaining. Wherefore, the Hearing Officer recommended that:

A. The 12-months period in NMSA 1978 § 10-7E-16(D) within which this Board may accept a request for a decertification election or an election sought by a competing labor organization shall be tolled until such time as the Employer begins to bargain collectively with the Union on a first contract.

B. SRMC was Ordered to: (1) cease and desist from all violations of the PEBA and found herein, (2) post notice of its violations of PEBA and assurances that it will comply with the law, in all areas where notices to employees are commonly posted including electronic postings, (3) immediately respond to the following requests for information and documentation:

- i. Requests by Ms. Enghouse and Mr. Lehto for SRMC's negotiating team's availability to conduct negotiations, which at a minimum will include at least one meeting per week for the next thirty days or other dates agreed to by the parties.
- ii. The 11-page comprehensive list of requested information, Exhibit F.
- iii. OSHA injury reports as referred to in Exhibits 2 and 3.
- iv. The requested copy of a "town hall event" slide presentation by SRMC CFO Jaime Silva.

The Board reviewed the Decision at its January 2, 2024 meeting and further action has been stayed pending a Hearing on an alternative Writ of Mandate scheduled to be heard on February 6, 2024 in Case No. CV-2023-9345. The case will be reported on in the next reporting period.

11. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 111-23 (June 3, 2023). The union filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), and (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 28, 2023 along with a Motion to Stay the Proceedings. Motion to Stay was denied by letter decision on July 26, 2023. SRMC's Motion for Partial Dismissal filed August 25, 2023 was granted as to the Union's claims that SRMC violated the Act when it did not bargain with the AFT before taking disciplinary action against Ms. McGinnis but denied in all other respects. A Merits Hearing was held on November 15, 2023 at which the Board's Hearing Officer granted SRMC's Motion for a Directed Verdict dismissing all of the Union's claims. A more formal Report and Recommended Decision was issued on November 16, 2023 concluding that the Complainant did not establish a connection between the discipline of Ms. McGinnis for her admitted use of her key card to allow access to the unauthorized non-employee Union representative, and any prior Prohibited Practice Complaints for anti-union retaliation. There was a substantial, non-discriminatory reason for taking the disciplinary action at issue apart from her union activities and affiliation that were not distinguished by the union's evidence. Accordingly, no violation of Sections 5(A) or (B); 19(A), (B), (D) and (E) occurred.

Without a violation of those provisions there can be no violation of Section 19(G) making it a prohibited practice for a public employer to “refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule” can be established.

The Union requested Board review and at the Board’s January 2, 2024 meeting it affirmed the Hearing Officer’s Report and Recommended decision, but and further action including issuance of the Board’s Order affirming its Hearing Officer’s Report and Recommended Decision has been stayed pending a Hearing on an alternative Writ of Mandate scheduled to be heard on February 6, 2024 in Case No. CV-2023-9345. The case will be reported on in the next reporting period.

12. *United Electrical, Radio and Machine Workers of America, Local 1498 v. New Mexico State University*; PELRB 112-23 (June 9, 2023). The Union (UE) filed a PPC alleging NMSU failed to bargain in good faith in violation of Section 19(F), after it refused to provide information regarding the members of the bargaining unit. Prior to a hearing on the merits the PPC was withdrawn on August 11, 2023, the Director issued a Voluntary Dismissal and the file was closed on August 14, 2023.
13. *AFSCME, Local 3999 v. City of Santa Fe*; PELRB 113-23 (June 21, 2023). The union filed a PPC alleging a failure to bargain/unilateral changes to the terms and conditions of employment regarding an alleged past practice of awarding administrative leave in certain circumstances. An Answer was filed on July 14, 2023. The complaint was withdrawn on September 6, 2023 and a voluntarily dismissed the same day. Staff closed the file on September 11, 2023.
14. *New Mexico Coalition of Public Safety Officers v. Santa Fe County*; PELRB 114-23 (July 13, 2023). New Mexico Coalition of Public Safety Officers filed a PPC alleging violations of Sections 5(B), and 19(B), (E), (F) and (G) by denying *Weingarten* rights and failing to provide information during the disciplinary process. An answer was filled on August 3, 2023. The complaint was withdrawn on September 6, 2023 and a voluntary dismissal issued the same day. The file was closed on September 11, 2023.
15. *International Association of Machinists and Aerospace Workers v. University of New Mexico Sandoval Regional Medical Center*; PELRB 115-23 (August 8, 2023). Tony Molina was the International Association of Machinists and Aerospace Workers’ organizing leader, a union steward and a member of IAMAW’s bargaining team. as a witness, and did testify, in PELRB No. 303-22. He was called as a witness by the Union to testify in PELRB No. 103-23 but that case settled prior to any testimony being taken.

In early July, 2023, University of New Mexico Sandoval Regional Medical Center placed Mr. Molina under investigation a week prior to the commencement of collective bargaining negotiations and placed him on administrative leave during the week of negotiations. He was subsequently terminated for falsifying a report on a fire pump test. The Union alleges that the accusation of falsifying reports is a pretext for retaliation against Mr. Molina for his union activities, his testimony before this Board and to discourage membership in the union.

- The PPC further alleged that UNM SRMC refused to bargain any increase in compensation for bargaining unit members after having given raises to non-bargaining unit positions and to a few of the bargaining unit positions without bargaining. UNM SRMC failed or refused to respond to multiple requests for information necessary for collective bargaining. The International Association of Machinists and Aerospace Workers filed a PPC alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), (F) and (G) for University of New Mexico Sandoval Regional Medical Center's refusal to bargain in good faith and discrimination/retaliation against a member of the bargaining group. An Answer was filed on August 29, 2023. A Merits Hearing was scheduled for October 25 and 26, 2023, which hearing was delayed and the parties stipulated to dismissal of the complaint on December 27, 2023 and a Voluntary Dismissal was issued December 29, 2023.
16. *New Mexico Coalition of Public Safety Officers v. County of Santa Fe*, PELRB 116-23 (October 4, 2023). The union filed a PPC alleging violations of Sections 5(B), and 19(B), (E), (F), and (G) that occurred during an employee's disciplinary process. An Amended PPC was filed on October 13, 2024 to cure some facial inadequacies and an Answer was filed on November 3, 2023. The case is scheduled to be heard on its merits on January 31, 2024 and its resolution will be reported in the next reporting period.
 17. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*, PELRB 117-23 (October 10, 2023). The union filed a PPC and Petition for a TRO and Preliminary Injunctive Relief alleging violations of Sections 17(A)(1), and 19 (F), for failure to bargain in good faith and direct dealing. An Answer was filed on October 31, 2023 along with a Motion to Dismiss the PPC. A Hearing on the TRO was held November 7, 2023. The TRO was denied by letter decision on November 9, 2023 and the Union responded to the Motion to Dismiss on November 14, 2023. The Motion was denied by letter decision on November 22, 2023. Further scheduling was stayed until after the February 6, 2024 hearing on an Alternative Writ of Mandate.
 18. *Bernalillo County Firefighters v. Bernalillo County*, PELRB 118-23 (November 3, 2023). The union filed a PPC alleging that the County's demotion of a Paramedic did not comply with their CBA's disciplinary process, Article 16 of the contract. An Answer was filed on November 22, 2023, and an Amended Answer on December 8, 2023. The case was deferred to arbitration on December 12, 2023 and will continue to be monitored pursuant to NMAC 11.21.3.22 (A), by which the PELRB reserves jurisdiction to review the arbitrator's award and if, in the opinion of the Director, the issues raised by the PPC were fairly presented to and fairly considered by the arbitrator, and the award is both consistent with the Act and sufficient to remedy any violation found, then the Director shall dismiss the complaint. If the Director finds that the PPC's issues were not fairly presented to, or were not fairly considered by, the arbitrator or that the award is inconsistent with the Act or that the remedy is inadequate, then the Director shall take such other action as he or she deems appropriate. Accordingly, resolution of this case will be seen in the next reporting period.

19. *Utility Workers Union of America v. The Village of Bosque Farms*, PELRB 119-23 (November 14, 2023). The Union filed a PPC alleging changes to the status quo ante after the filing of the Union's Recognition Petition (PELRB 339-23) when the Village Council proposed changing bargaining unit employees' Job Descriptions and Overtime requirements. The PPC was withdrawn on November 15, 2023 and a Voluntary Dismissal was issued on November 16, 2023. The file was closed December 15, 2023.
20. *AFSCME, Council 18 v. New Mexico Department of Vocational Rehabilitation*, PELRB 120-23 (November 14, 2023). The Union filed a PPC alleging a breach of the CBA governing the disciplinary process. The case was deferred to arbitration on December 4, 2023. The PPC was withdrawn on December 15, 2023 and a Voluntary Dismissal was issued on December 18, 2023. The file was closed January 10, 2024.
21. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*, PELRB 121-23 (November 14, 2023). The union alleged violations of Sections 5(A), 5(B), and 19(A), (B), (C), & (G) when UNM-SRMC denied union organizers access to bargaining unit employees. An Answer was filed on December 13, 2023. A Merits Hearing is scheduled to take place on March 8, 2024; However that scheduling will be revisited following a February 6, 2024 hearing on an Alternative Writ of Mandate in case number D-202-CV-2023-01330. In any event, resolution of this case will be reported in the next reporting period.
22. *United Electrical, Radio and Machine Workers of America, Local 1498 v. New Mexico State University*, PELRB 122-23 (November 30, 2023) The union filed a PPC alleging violations of Section 19(F) for refusal to bargain in good faith by failing to respond to requests for relevant information. An Amended PPC was filed December 5, 2023. A default determination was issued on January 24, 2024 to be reviewed by the Board at its February 6, 2024 meeting. The resolution of this case will be reported in the next reporting period.
23. *AFSCME, Council 18 v. Doña Ana County*, PELRB 123-23 (December 14, 2023). On August 15, 2023, the New Mexico Court of Appeals issued an Order to AFSCME, Council 18, Doña Ana County and Doña Ana County's Labor Management Relations Board, quashing a writ of certiorari seeking review of a District Court's order reversing a decision of the local Labor Board that Employer had not committed a prohibited labor practice. The Court of Appeals also affirmed the District Court's decision. The District Court reversed the Doña Ana County Management Relations Board's dismissal of the Union's PPC, found that disciplinary action taken against the Union President was retaliatory and ordered that the relief requested by the Union shall be granted. The matter was remanded to the local board for further proceedings consistent with that Order. However, the Doña Ana County Labor Management Relations Board did not submit the necessary affirmations under the PEBA Section 10-7E-10 in 2021 so that it ceased to exist effective January 1, 2022. Jurisdiction over any of its pending matters therefore transferred to this Board by operation of law. The District Court Order established the relief to be afforded except that the dollar amount necessary for its "make whole" relief. Although the Executive Director requested the Union present that

amount no later than December 29, 2023, it was not able to do so. As of the end of this reporting period the case remains pending and its resolution will be reported in the next reporting period.

24. *Committee of Interns and Residents, Service Employees International Union v. University of New Mexico*, PELRB 124-23 (December 14, 2023). The union alleged violations of Section 19(F) for refusal to bargain in good faith by taking an unreasonable amount of time to respond to offers during negotiations. The Union withdrew its PPC I January of 2024 and its resolution will be reported in the next reporting period.
25. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*, PELRB 125-23 (December 21, 2023). The union filed a PPC alleging violations of Sections 19(D), (E), (G), and (H) for failure to complete the terms of a settlement reached in a previous PPC. A Merits Hearing is scheduled to take place on March 27 and 28, 2024. As of the end of this reporting period the case remains pending and its resolution will be reported in the next reporting period.

The following Prohibited Practice cases were completed in 2023 although filed in the preceding reporting period:

1. *Luis Lopez v. City of Belen*; PELRB 113-22 (June 2, 2021). This case came before the PELRB upon remand from the Court of Appeals. The case was originally decided under the City of Belen's local labor relations ordinance, which was in effect in 2017, when the underlying Prohibited Practice occurred. The Belen local board found that the City had improperly questioned employees about internal union matters and fired the union president in retaliation for protected activities in violation of the local ordinance and issued a final order on June 28, 2019 granting back pay and benefits. However, Luis Lopez had died six months previously on January 10, 2019. On appeal, the District Court found that the Belen board did not have authority to issue its decision due to the lack of personal jurisdiction after the death of Mr. Lopez because the local board had no procedures for the substitution of a party after that party's death.

On March 15, 2022, the New Mexico Court of Appeals reversed the District Court and remanded the case to the Belen local labor board for substitution of a party with authority to act on Mr. Lopez's behalf. However, the Belen board had ceased to exist on January 1, 2021 pursuant to Section 10(B) of the PEBA because the City had not passed a revised labor management relations ordinance after the 2020 amendments to the PEBA. Thus, pursuant to PEBA Section 10(I) the matter was remanded to the PELRB for resolution.

An order granting a motion for substitution of a representative of Mr. Lopez's estate as the real party in interest was issued June 22, 2022. The parties reached a settlement on November 10, 2022 but final resolution was delayed by Mr. Lopez's estate's personal representative having out of state. The Executive Director was able to affirm that all conditions of the parties agreement had been complied with on September 1, 2023 and the file was closed.

2. *AFSCME, Council 18 v. New Mexico Corrections Department*; PELRB 116-22 (August 2, 2022). Complainant alleged violations of Sections 19(B), 19(G), 19(F) and 19(H) after the Warden of the Central New Mexico Correctional Facility, unilaterally implemented a change to its Escorts and Transports (Policy CD-130200 et seq.), by permitting a single officer in an escort vehicle and by refusing to the Union's requested information necessary for the evaluation of the proposed changes.

In October of 2022, the parties agreed to hold this case in abeyance until a scheduled October 28, 2022 Status and Scheduling Conference to facilitate settlement negotiations. At the conference, the parties agreed to continue the abeyance to December 23, 2022. At that time, the parties told the Board that a settlement agreement was circulating for signature. The Director inquired about the status of that settlement three months later on March 6, 2023 and again on March 28, 2023 with the result that the agreement still was not executed by the Complainant. Subsequent follow up phone calls or email messages on May 12, 2023 and on September 1, 2023 resulted in no change to this stalemate. On October 3, 2023, the Director wrote to the parties that unless the settlement agreement was executed, the PPC withdrawn and Voluntary dismissal entered by October 31, 2023, the Complaint would be dismissed pursuant to NMAC 11.21.1.29. The Executive Director summarily dismissed the case for failure to act within the preceding six months on November 13, 2023 and the case was closed on December 19, 2023.

3. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 119-22 (September 6, 2022). After the employer fired an employee union activist, the union complained that her termination was retaliatory in violation of the PEBA Sections 5(A) (giving public employees 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”); 5(B) (giving public employees the right to “engage in other concerted activities for mutual aid or benefit”); 19(A) (making it a prohibited practice for a public employer to “discriminate against a public employee with regard to terms and conditions of employment because of the employee’s membership in a labor organization”); 19(B) (making it a prohibited practice for a public employer to “interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization”); 19(D) (making it a prohibited practice for a public employer to “discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization”); 19(E) (making it a prohibited practice for a public employer to “discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization”); and 19(G) (making it a prohibited practice for a public

employer to “refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule”).

SRMC Answered the PPC on September 29, 2022, generally denying the Complaint and affirmatively stating that it fully complied with all of its legal obligations, that the Complaint is barred by the employee’s failure to comply with SRMC policies and procedures, that SRMC had legitimate, non-discriminatory, and non-retaliatory reasons for all actions taken with respect to the employee and that any and all actions taken against her were due to her misconduct and unrelated to conduct prohibited pursuant to PEBA or the New Mexico Healthy Workplaces Act.

A Merits Hearing was scheduled to be held, first on February 02, 2023, then postponed to March 3, 2023. However, the parties settled the case January 31, 2023 and the Union withdrew the PPC on April 10, 2023. The Hearing Officer issued a Voluntary Dismissal of the case on April 11, 2023. After review of the Dismissal by the Board at its May 2, 2023 meeting, Staff closed the file on May 3, 2023.

4. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 120-22 (September 15, 2022). AFSCME, Local 3022 filed this Complaint alleging that a Training Specialist was illegally denied an “equity pay” adjustment upon her promotion when compared to another Training Specialist. The Employer’s position is that according to a long-standing past practice once an employee is in a position classified above Step 20, such employee is no longer eligible for an “equity pay adjustment”. The Union alleges that the failure to adjust the first employee’s pay upward to match that of the second employee violates NMSA 1978 § 19(F) and (H) (2020) (prohibiting refusal to bargain collectively in good faith with the exclusive representative and refusal or failure to comply with a collective bargaining agreement, respectively). Both parties filed competing Motions for Summary Judgment on October 28, 2022. After consideration of both parties’ Responses on November 17, 2022, the Hearing Officer issued his letter decision on November 18, 2022 denying Complainant’s Motion for Summary Judgment and granting Respondent’s Motion for Summary Judgment. No request for Board review was filed by the deadline of December 5, 2022, too late to be reviewed on the Board’s December meeting agenda. Therefore, the Summary Dismissal was reported to the Board at its January 3, 2023 meeting and the Board affirmed the Hearing Officer’s Summary Dismissal. (See 2-PELRB-2023). Staff closed the file on January 6, 2023.
5. *Bernalillo County Deputy Sheriff’s Ass’n. v. Bernalillo County and Bernalillo County Sheriff’s Dep’t.*; PELRB 121-22 (October 14, 2022). The union filed a Prohibited Practices Complaint alleging that one of its retired members was improperly denied a negotiated one-time payment of \$5,000.00. At a pre-hearing status and scheduling conference held on November 10, 2022 the parties agreed to submit dispositive motions by close of business December 5, 2022. The parties’ Responses to any such Motion shall be close of business December 19, 2022. Further scheduling was held in abeyance to facilitate the parties’ settlement negotiations. When the case did not settle as hoped a second Status and Scheduling Conference was held setting December 5, 2022 as the deadline for filing dispositive motions by either party. Responses to any such Motions were required to be filed by close of business

December 19, 2022. Both parties filed dispositive motions and after the Response deadline the Executive Director issued two Letter Decisions – one denying BCDSA’s Motion to Strike the Past Practice Doctrine as it related to the practice of paying the one-time bonus at issue to retired bargaining unit members, and the other denying the County’s Motion for Summary Judgment based on the Past Practice Doctrine.

The County filed a Notice of Errata concerning its Motion and requested Reconsideration on December 20, 2022. The Board’s Hearing Officer denied that Motion on January 4, 2023. Parties reached a settlement the following week on January 12, 2023. In connection with the settlement, the Union withdrew its Complaint on January 19, 2023 and the Executive Director Voluntarily Dismissed the case on January 20, 2023. The file was closed on January 26, 2023 and Staff reported the closure to the PELRB at its meeting on February 7, 2023.

6. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 122-22. (October 14, 2022). Bargaining-unit employees in the workplace circulated a Petition advocating for the reinstatement of recently fired Patient Care Tech. (See PELRB 119-22). One employee circulating the Petition was sent an email on October 5, 2022, from HR Director Correen Bales that the Union characterized as a “threat” and putting the employee on notice that she violated the employer’s anti-solicitation policies. The Union alleges that the employer’s actions “discourage and interfere with the exercise of concerted activity for mutual aid and benefit in the workplace by Union members and supporters” and that its anti-solicitation policies are “overbroad and unlawful” prohibiting activity that is protected by the PEBA. By the foregoing, the Union alleges that SRMC has violated Sections 5(A) (giving public employees 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”); 5(B) (giving public employees the right to “engage in other concerted activities for mutual aid or benefit”); 19(A) (making it a prohibited practice for a public employer to “discriminate against a public employee with regard to terms and conditions of employment because of the employee’s membership in a labor organization”); 19(B) (making it a prohibited practice for a public employer to “interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization”); 19(D) (making it a prohibited practice for a public employer to “discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization”); 19(E) (making it a prohibited practice for a public employer to “discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization”); and 19(G) (making it a

prohibited practice for a public employer to “refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule”).

The Employer Answered the PPC on November 4, 2022, generally denying the Union’s allegations and affirmatively stating that SRMC has fully complied with all of its legal obligations, that the PPC is barred by the employee’s failure to comply with SRMC policies and procedures and that the PERLB is without jurisdiction. After a Status and Scheduling Conference held November 9, 2022, a Merits Hearing was scheduled for February 15, 2023. After an extensive motion practice the scheduled hearing was vacated to accommodate settlement negotiations. The parties successfully negotiated a settlement agreement, which called for the Union to withdraw its Complaint. The Executive Director issued a Voluntary Dismissal of the Complaint on March 2, 2023. After Board review of the Dismissal on March 7, 2023, Staff closed the file on March 20, 2023.

7. *International Association of Machinists and Aerospace Workers, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; PELRB 123-22. (October 19, 2022). During the Union’s organizing campaign, an employee and open supporter of the Union, was placed on administrative leave and accused by the employer of having an “improper conversation” with a co-worker concerning the Union. On September 28, 2022, the employee was fired. The Union alleged that the employer’s actions violated Sections 5(A) (giving public employees 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”); 5(B) (giving public employees the right to “engage in other concerted activities for mutual aid or benefit”); 19(A) (making it a prohibited practice for a public employer to “discriminate against a public employee with regard to terms and conditions of employment because of the employee’s membership in a labor organization”); 19(B) (making it a prohibited practice for a public employer to “interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization”); 19(D) (making it a prohibited practice for a public employer to “discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization”); 19(E) (making it a prohibited practice for a public employer to “discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization”); 19(F) (making it a prohibited practice for a public employer to “refuse to bargain collectively in good faith with the exclusive representative”); 19(G) (making it a prohibited practice for a public employer to “refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule”).

SRMC Answered the PPC on November 9, 2022, generally denying the allegations and affirmatively stating that SRMC has fully complied with all of its legal obligations, that the PPC is barred by the employee's failure to comply with SRMC policies and procedures and pursuant to the doctrine of unclean hands, that the complaint is barred in whole or in part by state and federal discrimination laws and that the PERLB is without jurisdiction over this matter. SRMC asserts that the union cannot make a prima facie showing that protected conduct was a motivating factor in SRMC's determination to terminate the employee, that SRMC was aware that the employee participated in protected union activity or that the employer exhibited union animus. SRMC alleges that it had a legitimate business justification to terminate the employee and such reason cannot be termed pretextual - the same action would have taken place even in the absence of the alleged protected conduct.

After extensive motion practice the Executive Director denied Summary Judgment on December 5, 2022. A Hearing on the Merits, scheduled to take place on January 21, 2023 was vacated, upon settlement of the claim. The Union withdrew its Petition and the Executive Director issued a Voluntary Dismissal on April 5, 2023. After the Board reviewed the dismissal at its May 2, 2023 Board meeting, Staff closed the file on May 3, 2023.

8. *District 1199NM, National Union of Hospital and Health Care Employees v. University of New Mexico Hospitals*, PELRB 124-22 (October 19, 2022). In June of 2022, the Union learned that UNM Hospitals was offering double-time to certain bargaining unit employees for covering shifts without bargaining that payment with the Union. The Union proposed a MOU to Respondent regarding the payments. In response the Employer denied offering double time and took the position that if some such payments had been offered that it was from "rogue" managers and so, refused to bargain with the Union regarding the MOU. The Union alleged that since that time the employer continued to offer the double time payments in violation of the PEBA Sections 17(A) (requiring the Respondent to bargain in good faith with the union regarding wages, hours and all other terms and conditions of employment); and 19(F) (making it a prohibited practice to "refuse to bargain collectively in good faith with the exclusive representative"). The Hospital Answered the Complaint on December 5, 2022 generally denying the allegations and stating that the Hospital has met all of its obligations to the Union under law and contract, the Union fails to state claims for which relief may be granted, some or all of the allegations in the Complaint must be deferred to grievance arbitration pursuant to the parties' CBA, the dispute is moot and is barred by operation of NMSA 1978, §§ 10-7E-17(A)(1) ("neither the public employer nor the exclusive representative shall be required to agree to a proposal or to make a concession").

After extensive motion practice, a Merits Hearing took place on May 5, 2023 and following review of the parties' closing briefs, the Board's Hearing Officer issued his Report and Recommended Decision on June 30, 2023. The Hearing Officer concluded that UNMH violated Section 17(A)(1) of the Public Employees Bargaining Act, which provides that public employers and the unions under the Act "shall bargain in good faith on wages, hours, and all other terms and conditions of employment...". Further, UNMH violated Section 19(F) of the PEBA by unilaterally

changing the parties longstanding mutual understanding of the term “on call” and the circumstances under which covered employees would be paid double time, expressed in Article 10 of the two applicable CBAs.

The Hearing Officer also concluded that the Union did not waive its right to negotiate shift schedules including on call provisions or the compensation to be paid employees for the hospital’s various shift but has, in fact, negotiated all of those mandatory subjects. Accordingly, the Hearing Officer recommended that the Hospital: (1) Acknowledge its violation by posting notice of them for a period of not fewer than 90 days; (2) Cease and desist from all violations of the PEBA; and (3) bargain in good faith with the Union regarding the shifts and compensation as described above until impasse or a signed agreement is reached in accordance with Section 17 of the PEBA.

UNMH did not appeal from the Report and Recommended Decision so that it became final and binding on the parties. After Staff verified compliance with the Hearing Officer’s Report and Recommended Decision including the posting requirement, Staff closed the file on September 20, 2023.

9. *Communications Workers of America v. State Personnel Office*; PELRB 125-22 (December 20, 2022). On November 29, 2022, CWA was notified that the State was willing to meet with the Union to bargain the effects of the State’s unilateral rescission, effective January 1, 2023, of a Non-Mandatory Telework policy negotiated in the Spring of 2021. CWA demanded that SPO recant its decision to rescind the policy prior to bargaining, which SPO declined to do. This Complaint alleged that the unilateral rescission violated Sections 19(B), (F), and (G) of the PEBA. The Hospital filed its Answer on April 17, 2023 generally denying the allegations of the Complaint. During a Status and Scheduling Conference held April 20, 2023, the parties informed the Board’s Hearing Officer that they were actively negotiating a settlement of the Complaint. Apparently, the negotiations were successful because the Union withdrew its Complaint on May 8, 2023. The Executive Director issued a Voluntary Dismissal the following day, May 9, 2023 and Staff closed the case on June 6, 2023.
10. *AFSCME, Council 18 v. State Personnel Office and New Mexico Corrections Dep’t.*; PELRB 128-21 (November 19, 2021). AFSCME alleged violations of Sections 19(B), (F), (G) and (H) when the Corrections Department allegedly reneged on a prior agreement concerning changes to its discipline policy. Dispositive motion deadlines and a Merits Hearing were scheduled but delayed, to accommodate settlement negotiations. A Merits Hearing was re-scheduled for November 3, 2022 but was again postponed. The parties eventually settled the issues and AFSCME withdrew the PPC on December 23, 2022. Staff issued a Voluntary Dismissal the same day and after review by the Board at its meeting on January 3, 2023, staff closed the file.
11. *NMCP SO v. Santa Fe County*; PELRB 133-21; 13-PELRB-22 (May 16, 2022). The Union’s PPC alleged bad faith bargaining in violation of Sections 19(B), (F) and (G) of the PEBA when the County circulated revisions to its Mandatory Vaccination Policy and proposed to make it effective on September 3, 2021 despite the Union’s demand to bargain. The County denied any violations and asserted that the Union

waived further bargaining over revision of the policy by an earlier negotiation of the original Mandatory Vaccination Policy. A Hearing on the Merits was conducted February 10, 2022 and the Board's Hearing Officer issued his Report and Recommended Decision on March 22, 2022 concluding that the County breached a duty to bargain in good faith by its unilateral imposition of discipline "up to and including termination" because that is an aspect of a new work rule that is grounds for discipline and consequently is a mandatory subject of bargaining not covered by the contract.

Santa Fe County requested Board Review on April 5, 2022 and the Recommended Decision was taken up by the Board at its meeting on May 5, 2022. The PELRB affirmed the Hearing Officer's Report and Recommended Decision. See Order 13-PELRB-22 issued May 16, 2022. The County appealed the Board's Decision to the 1st Judicial District Court on May 25, 2022 as case No. D-101-CV-202200913. The Record on Appeal was submitted by staff on June 24, 2022. The District Court extended its deadlines for submitting the appellate statements and oral argument was postponed to March 28, 2023. The District Court issued its Order Reversing the Board on June 30, 2023. The Court (J. Wilson) concluded that the PELRB erred in two ways. First, the PELRB erred by failing to apply the proper standard to assess whether adoption of the Policy, including its inseparable disciplinary component, was a necessary action in light of the COVID-19 public health emergency. Second, assuming arguendo that the disciplinary component of the Policy constitutes an effect of the decision, the PELRB erred by concluding that the Union had not clearly and unmistakably waived any effects bargaining over the Policy through the Collective Bargaining Agreement. No appeal was taken from the District Court's Order and Staff closed the file on September 5, 2023.

Representation Cases

As previously noted in this report, 2023 saw an increase in the number of Representation Petitions filed compared with prior reporting periods. The 45 cases opened during this reporting period represents a 38% increase over the 28 Representation Petitions filed in 2022 and 67% increase over the 17 such petitions filed in 2021. The increase is an anomaly resulting from 14 joint petitions filed by the State and the Communications Workers of America seeking clarification of their bargaining units due to changes in job titles and classifications that are largely undisputed. The representation cases filed in 2023 include three Petitions for Decertification (*Urbaniak & AFSCME, Council 18*, PELRB 335-23; *International Union of Police Associations & Chaves County*, PELRB 343-23; and *Kelli McKee & AFSCME, Council 18*; PELRB No. 329-23. A related case *Kelli McKee & AFSCME, Council 18*; PELRB No. 327-23, found inadequate and subsequently refiled as PELRB 329-23 was not separately accounted for in the Boards Tables appended to this report). With the exception of *Urbaniak & AFSCME, Council 18*, PELRB 335-23, the decertification Petitions prompted the exclusive representatives to disclaim their interest in further representation of the bargaining units at issue. Pursuant to NMAC 11.21.2.42 an exclusive representative may disclaim its representational interest in those employees at any time by submitting a letter to the PELRB and the employer disclaiming any representational interest in a unit for which it is the exclusive representative. Upon receipt of a letter disclaiming an interest under this rule,

the board shall cause to be posted in a place or places frequented by employees in the affected bargaining unit, a notice that the union has chosen to relinquish representation of the employees and direct staff to dismiss any petitions to decertify the exclusive representative of the disclaimed unit. Accordingly, those cases were closed during the reporting period without the necessity of an election.

AFSCME, Council 18 did not disclaim its interest in *Urbaniak & AFSCME, Council 18*, PELRB 335-23, so that an election was required. That election took place in January of 2024. The Petition failed and the Petitioner objected to the conduct of the election. Those objections are currently under investigation and the results will be reported in the next reporting period.

Under the circumstances described herein, staff does not consider the increase in decertification petitions filed in the current reporting period to be statistically significant. Details concerning the Representation Petitions filed in 2023 are summarized below:

1. *Los Lunas Firefighters Association, Local 4297 & Village of Los Lunas*; PELRB 301-23 (February 1, 2023). The Union's Representation Petition sought to accrete the newly created position of Engineer into an existing unit of Firefighters/EMTs. The Petition was properly filed as a Representation Petition rather than an Accretion (Unit Clarification) Petition because the number of employees being accreted exceeded 10%. (See NMAC 11.21.2.38(C)). The Village did not dispute the inclusion of Engineers on any statutory exclusion. An amended Certification was issued after a Card Check on April 20, 2023 and affirmed by the Board at its May meeting (see 17-PELRB-2023). The file was closed on May 3, 2023.
2. *Sandoval County Professional Fire Fighters Association, LAFF Local 4563 & Sandoval County*; PELRB 302-23 (February 23, 2023). The Union filed a Petition seeking to accrete Lieutenants into an existing unit of Firefighters, EMTs and Paramedics. The County objected to accreting Lieutenants on the ground that they are supervisory, managerial, and/or confidential employees. Before conducting a hearing on whether the Lieutenants' inclusion would render the unit inappropriate, the parties reached an agreement that the position of Lieutenant was not exempt and shared a sufficient community of interest to be included in the bargaining unit with one exception - the position of Lieutenant - Public Health and Safety Outreach does not share a sufficient community of interest and should be excluded from the bargaining unit. Based on that agreement an amended Certification was issued after a Card Check on April 3, 2023 and affirmed by the Board at its May, 2023 meeting. (See 18-PELRB-2023). The file was closed on May 3, 2023.
3. *New Mexico Coalition of Public Safety Officers & Santa Fe County*; PELRB 303-23 (March 2, 2023). The New Mexico Coalition of Public Safety Officers filed a Petition seeking to clarify an existing unit of employees at the Dispatch Center certified on November 14, 2008 to reflect changed titles and duties since that time. Santa Fe County filed its "Response to Petition for Clarification" on March 8, 2023 setting forth its agreement reached through prior bargaining to the amendment of the bargaining unit. Based on that agreement the Executive Director issued an Amended Certification on March

10, 2023, which was affirmed by the Board at its April, 2023 meeting. (See 14-PELRB-2023). The file was closed on April 13, 2023.

4. *Sandoval County Sheriff Deputies Association & Fraternal Order of Police, Albuquerque Lodge #1*; PELRB 304-23 (March 2, 2023). The Union filed a Petition on under NMAC 11.21.2.35 to amend an existing Certification of Representation to reflect a change in the affiliation of the Union from New Mexico Coalition of Public Safety Officers, to the Fraternal Order of Police. On initial review, the Executive Director found the Petition to be inadequate because it purported to seek amendment pursuant to NMAC 11.21.2.25, a rule pertaining to the Board's Pre-election Conference procedure, and which does not concern amendment of certification. Assuming that the referenced rule was a typo and Petitioner intended to refer to Board Rule 11.21.2.35, the Director noted that a Petition for amendment of certification to reflect a change in affiliation may be filed "by an exclusive representative or an employer." There is nothing in the submission indicating that the Petitioner was either one. To the contrary, the unexecuted copy of the CBA covering the unit submitted indicated that the exclusive representative is the New Mexico Coalition of Public Safety Officers, not the Sandoval County Sheriff Deputies Association. The Petition also referred to a Certification of Representation issued by the now-extinct Sandoval County Labor Relations Board but did not provide a copy of it to the PELRB. Accordingly, the Petition was facially invalid and Petitioner was given until March 27, 2023 in which to cure the deficiencies or the Petition would be dismissed pursuant to NMAC 11.21.2.13(B). The Petition was withdrawn on March 24, 2023 and the Director issued a Voluntary Dismissal on March 27, 2023. Staff closed the file on April 4, 2023.
5. *Sandoval County Sheriff Deputies Association & N.M. Coalition of Public Safety Officers Association*; PELRB 305-23 (April 25, 2023). Sandoval County Sheriff Deputies Association petitioned the PELRB for decertification of the New Mexico Coalition of Public Safety Officers Association as the exclusive collective bargaining representatives for a group of Sandoval County Sheriff's Department employees. On initial review, the Petition was found to be inadequate because Sandoval County Sheriff Deputies Association was neither a "member of a labor organization" or the labor organization that is the exclusive representative itself, as required by NMSA 1978 §10-7E-16(A). Furthermore, an assertion in the Petition that a vote of "no confidence" was conducted is not sufficient to meet the requirement that at least thirty percent of the employees in the bargaining unit make a written request to the board for a decertification election. Finally, the petition was filed outside of the 30 days window provided for in NMSA 1978 §10-7E-16(B) (2020).

The Executive Director gave the Petitioner until May 4, 2023 in which to cure the deficiencies or provide additional information or the Petition would be dismissed pursuant to NMAC 11.21.2.13(B). When no additional information was submitted by the deadline, the Executive Director dismissed the Petition on May 12, 2023. The Dismissal was affirmed by the Board at its June, 2023 meeting. (See 25-PELRB-2023). Staff closed the file on June 21, 2023.

6. *CSEC-LC Local #4994 & Las Cruces Public Schools*; PELRB 306-23 (June 15, 2023). This Petition sought to accrete Campus Media Production Support Specialists, CRSSAA Funded Human Resources Benefits Specialists, Benefits Specialists Junior Systems Administrators, and Operations Specialists into an existing bargaining unit of Associate Librarians, Campus Security, Custodians, Educational Assistants, Health Assistants, Library Assistants, Materials Management Employees, Nutrition Services, Nutrition Services Warehouse Employees, Physical Plant Department Employees, and Secretarial/Clerical Employees. On initial review, the Petition was found to be inadequate because the existing bargaining unit and the positions to be accreted could not be determined from the Petition due to cross-over in the positions described and differences in the titles described in the Petition and the Recognition clause of the parties' CBA. Those defects were not cured in a timely manner and the Petition was dismissed on June 27, 2023. The Classified School Employees Council of Las Cruces did not request Board review of the dismissal, so Staff closed the file on July 14, 2023.

7. *Santa Fe County Firefighters, LAFF Local 4366 & Santa Fe County*; PELRB No. 307-23 (June 26, 2023). This Petition sought to accrete Battalion Chiefs into an existing unit of Firefighter EMTs/Basic, Firefighters EMTs/Intermediate, Paramedics, Lieutenants, Station/Training Captains, Engineers, Fire Protection Specialists I & II employed by Santa Fe County. After reviewing supplementary affidavits regarding the job duties of the Battalion Chiefs positions, the Executive Director dismissed the Petition because he found them to be management employees excluded from collective bargaining under the Act. The Union did not request Board review of the dismissal and Staff closed the file on September 6, 2023.

8. *District 1199NM, NUHHCE & UNM Hospitals*; PELRB 308-23 (June 28, 2023). The National Union of Hospital and Health Care Employees sought clarification of an existing bargaining unit to include newly created positions of Sleep Tech I and Sleep Tech II employed in the UNM Hospitals' Sleep Disorders Center. UNM Hospitals acknowledged that there were no issues concerning representation. The Executive Director issued an Amended Certification on July 27, 2023, which was affirmed by the Board at its September, 2023 meeting. (See 32-PELRB-2023). Staff closed the file on September 6, 2023.

9. *AFSCME, Council 18 & Middle Rio Grande Conservancy District*; PELRB 309-23 (July 5, 2023). The Union's Petition sought initial certification as the exclusive bargaining representative for MRGCD employees in the following job classifications or performing the following work: Light Equipment Operator, Medium Equipment Operator, Heavy Equipment Operator, Laborer, Fuel Truck Operator, Transport Operator, Welder, Mechanic, Mechanic's Helper, Parts Runner, Warehouse Specialist, Lead Worker, and Ditch Rider. The parties agreed to exclude ditch riders and a card check excluding those position was conducted on August 30, 2023, with the result that, while the interest cards were insufficient to show majority support, there was sufficient support to move forward with an election. Shortly before a pre-election conference held on September 8, 2023, AFSCME presented an additional showing of interest pursuant to NMAC 11.21.2.23. MRGCD objected to the additional showing of interest and suggested further amendment to the appropriate

bargaining unit seeking to exclude additional positions. After taking evidence and hearing argument, The Executive Director determined that the additional submission of support for the union was not time-barred, that there was no evidence of fraud or coercion by the Union in obtaining the additional showing of support and that all positions in the putative unit shared a sufficient community of interest. After another card check performed while the pre-election conference was recessed for that purpose, the Executive Director determined, pursuant to NMSA 1978 § 10-7E-14(C) (2020) that 55.45% of employees in the unit indicated. Accordingly, the Executive Director issued a Certification of Representation on September 8, 2023. The Certification was affirmed by the Board at its October meeting (see 51-PELRB-2023) and the file was closed on October 6, 2023.

After a series of meetings between the New Mexico State Personnel Office and AFSCME Council 18, representing bargaining units in several State agencies, the parties agreed to update the unit descriptions of AFSCME-represented units first certified in 2003 and 2004, to reflected job title and classification changes over the years and to accrete any agreed-upon new positions. The following cases represent the actions taken on a group of Joint Petitions to Amend Certifications in those units filed on August 8, 2023:

10. *State Personnel Office (Department of Homeland Security and Emergency Management) & AFSCME, Council 18*, PELRB 310-23 (August 8, 2023). The parties jointly moved to amend the bargaining unit certification issued by this office in 2007 after the creation of the Department of Homeland Security and Emergency Management by the state combining the Office of Homeland Security, the Homeland Security Advisor of the Governor's Office, the Technical and Emergency Support Division of the Department of Public Safety or the Department of Public Safety pertaining to the Homeland Security and Emergency Management program, reflecting subsequent changes to the job classifications and titles. The Petition did not raise a question concerning representation and it presented sufficient facts to show that the amendment should be made. Accordingly, the Executive Director issued the requested amendment to the certification on August 15, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 33-PELRB-2023). Staff closed the file on September 7, 2023.
11. *State Personnel Office (Division of Vocational Rehabilitation) & AFSCME, Council 18*, PELRB 311-23 (August 8, 2023). The parties jointly moved to amend the bargaining unit certification issued by this office on August 5, 2022 concerning the Division of Vocational Rehabilitation to reflect changes in job descriptions and titles made since that time. The Petition did not raise a question concerning representation and it presented sufficient facts to show that the amendment should be made. Accordingly, the Executive Director issued the requested amendment to the certification on August 15, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 34-PELRB-2023). Staff closed the file on September 7, 2023.

12. *State Personnel Office (Department of Education and the Department of Health) & AFSCME, Council 18*, PELRB 312-23 (August 8, 2023). This Joint Petition to amend the description of the bargaining unit issued by this office in 2019 when the Early Childhood Education and Care Department was created out of the Department of Education and the Department of Health, did not raise a question concerning representation and it presented sufficient facts to show that the amendment should be made. Accordingly, the executive Director issued an amended certification reflecting the changes as requested on August 14, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 35-PELRB-2023). Staff closed the file on September 7, 2023.
13. *State Personnel Office (New Mexico Department of Transportation) & AFSCME, Council 18*, PELRB 313-23. By this Petition, the Union and the State Personnel Office jointly requested amendment of the original Certification of the Exclusive Representative for the New Mexico Department of Transportation. The Petition did not raise a question concerning representation, presented sufficient facts to show that the amendment should be made so, the Executive Director issued an amended certification as requested on August 16, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 36-PELRB-2023). Staff closed the file on September 7, 2023.
14. *State Personnel Office (Office of Superintendent of Insurance) & AFSCME, Council 18*, PELRB 314-23 (August 8, 2023). The parties Joint Petition sought amendment of the certification of the bargaining unit established July 1, 2013 by Article 11, Section 20 of the Constitution of New Mexico, creating the Office of Superintendent of Insurance as an adjunct agency pursuant to Section 9-1-6 NMSA 1978. Executive Director determined that the Petition was facially valid and there were no questions concerning representation and it presented sufficient facts to show that the amendment should be made, so he issued the amended certification of the bargaining unit as requested on August 16, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 37-PELRB-2023). Staff closed the file on September 7, 2023.
15. *State Personnel Office (Public Regulation Commission) & AFSCME, Council 18*, PELRB 315-23 (August 8, 2023). This Petition concerned amendment of the certification of the Public Regulation Commission bargaining unit established in 2004 (PELRB No. 341-04) and subsequently amended in 2007. On August 14, 2023, the Board's Executive Director amended the 2007 certification to reflect a change in the bargaining unit job titles and/or classifications. The Board affirmed the certification at its September 5, 2023 meeting. (See 38-PELRB-2023). Staff closed the file on September 7, 2023.
16. *State Personnel Office (Regulation and Licensing Department) & AFSCME, Council 18*, PELRB 316-23 (August 8, 2023). The parties jointly petitioned for amendment of the original certification of the Regulation and Licensing Department unit. There

were no questions concerning representation or other impediments to amendment, so the Executive Director issued the amendment as requested on August 14, 2023. The Board affirmed the certification at its September 5, 2023 meeting. (See 39-PELRB-2023). Staff closed the file on September 7, 2023.

17. *State Personnel Office (Taxation and Revenue Department) & AFSCME, Council 18*; PELRB 317-23 (August 15, 2023). On August 15, 2023, the Board's Executive Director issued the requested amendment to the originally recognized unit in the Taxation and Revenue Department to reflect changes in the bargaining unit job titles and/or classifications. The amended certification was affirmed by the Board at its October meeting (See 46 -PELRB-2023). Staff closed the file on September 7, 2023.
18. *State Personnel Office (Department of Cultural Affairs) & AFSCME, Council 18*; PELRB 318-23 (August 8, 2023). The parties' Joint Petition sought amendment of the Certification issued by this Board on August 7, 2003 to reflect changes to job titles and classifications in the Department of Cultural Affairs bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on August 15, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its October meeting (See 47-PELRB-2023). Staff closed the file on September 7, 2023.
19. *State Personnel Office (Department of Workforce Solutions) & AFSCME, Council 18*; PELRB 319-23 (August 8, 2023). Department of Workforce Solutions and the Union filed a Joint Petition seeking amendment of the Certification issued by this Board on August 7, 2003 to reflect changes to job titles and classifications in the Department of Cultural Affairs bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on August 15, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its October meeting (See 47-PELRB-2023). Staff closed the file on September 7, 2023.
20. *State Personnel Office (Human Services Department) & AFSCME, Council 18*; PELRB 320-23 (August 8, 2023). The Human Services Department and AFSCME, Council 18 filed a Joint Petition seeking amendment of the Certification issued by this Board on August 7, 2003 to reflect changes to job titles and classifications in the Human Services Department bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 53-PELRB-2023). Staff closed the file on November 21, 2023.
21. *State Personnel Office (EXPO NM) & AFSCME, Council 18*; PELRB 321-23 (August 8, 2023). New Mexico State Fair Commission (EXPO NM) and the Union filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9,

- 2003 to reflect changes to job titles and classifications in EXPO NM bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 54-PELRB-2023). Staff closed the file on November 21, 2023.
22. *State Personnel Office (Department of Health - New Mexico Behavioral Health Institute) & AFSCME, Council 18*; PELRB 322-23 (August 8, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in DOH-NMBHI bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 55-PELRB-2023). Staff closed the file on November 21, 2023.
23. *State Personnel Office (Department of Health - Fort Bayard Medical Center) & AFSCME, Council 18*; PELRB 323-23 (August 8, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in DOH - Fort Bayard Medical Center bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 56-PELRB-2023). Staff closed the file on November 21, 2023.
24. *State Personnel Office (Department of Health - Los Lunas Community Program) & AFSCME, Council 18*; PELRB 324-23 (August 8, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in the Department of Health - Fort Bayard Medical Center bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 57-PELRB-2023). Staff closed the file on November 21, 2023.
25. *State Personnel Office (Department of Health - New Mexico Veterans' Home) & AFSCME, Council 18*; PELRB 325-23 (August 8, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in the Department of Health - Fort Bayard Medical Center bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on October 24, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its November meeting (See 58-PELRB-2023). Staff closed the file on November 21, 2023.

26. *State Personnel Office (Aging and Long-Term Services Department) & AFSCME, Council 18*; PELRB 326-23 (August 8, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in the Aging and Long-Term Services Department bargaining unit. On August 14, 2023, the Board's Executive Director issued the requested amendment to the originally recognized unit in the Aging and Long-Term Services Department to reflect changes in the bargaining unit job titles and/or classifications. The amended certification was affirmed by the Board at its October meeting (See 48-PELRB-2023). Staff closed the file on November 21, 2023.
27. *Kelli McKee & Grant County*, PELRB 327-23 (August 11, 2023). A member of the bargaining unit filed a Petition for Decertification on August 11, 2023. The Petition was deemed inadequate because it named the employer, not the union, as the Respondent. The defects were not cured in a timely manner and the Petition was dismissed without prejudice on August 22, 2023. No request for Board review of the dismissal was received; the Petitioner filed a new petition naming the union as the Respondent. (See PELRB 329-23, *infra*.) Staff closed the file on September 12, 2023.
28. *IAFF Local 4625 and City of Las Vegas*, PELRB 328-23 (August 24, 2023). The Union filed a Petition seeking to accrete Fire Department Lieutenants into an existing unit of Fire Fighters and Engineers. The City objected to including the Lieutenants on the grounds that the accretion raises a question concerning representation and can only proceed by "filing a petition for election." See NMAC 11.1.2.38(C) and because position is the position of Lieutenant is excluded from the bargaining unit as a supervisory, managerial, and/or confidential position. An evidentiary hearing on the objections was scheduled for November 3, 2023; However, the City withdrew its objections on October 27, 2023 and the Hearing was vacated. Accordingly, the Executive Director conduct a card check and issued his report and Amended Certification on December 5, 2023. Amended cert. issued 12-5-23. Because the Board did not review and approve the Executive Director's Amended Certification until January 2024 (See 2-PELRB-2024) the case was not closed until January 24, 2024 and so, will be shown as concluded in the next Annual Report.
29. *Kelli McKee & AFSCME, Council 18*, PELRB 329-23 (August 24, 2023). After dismissal of her first Petition for Decertification, PELRB 327-23, as reported above, Ms. McKee filed a second, corrected Petition for Decertification. In response the Union disclaimed their representative status on September 11, 2023. At its October meeting, the Board recognized the union's disclaimer and the case was dismissed pursuant to NMAC 11.21.2.42 on October 3, 2023. (See 50-PELRB-2023). Staff closed the file on October 6, 2023.
30. *District 1199NM, NUHHCE & UNM Hospitals*, PELRB 330-23 (September 7, 2023). The union sought to accrete the position of "Coordinator Transfer Center (aka Navigators) in the Transfer Center" to the existing bargaining unit. After resolving issues of unit scope and inclusion, the Executive Director issued an Amended Certification of Representation on September 29, 2023 following a card check. The

Certification was affirmed by the Board at its October meeting (see 49-PELRB-2023) and the file was closed on October 6, 2023.

31. *Classified School Employees Council-Las Cruces, NEA & AFT Local 4994 & Las Cruces Public Schools*, PELRB 331-23 (September 26, 2023). The union filed a Petition seeking to accrete the positions of “Accounting (Acct) Tech, Benefits Specialist, Campus Media Production Support Specialist, CRSSAA Funded Benefits Specialist, Junior Systems Administrator, Nutrition Services Purchasing Specialist, Nutrition Services Specialist (Commodity), Operations Specialist and Payroll Specialist” to the existing bargaining unit. After resolving issues of unit scope and inclusion, the Executive Director issued an Amended Certification of Representation on December 14, 2023. The Amended Certification was placed on the January 2024 Agenda for approval and its closure will be reported in the 2024 Annual Report.
32. *Professional Fire Fighters of Torrance County, LAFF Local 5441 & Torrance County*, PELRB 332-23 (September 26, 2023). The union filed its Petition seeking certification as the exclusive representative “for a group of Torrance County employees comprising 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 petition was found facially invalid due to inadequate description of the Petitioner, failure to submit a showing of interest and incomplete certificate of service. An Amended Petition was filed on October 3, 2023 which cured the defects. After resolving issues of unit scope and inclusion, a card check was conducted and a Certification of Representation issued on November 8, 2023. The card check results and Certification of Representation were approved at the December meeting and Board Order 68-PELRB-2023 was issued on December 14, 2023. Staff closed the file on December 19, 2023.
33. *District 1199NM, National Union of Hospital and Health Care Employees & University of New Mexico Hospitals*, PELRB 333-23 (September 29, 2023). The union filed a Petition seeking to accrete the positions of Certified Physical and Occupational Therapist Aides to the existing Support Staff bargaining unit. In resolving issues of unit scope and inclusion, the parties agreed that all positions belonged in the Licensed and Technical unit, so the Executive Director consolidated this case with PELRB 334-23, *infra*, on November 30, 2023. He issued an Amended Certification of Representation the same day. The Amended Certification was approved by Order 66-PELRB-2023. Staff closed the file on December 19, 2023.
34. *District 1199NM, National Union of Hospital and Health Care Employees & University of New Mexico Hospitals*, PELRB 334-23 (September 29, 2023). The union filed a Petition seeking to accrete the positions of Certified Physical and Occupational Therapists to the existing Licensed and Technical bargaining unit, as distinguished from the Certified Physical and Occupational Therapist *Aides*, petitioned for in PELRB 333-23 above. After consolidation of the cases on November 30, 2023 the Executive Director issued an Amended Certification of Representation including both the Therapists and the Aides the same day. The Amended Certification was approved by Order 66-PELRB-2023. Staff closed the file on December 19, 2023.

35. *Urbaniak & AFSCME, Council 18*, PELRB 335-23 (October 12, 2024). A member of the union filed a petition on October 12, 2023 seeking to decertify AFSCME Council 18 as the exclusive representative of a bargaining unit in Grant County. At its December meeting the PELRB approved a Consent Election Agreement calling for an election to be conducted by mail-in and electronic ballots, ending January 11, 2024. The ballots were counted on January 12, 2024 and indicated that a majority of the bargaining unit members wished to continue with AFSCME as their exclusive representative. Objections to the election were filed by the petitioner on January 22, 2024. Those objections are currently under investigation and the results will be reported in the next reporting period.

36. *District 1199NM, National Union of Hospital and Health Care Employees & University of New Mexico Hospitals*, PELRB 336-23 (October 13, 2023). The union filed a Petition seeking to accrete Clinical Neuropsychologists and Neuropsychology Post Doctoral Fellows into the existing Licensed and Technical bargaining unit. UNM Hospitals did not object and an Amended Certification of Representation was issued on November 22, 2023. The Certification was affirmed by the Board at its December meeting. (See 67-PELRB-2023). Staff closed the file on December 19, 2023.

37. *State Personnel Office (Adult Prisons Department) & AFSCME, Council 18*; PELRB 337-23 (October 20, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in the Adult Prisons bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on November 14, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its December meeting (See 64-PELRB-2023). Staff closed the file on December 19, 2023.

38. *State Personnel Office (Probation and Parole Division) & AFSCME, Council 18*; PELRB 338-23 (October 20, 2023). The parties filed a Joint Petition seeking amendment of the Certification issued by this Board on August 9, 2003 to reflect changes to job titles and classifications in the Department of Corrections Probation and Parole bargaining unit. The Petition did not raise a question concerning representation and presented sufficient facts to show that the amendment should be made. Accordingly, on November 14, 2023, the Board's Executive Director issued the requested amendment. The amended certification was affirmed by the Board at its December meeting (See 65-PELRB-2023). Staff closed the file on December 19, 2023.

39. *Utility Workers Union of America, AFL-CIO & Village of Bosque Farms*, PELRB 339-23 (October 25, 2023). The union sought recognition as the exclusive representative of a unit of Utility Operators and the Village's Administrative Assistant. The Village objected to including the Administrative Assistant, claiming that they did not share a community of interest and their inclusion would render the unit "inappropriate." The Executive Director conducted a unit composition hearing on December 20,

2023. His report, issued on December 22, 2023, concluded that the Utility Operators and the Administrative Assistant share a community of interest in most of the same ways so that a single unit was appropriate. After a card check the Executive Director issued a Certification of the Unit and its representative on the same day. Because the card check results and Certification of Representation were not approved by the PELRB until its January 2024 meeting (1-PELRB-2024) the closure of this case on January 20, 2024 will be reported in the next reporting period.
40. *AFSCME, Local 1782 & Santa Fe County*, PELRB 340-23 (November 7, 2023). The parties filed a Joint Petition seeking to clarify the positions in an existing bargaining unit that had changed since the last certification issued in 2010. After resolving issues of unit scope and inclusion, an Amended Certification of Representation was issued on December 29, 2023, which was affirmed by the Board at its January 2024 meeting. (4-PELRB-2024). Because the card check results and Certification of Representation were not approved by the PELRB until its January 2024 meeting the closure of this case on January 20, 2024 will be reported in the next reporting period.
41. *AFSCME, Council 18 & New Mexico Children, Youth and Families Department*, PELRB 341-23 (November 14, 2023). The parties filed a Joint Petition seeking to remove certain obsolete job titles from the certification, to modify certain job titles to be accurate, to add into the certification new positions which evolved from existing positions, and to accrete various job titles that have been treated as part of the bargaining unit by both parties despite not appearing on the prior existing certification. No unit composition or Questions Concerning Representation were at issue so, the Executive Director issued an Amended Certification on December 29, 2023. Because the card check results and Certification of Representation were not approved by the PELRB until its January 2024 meeting (5-PELRB-2024) the closure of this case will be reported in the next reporting period.
42. *AFSCME, Council 18 & New Mexico State Personnel Office (Department of Vocational Rehabilitation)*, PELRB 342-23 (December 1, 2023). The parties filed a Joint Petition seeking to remove certain obsolete job titles from the certification, to modify certain job titles to be accurate, to add into the certification new positions which evolved from existing positions, and to accrete various job titles that have been treated as part of the bargaining unit by both parties despite not appearing on the prior existing certification. No unit composition or Questions Concerning Representation were at issue so, the Executive Director issued an Amended Certification on December 12, 2023. The Amended Certification is scheduled to be reviewed by the Board at its February 2024 meeting. Because the amendment will not be reviewed until February 2024 the closure of this case will be reported in the next reporting period.
43. *Chaves County Sheriff's Office & International Union of Police Associations*, PELRB 343-23 (December 6, 2023). A Decertification Petition was filed seeking to decertify the International Union of Police Associations as the exclusive representative. Although

the Petition was defective on its face, IUPA immediately disclaimed its representational interest on December 12, 2023. Notice was posted and no intervention or objections were filed. The Executive Director dismissed the Petition and closed the file on January 24, 2024 meeting. Because the amendment will not be reviewed until February 2024, the closure of this case will be reported in the next reporting period.

44. *District 1199NM, National Union of Hospital and Health Care Employees & University of New Mexico Hospitals*, PELRB 344-23 (December 12, 2023). The union filed a Petition on December 12, 2023 seeking to accrete Chaplains into the existing Licensed and Technical bargaining unit. A draft amended certification was sent to the parties for review on January 18, 2024. Because the amendment will not be reviewed until February 2024, the closure of this case will be reported in the next reporting period.
45. *CSEC-LC & Las Cruces Public Schools*, PELRB 345-23 (December 24, 2023). The union filed a Petition seeking to accrete the positions of Human Resources Specialists and Public Safety Security Specialists into the existing bargaining unit. There is no objection to the accretion and the Executive Director sent a draft amended certification to parties for review on January 29, 2024. Because the amendment will not be reviewed until February 2024, the closure of this case will be reported in the next reporting period.

The following Representation cases, begun in the prior reporting period, 2022, were either resolved or continue as open cases during this reporting period, 2023:

1. *International Association of Machinists and Aerospace Workers (IAMAW), AFL-CIO & University of New Mexico Sandoval Regional Medical Center*; D-202-CV-202300132 (In re: PELRB 303-22); 16-PELRB-2022 (July 22, 2022); 21-PELRB-2022 (September 14, 2022); 24-PELRB-2022 (December 9, 2022). The union filed a petition seeking to be certified as the exclusive collective bargaining representative for full-time, regular part-time, and per diem, non-probationary Security Guards, Security Guard Leads, Cooks, Food Service Workers, Food Service Leads, Kitchen Staff Workers, Registration Representatives, Prior Authorization Clerks, Patient Access Representatives, Central Registration Representatives, Charge Entry Specialists, Clerks, Facilities Services Maintenance Technicians, Facilities Services Maintenance Technicians Leads, Maintenance Technicians, Materials Technicians, Materials Coordinators, Housekeepers, Housekeeper Leads, Environmental Services Workers (EVS) employed by the University of New Mexico Sandoval Regional Medical Center.

The Medical Center objected on the basis that per diem positions are not being “regular” employees subject to the Public Employee Bargaining Act as defined in NMSA 1978, § 10-7E-4(Q) (2020) and because some of the employees the Union petitioned to represent are excluded from coverage of the Act as probationary, supervisory, managerial, or confidential employees. Scheduling a hearing on the

appropriate unit composition was delayed, first by the limited availability of counsel, but also because of a dispute over whether the Hospital's employee list submitted on June 13, 2022 complied with the requirements NMSA 1978, § 10-7E-14(A) (2020) and NMAC 11.21.2.12(B) (concerning its obligation to provide the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of employees in the proposed bargaining unit.) While the parties' dispute over the employee list was pending, a Scheduling Conference was conducted on June 29, 2022 setting a hearing on unit composition for July 13, 2022 contingent upon confirmation the availability of co-counsel for SRMC. SRMC moved to vacate that setting on July 6, 2022 due to unavailability of co-counsel, which motion was granted and the unit composition hearing re-scheduled to take place July 27, 2022. The hearing on unit composition took place as re-scheduled. After a stipulation resolving some of the disputed issues the following issues were presented for review:

- A. Whether Facilities Services Maintenance Technician Leads (Lead Maintenance Mechanic) and Lead Housekeepers are "supervisor[s]" as that term is defined in Section 4(T) of the PEBA.
- B. Whether certain specific Hospital employees were probationary at the time the Petition was filed and whether such employees should be included in the employee list.

On August 11, 2022 the Board's Hearing Officer issued his Report and Recommended Decision finding and concluding that the Lead Maintenance Mechanic and the Lead Housekeeper positions are not supervisors as contemplated by the Act. Therefore, those positions are included as part of the appropriate bargaining unit in this case. The UNM SRMC employees at issue in the probationary status question were employed in a probationary status and therefore not be included in the employee list for purposes of an election or card check. SRMC Requested Board review of that part of the Hearing Officer's Report and Recommended Decision concluding that six employees were employed in a probationary status at the time the above-captioned petition was filed and therefore should not be included in the employee list for the purposes of an election or card check. The Board affirmed the Hearing Officer and entered Order 21-PELRB-2022. As a result, the composition of the bargaining unit was established so that the matter could proceed to either a card check or an election pursuant to NMSA 1978 § 10-7E-14(C).

The PELRB's Executive Director conducted a card check, verified 58% majority support for the Union and issued certification of the unit on September 15, 2022. SRMC objected to the card check on September 22, 2022. The PELRB convened a special meeting on November 17, 2022 to consider the Employer's objections after which, the Board affirmed the card check. See 24-PELRB-2022 (December 9, 2022). The deadline for SRMC to appeal the Board decision to the District Court was January 4, 2023. SRMC filed a motion requesting that the PELRB stay implementation of its December 9, 2022 Order, 24-PELRB-2022. That motion was denied on January 18, 2023. (See 7-PELRB-2023).

Prior to its Motion for a Stay, SRMC also filed a Notice of Appeal from the same Board Order and the appeal is currently pending before the 2nd Judicial District as of D-202-CV-2023-00132. On July 12, 2023, the parties filed Notice of Completion

of Briefing. The SRMC filed a revised Statement of Appellate Issues on the Union responded on December 7, 2023. This case will not be resolved until the next reporting period, if then and so, remains pending and will be reviewed in the next reporting period.

2. *United Health Professionals of New Mexico, AFT & UNM Sandoval Regional Medical Center*; PELRB 304-22; 26-PELRB-2022 (December 1, 2022). United Health Professionals of New Mexico (UHP), an affiliate of the American Federation of Teachers (AFT), filed a Petition seeking to represent the following full-time, regular part-time, and per diem, non-probationary employees of the University of New Mexico Sandoval Regional Medical Center (SRMC or Hospital):

- a. Case Managers, Clinic Techs, CT Techs, Dietitians, EEG Techs, Emergency Medical Techs, Interventional Radiology Techs, Licensed Clinical Social Workers, Medical Assistants, Mammography Techs, MRI Techs, Nuclear Medical Techs, Occupational Therapists, Paramedics, Patient Care Techs, Pharmacists, PSG Techs, Physical Therapists, Physical Therapy Assistants, Radiological Techs, Registered Nurses, Rehabilitation Techs, Respiratory Therapists, Respiratory Therapy Assistants, Sleep Lab Techs, Social Workers, Special Procedures Techs, Speech Language Pathologists, Sterile Processing Techs, Surgical Techs, Techs, Ultrasound Techs, X-Ray Techs.

On June 3, 2022, the Hospital contested the Petition's inclusion of per diem positions as not being "regular" employees subject to the Public Employee Bargaining Act as defined in NMSA 1978, § 10-7E-4(Q) (2020) and contested inclusion of House Supervisors, Charge Nurses and Lead positions, included within the general job titles Petitioner seeks to represent, on the ground that they are excluded from coverage of the Act as supervisory or managerial employees. The Hospital also objected that there is an insufficient community of interest between licensed and unlicensed staff to constitute a single appropriate bargaining unit.

NMSA 1978 §10-7E-13(B) requires that the Board shall hold a hearing on unit composition before designating an appropriate bargaining unit within thirty days of a disagreement arising between a public employer and a labor organization concerning the composition of a unit. A hearing on unit composition originally scheduled to be held on July 25, 2022 was postponed to August 03, 2022. In lieu of oral closing arguments, both parties filed simultaneously submitted legal briefs on August 17, 2022.

On August 23, 2022, The Board's Hearing Officer determined that the PELRB has both personal jurisdiction and subject matter jurisdiction to decide the case, that SRMC employees employed on a per diem basis (PRN) are not "regular" employees because of their irregular, occasional employment status, which distinguishes them from others in the putative unit so that their inclusion in the bargaining unit would render it inappropriate. The decision further concluded that House Supervisors are not "Management" employees as defined by Section 4(N) of PEBA and, as such, are not excluded from coverage under the Act and Charge Nurses at UNM SRMC do

not devote a majority of their work time performing supervisory duties so that they are not supervisors as defined by § 4(T) of the Act.

SRMC requested Board review on September 7, 2022 and a Special Meeting was convened on November 17, 2022 for that purpose. On December 1, 2022, the PELRB reversed the Hearing Officer's report in part, but only with respect to its conclusion that SRMC employees employed on a per diem or PRN basis are not "regular" employees for the purposes of the PEBA. The Board adopted its remaining conclusions that found that house supervisors and charge nurses are not excluded from coverage under the PEBA and are appropriate for inclusion in the bargaining unit. The Board remanded the matter to the Hearing Officer for the purpose of determining whether the PRNs share a community of interest with others in the petitioned-for unit. UNM-SRMC's request that this matter be certified for an interlocutory appeal was denied.

Rather than hold another evidentiary hearing, the parties agreed, with the addition of some stipulated facts, that there were sufficient facts on the record to determine community of interest so that the question could be decided on briefs. Upon request of SRMC, the deadline for cross briefing of the community of interest factors originally scheduled for December 28, 2022 was amended to January 6, 2023. The Board's Hearing Officer issued his Letter Decision finding sufficient community of interest among PRNs and others in the petitioned-for unit on January 13, 2023. That decision was reviewed by the PELRB on February 7, 2023, which affirmed the Hearing Officer's Decision. (See 8-PELRB-2023 and 9 -PELRB-2023.)

SRMC appealed the Board to the District Court on March 17, 2023. (See D-202-CV-2023-02118). Judge Victor Lopez issued a Memorandum Opinion and Order Remanding the matter to the PELRB for further findings of fact relating to its decision reversing its Hearing Officer on the question of whether the PRNs were or were not "regular employees" on August 14, 2023.

On November 20, 2023, the PELRB issued its Order On Remand concluding that the determination whether an employee is "regular" depends on the contractual status of the employee, not on employer specific variables such as duties, tenure or schedule. Those employer specific variables may determine community of interest but have no bearing on the determination whether an employee is "regular." The Hearing Officer's findings of fact establish that the PRNs are employees with whom the Respondent could set terms and conditions of employment. As such, PRN employees, directly employed, are regular employees of Respondent. For these reasons, the Board rejects the Hearing Officer's conclusion that the PRNs were not regular public employees. Therefore, the Board Ordered: 1. The PRNs are regular public employees; and 2. In keeping with the foregoing, orders 8-PELRB-2023 and 9-PELRB-2023 were reaffirmed and given full force and effect. (See 59-PELRB-2023).

SRMC appealed the Board to the District Court a second time on December 20, 2023 and sought a Stay of Proceedings on January 5, 2024. (See D-202-CV-2023-

01330). This matter remains pending on appeal at the end of the reporting period and will be reviewed again in 2024.

State Personnel Office (State Commission for the Blind) & Communications Workers of America; PELRB 311-22 (September 19, 2022). This case represents the first of several in which the State and CWA sought to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case, concerning represented employees of the State Commission for the Blind, was agreed upon by the parties and the Executive Director on January 4, 2023. The signed Amended Certification was issued on January 12, 2023 and affirmed by the PELRB at its February 7, 2023 meeting. (See 4-PELRB-2023 issued February 14, 2023). Staff closed the file on February 14, 2023.

3. *State Personnel Office (Department of Cultural Affairs) & Communications Workers of America*; PELRB 312-22 (September 19, 2022). This case represents the next of several in which the State and CWA sought amendment of the existing unit descriptions in all state agency units represented by Communications Workers of America to reflect changes in job titles over the years since the units were originally certified. A draft Amended Certification concerning represented employees of the New Mexico Department of Cultural Affairs was sent by the Executive Director to the parties on October 7, 2022, but the amendment was not agreed to by the parties until August 24, 2023. That amendment was affirmed by the Board at its meeting on September 5, 2023. See 31-PELRB-2023). Staff closed the file on September 7, 2023.
4. *State Personnel Office (Department of Health) & Communications Workers of America*; PELRB 313-22 (September 19, 2022). In what is another case in which the State and CWA requested amendment of certification to reflect changes in job titles over the years since the units were originally certified, the Executive Director drafted an amended certification concerning employees of the New Mexico Department of Health on October 7, 2022. However, the parties did not agree to the amended unit description until August 16, 2023. That amendment was affirmed by the Board at its meeting on September 5, 2023. See 36-PELRB-2023). Staff closed the file on September 7, 2023.
5. *State Personnel Office (Department of Health – Sequoyah Adolescent Treatment Center) & Communications Workers of America*; PELRB 314-22 (September 19, 2022). This case is another of the several in which the State and CWA seek to amend the existing unit descriptions in all state agency units to reflect changes in job titles over the years since the units were originally certified. The Executive Director drafted an amended certification concerning employees of the New Mexico Department of Health – Sequoyah Adolescent Treatment Center on October 7, 2022. However, the parties did not agree to the amended unit description until August 16, 2023. That amendment was affirmed by the Board at its meeting on September 5, 2023. See 36-PELRB-2023). Staff closed the file on September 7, 2023.
6. *State Personnel Office (Department of Information Technology) & Communications Workers of America*; PELRB 315-22 (September 19, 2022). The State and CWA jointly sought to

amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. The Executive Director drafted an amended certification concerning employees of the New Mexico the Department of Information Technology on July 7, 2022. That amendment was affirmed by the Board at its meeting on September 5, 2023. See Order 27-PELRB-2023. Staff closed the file on July 12, 2023.

7. *State Personnel Office (Early Childhood Education and Care Department) & Communications Workers of America*; PELRB 316-22 (September 19, 2022). This case represents the next of several in which the State and CWA sought amendment of the existing unit descriptions in all state agency units represented by Communications Workers of America to reflect changes in job titles over the years since the units were originally certified. The Executive Director drafted an amended certification concerning employees of the Early Childhood Education and Care Department on January 20, 2023. The PELRB affirmed the amended certification on February 7, 2023. See 5-PELRB-2023 issued on February 13, 2023. Staff closed the file on February 14, 2023.
8. *State Personnel Office (General Services Department) & Communications Workers of America*; PELRB 317-22 (September 19, 2022). The State and CWA jointly sought to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. The parties agreed to an amended unit description and the Executive Director issued an Amended Certification on May 23, 2023, which was affirmed by the PELRB at its regularly scheduled meeting on June 6, 2023. See 23-PELRB-2023 issued on June 9, 2023. Staff closed the file on June 13, 2023.
9. *State Personnel Office (Human Services Department – Behavioral Health Services) & Communications Workers of America*, PELRB 318-22 (September 19, 2022). This case is another of the several in which the State and CWA jointly seek to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case concerns employees of the Human Services Department – Behavioral Health Services. The Executive Director drafted an amended certification on October 7, 2022 but the parties did not agree to the amended unit description until January 11, 2023. The Director issued the Amended Certification on May 12, 2023, which the Board affirmed June 6, 2023. See 24-PELRB-2023 issued on June 9, 2023. Staff closed the file on June 13, 2023.
10. *State Personnel Office (New Mexico Environment Department) & Communications Workers of America*, PELRB 319-22 (September 19, 2022). This case represents another of several in which the State and CWA seek to amend the existing unit descriptions in all CWA-represented state agency units to reflect changes in job titles over the years since the units were originally certified. This case concerns represented employees of the New Mexico Environment Department. The Board reviewed the Executive Director’s Amended Certification at its October 2023 meeting (45-PELRB-2023) and staff closed the file on October 6, 2023.

11. *State Personnel Office (Office of African American Affairs) & Communications Workers of America*; PELRB 320-22 (September 19, 2022). The State and CWA jointly sought to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. The Executive Director sent a draft amended certification on October 7, 2023, which was approved by the Board on October 24, 2023. (53-PELRB-23). Staff closed the file on November 16, 2023.
12. *State Personnel Office (Public Education Department) & Communications Workers of America*; PELRB 321-22 (September 19, 2022). This case represents another of those in which the State and CWA jointly sought to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case concerns represented employees of the Public Education Department. A draft amended certification was sent on October 7, 2022, which the PELRB approved on March 7, 2023. (6-PELRB-2023). Staff closed the file on March 8, 2023.
13. *State Personnel Office (State Treasurer's Department) & Communications Workers of America*; PELRB 322-22 (September 19, 2022). This case represents another of those in which the State and CWA jointly sought to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case concerns represented employees of the State Treasurer's Department. A draft amended certification was sent to the parties for review on October 7, 2022, which resulted in further amendments on March 3, 2023. The Board reviewed the parties' amendments on May 2, 2023. (20-PELRB-2023). Staff closed the file on May 3, 2023.
14. *State Personnel Office (Miners Colfax Medical Center) & Communications Workers of America*; PELRB 323-22 (September 19, 2022). This case is another of the several in which the State and CWA jointly seek to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case concerns represented employees of the Miners Colfax Medical Center. The Executive Director sent a draft amended certification to the parties for review on October 7, 2022. Further revisions and the departure of SPO personnel delayed the issuance of an Amended Certification until October 24, 2023. The PELRB approved the amendment at its November 2023 meeting (56-PELRB-23) and staff closed the file on November 21, 2023.
15. *State Personnel Office (Worker's Compensation Administration) & Communications Workers of America*; PELRB 324-22 (September 19, 2022). This case is another of the several in which the State and CWA jointly seek to amend the existing unit descriptions in all state agency units represented by CWA to reflect changes in job titles over the years since the units were originally certified. This case concerns represented employees of the Worker's Compensation Administration. The Executive Director sent a draft amended certification to the parties for review on October 7, 2022. Further revisions and the departure of SPO personnel delayed the issuance of an Amended Certification until April 13, 2023. The Director's Amended Certification was reviewed by the PELRB on May 2, 2023 and staff closed the file May 3, 2023.

16. *Sandoval County Professional Fire Fighters & Sandoval County*; PELRB 325-22 (October 13, 2022). The Union filed a Petition seeking to accrete Fire Fighter Lieutenants into an existing unit of classified non-probationary Fire Fighters and Emergency Medical Technicians/Paramedics employed by Sandoval County. Because the Petition sought to accrete a number of employees that is more than 10% of the existing bargaining unit, the Board must presume the inclusion raises a question concerning representation “and the petitioner may proceed only by filing a petition for an election under [the Board’s] rules.” See NMAC 11.21.2.38(C). Therefore, on November 29, 2022, the Executive Director dismissed the Petition for Accretion with leave for the Petitioner to file a Petition for Representation in accord with NMAC 11.21.2.38(C). The dismissal was reported to the Board at its regularly scheduled meeting on January 3, 2023. See 3-PELRB-2022. Staff closed the file on January 6, 2023.
17. *Valencia County Prof'l. Firefighters Ass'n. Local 5399 IAFF and Valencia County*; PELRB 327-22 (November 10, 2022). On November 10, 2022, the Executive Director found that the Petition was insufficient in the following respects:
 - a. There was no connection between the organization filing the Petition and the entity authorized to seek recognition as shown on the authorization cards submitted. The Petition sought recognition of “Valencia County Professional Firefighters Association, Local 5399 IAFF” whereas the authorization cards authorize “the union”, which one may infer is the “International Association of Firefighters” given the context of the card, but without reference to the Association or to Local 5399.
 - b. While not fatal to the Petition, the authorization cards did not contain the same language as does PELRB Form #15 that “I understand that my signature may be used to obtain certification of the above-named labor organization as the exclusive bargaining representative without an election” thereby leaving them open to a challenge for fraud in the event I choose to proceed by card check rather than by an election.
 - c. The showing of interest submitted with the Petition were not original documents.

The Petitioner was given until November 21, 2022 in which to cure the deficiencies or the Petition would be dismissed pursuant to NMAC 11.21.2.13(B). The Union filed an Amended Petition on November 16, 2022, which the Director found to be adequate on November 19, 2022. On December 2, 2022, the County provided the Union and the Board a list of employees who would be in the bargaining unit as proposed and after a Status and Scheduling Conference all issues of unit composition were resolved. After verifying that there were no intervening interested parties, Staff conducted a card check and certified a bargaining unit of Firefighters, Lieutenants, and Wildfire Captain on December 27, 2022. The Board ratified the finding by the Executive Director that the card check established majority support for Valencia County Professional Firefighters Association, IAFF to be certified as the exclusive bargaining unit representative for the unit as petitioned and to

affirm the Certification of Representation issued by the Executive Director on December 27, 2022 at its regularly scheduled meeting on January 3, 2023. See 1-PELRB-2023. Staff closed the file on January 6, 2023.

18. *Anthony Police Officer Association and City of Anthony*; PELRB 328-22 (December 15, 2022). Petitioner, an affiliate of the Fraternal Order of Police, filed a Petition seeking to represent a new bargaining unit of Patrolmen First Class and Sergeants employed by the City's Police Department. The Petition was found to be adequate on December 19, 2022 and the necessary employee list and issues statement filed on January 4, 2023. The Petitioner amended its Petition to remove Sergeants from unit w/o prejudice. After posting notice of the amended petition and receiving the Employer's list excluding the Sergeants, the Executive Director conducted a card check on March 27, 2023. The director issued a Certification of Representation the same day. The Board reviewed that Certification at its May 2, 2023 meeting where it affirmed the Executive Director's certification of the bargaining unit and recognition of Anthony Police Officers Association as its exclusive bargaining representative issued. See 16-PELRB-2023. Staff closed the file on May 3, 2023.

Impasse Proceedings

There were four impasse files opened in 2023. One additional impasse file opened in 2021 remained pending during this reporting period because the parties agreed to stay arbitration pending the outcome of an appeal of the Board's decision in PELRB 133-21, 13-PELRB-2022. (*Santa Fe County v. New Mexico Coalition of Public Safety Officers Association*, D-101-CV-2022-00913.) That case was decided in favor of the County, reversing the PELRB on June 30, 2023 and is discussed in more detail in the Summary of Court Decisions section below. The following is a status summary of the five impasse files as of this report:

1. *United Steelworkers, Local 9424 & City of Las Cruces*; PELRB 501-23 (April 14, 2023). The Union informed Staff of the impasse in the parties' negotiations on April 14, 2023. The Executive Director sent an email to the Federal Mediation and Conciliation Service the same day requesting mediation for the parties, as is PELRB standard practice. Mediation was not successful and arbitration was scheduled for September 6 and 7, 2023. On the first day of the arbitration hearing, September 6, 2023, the City filed a Petition with the District Court for a Temporary Restraining Order and Preliminary Injunction, to enjoin the arbitration and disqualify the arbitrator for bias because the Union's proffered exhibits included the settlement offers proposed in the confidential mediation sessions and the purported costs associated with the parties' offers given in confidential mediation sessions. Further, the Union's Witness List indicated its intent to call two witnesses whose testimony will include discussion of the costs of the settlement proposals offered in confidential mediation sessions, experiences at the confidential mediation sessions with the Mediator, the crafting of settlement offers in mediation sessions, and concerns with the City's settlement offers proposed. (See, *City of Las Cruces v. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 9424*, Third Judicial District Court Case No. D-307-CV-2023-01908.)

The hearing proceeded on September 6, 2023 as scheduled. At the start of the hearing, the City objected to the proceeding on the grounds it asserted in the Petition for TRO. The arbitrator noted the City's objection but indicated that he would proceed unless and until a TRO issued. (See, Union Response to Petition for TRO filed September 13, 2023.) At the hearing, the arbitrator did not indicate that he had reviewed any of the potential (but not proffered) exhibits to which the City took exception. Nor did the City ask the arbitrator if he had done so. *Id.* ¶¶ 12-14. The Union moved what had been marked as Exhibits 1 and 10 in response to the Arbitrator's Pre-hearing Order and a redacted version of Exhibit 9(a). All were admitted without objection from the City. The Union put on the testimony of two witnesses. At no point did the City object to any testimony introduced by any of the Union's witnesses on the grounds that it violated any "mediation agreement," the Public Employee Bargaining Act, any "general and widely accepted standards for mediation and confidential settlement discussions," or any similar bases.

The District Court scheduled a hearing on the TRO and Preliminary Injunction on September 13, 2023, and issued a Minute Order on September 14, 2023 extending a TRO until the Court rules on the Petition. On September 18, 2023, the Court issued a Memorandum Order Dissolving the TRO:

"The Court likely lacks the authority to suspend arbitration proceedings and replace an arbitrator. The parties acknowledge that arbitration is required by statute. Once an issue is properly in arbitration that forum generally exercises exclusive jurisdiction. This proposition is supported by the Uniform Arbitration Act, see NMSA 1978, §§ 44-7A-1- 32, which the parties agree controls, the purpose of arbitration itself, and by implication of extant case law...

While urgency may be foremost in the City's mind, the Court perceives no inability on the arbitrator's part to act. He apparently did act but not to the City's liking-he declined to recuse or stop proceedings. The arbitrator could have recused himself, excluded offending exhibits if asked, or, as he did, admitted into evidence a single, heavily redacted exhibit that the parties agree does not disclose confidential/private material...To the extent the City implies the Court has a form of "superintending control" over all arbitration that would allow it to halt properly commenced proceedings, the Court remains skeptical...

Contrary to the City's contentions and what compels denial of injunctive relief on likelihood-of-success grounds, the arbitrator's exposure to confidential settlement negotiations does not automatically require recusal where no offending evidence was actually admitted. It is entirely speculative that the arbitrator developed any bias. Courts in bench trials routinely examine evidence that could not be admitted into evidence precisely determine questions of admissibility. What permits the viewing of even highly prejudicial information is the Court's duty to consider only admissible evidence in ruling and to recuse if biased. What the City asks here is to assume

impropriety simply because the arbitrator received prejudicial exhibits. The Court cannot indulge the assumption and perceives no error in the arbitrator's decision to move forward despite receiving, but not admitting, confidential/private information concerning the parties' bargaining in mediation. In other words, the Court declines to exercise its discretion, assuming it had any, to impose supervisory control."

The arbitration hearing took place on September 12 and 13 of 2023 and Arbitrator Stephen E. Alpern issued his Award on November 11, 2023 concludes that the City's Last Best Offer was more consistent with the requirements of the PEBA and should become part of the parties collective bargaining agreement. The Union did not appeal the Award to the District Court and staff closed the file January 25, 2024. Although the case was resolved in 2023, staff was not informed of the Arbitrator's Award until 2024. Therefore, it is reported in this reporting period, not in 2024.

2. *AFSCME, Local 2516 & Grant County*; PELRB 502-23. On July 10, 2023, the Union informed PELRB staff that the parties reached an impasse in their negotiations on July 8, 2023. The Executive Director sent an email to the FMCS the same day requesting mediation. On September 6, 2023, FMCS Mediator Teri Daly confirmed that the parties passed the 30-day mediation period and the County indicated that they do not want to continue mediation. She closed her mediation file and the parties are continuing to select an Arbitrator and schedule a hearing. The delay in scheduling arbitration may be attributable in some degree to the failed decertification effort in *Urbaniak & AFSCME, Council 18*, PELRB 335-23. Therefore, the case remains pending at the end of this reporting period and will be reviewed in the next reporting period.

3. *Central New Mexico Employees Union & Central New Mexico Community College*; PELRB 503-23. CNMEU informed PELRB staff of the parties' negotiations impasse on July 10, 2023 by email. The Executive Director contacted the FMCS mediator, Teri Daly, the same day to request that she contact the parties to schedule mediation. The parties participated in three days of mediation on September 28 and 29, 2023, and again on October 6, 2023, which successfully resulted in a CBA ratified by both parties in November. Staff closed the file on December 14, 2023.

4. *Peñasco Federation of United School Employees & Peñasco Independent School District*; PELRB 504-23. Staff were informed of the impasse on September 1, 2023 and sent an email to the FMCS the same day requesting medication. The parties engaged in mediation on November 27, 2023 without success. However, the mediation did prompt the Union to submit a revised Last Best Offer to the Employer on December 8, 2023. The case remains pending and its resolution will be a subject for the 2024 Annual Report.

5. *AFSCME, Local 3999 & City of Santa Fe*, PELRB 505-23. The Union submitted its Last Best Offer to the City in May of 2023, and did not receive a counter proposal for five months. The Union therefore declared an impasse in October of 2023 and requested the PELRB schedule mediation on October 26, 2023. PELRB contacted FMCS on November 6, 2023. The FMCS contacted the parties to schedule mediation on November 13, 2023. The parties are currently engaged in mediation

so that the case remains pending and its resolution will be a subject for the 2024 Annual Report.

That there were no impasse files opened in 2022 compared with four in the current reporting period may be attributed to the contract bargaining cycle. Most CBAs that Staff are aware of, are for a period of either three or four years and a survey of those that were not successfully renegotiated in 2023, and whether of three- or four-years' duration, expire at the end of 2023 or mid-2024. That means that the likelihood of parties' reaching impasse in negotiations was low in 2022 but was higher in 2023. Staff predictions in 2022 that impasse cases filed in 2023 would approach the median of five cases opened in 2021 have proven to be true. Staff further anticipates that the number of contracts submitted to mediation or interest arbitration will remain constant in 2024.

SUMMARY OF COURT DECISIONS

There were eight Court Decisions rendered during this reporting period of significance to the Board:

1. *University of New Mexico Sandoval Regional Medical Center v. United Health Professionals of New Mexico, AFT, AFL-CIO*; A-1-CA-40178. On October 26, 2021 the Second Judicial District Court issued an Alternative Writ of Mandamus in *United Health Professionals of New Mexico, AFT, AFL-CIO & University of New Mexico Sandoval Regional Medical Center*; D-202-CV-202106067, finding that the PELRB unlawfully asserted jurisdiction over SRMC and its employees, thereby refusing to comply with the University Research Park Economic Development Act's so-called command that research park corporations "shall not be deemed" political subdivisions of the state See NMSA 1978, § 12-2A-10(A). The PELRB filed a Motion for Reconsideration of that Writ On December 22, 2021. On the same day, the Real Party in Interest UHPNM filed a notice of joinder in the motion for reconsideration. On January 5, 2022, The Board filed a Notice of Appeal seeking reversal of the District Court's Writ. See New Mexico Court of Appeals Case No. A-1-CA-40178, *supra*.

On February 14, 2023, the Court of Appeals dismissed the appeal as premature because the Board's Motion for Reconsideration was still pending in the District Court. Because that Motion challenges the district court's determination of the rights of the parties, the judgment or order entered by the district court remains non-final and the appeal is premature. See Rule 12-201(D)(4). That final resolution remains pending.

2. *Board of Education for the Gallup-McKinley Schools v. McKinley County Federation of United School Employees Local 3313, AFT-NM and State of New Mexico Public Employee Labor Relations Board*; D-202-CV-202207617. On November 28, 2022, The PELRB determined that Gallup-McKinley School District committed a per se prohibited labor practice when it unilaterally eliminated its Instructional Coach position and reassigned its duties to a private company outside of the bargaining unit. See Board Order 27-PELRB-2022. The School District was Order to: (1) to rescind its action to unilaterally eliminate the Instructional Coach position and reassign its duties outside

of the bargaining unit; 2) to cease and desist from all violations of the PEBA as found and post notice of its violation and assurances that it will comply with the law in the future for a period of 30 days.

The School District appealed the Board's Order to the Second Judicial District Court on December 20, 2022. The District Court issued its Memorandum Opinion and Order affirming the PELRB on August 8, 2023, concluding as follows:

- 1) PEBA grants the Board the authority to determine whether the elimination of a position constitutes a prohibited practice under PEBA, including the power to make factual determinations necessary to resolve the dispute. NMSA 1978, § 10-7E-12(A)(3). The Court rejected the School District's argument that a unit clarification petition is mandatory and the exclusive means by which the Board may determine whether a position is a bargaining unit position. The Court therefore concluded that the Board had subject matter jurisdiction to determine whether the elimination of the Instructional Coach position constituted a prohibited practice under PEBA.
- 2) The Court rejected the School District's argument that argues that the Board acted contrary to its regulations because those regulations did not require that a unit clarification petition was required to be filed. The regulation cited by the District, 1.21.2.37(A) NMAC, did not support its argument. The regulations state that under certain circumstances, i.e., where circumstances surrounding the creation of an existing bargaining unit have "changed sufficiently" or there is a "merger or realignment" of bargaining units represented by the same organization, then the employer or the exclusive representative may file a unit clarification petition. The parties were not arguing that the bargaining unit has changed; the parties are disputing whether the position of Instructional Coach is or is not already part of the bargaining unit. Further, the regulations do not state that a unit clarification petition is mandatory or that it is the exclusive means by which the Board may decide whether a particular position is in a bargaining unit. The Court therefore found that the Board did not act contrary to its regulations.
- 3) The Court declined to review statistical information submitted by the School District in support of its argument that the Board is systemically biased in favor of labor unions. The Court agreed with the Union that the statistical information is outside the administrative record and was therefore not properly before the Court.
- 4) The School District moved to recuse Board Member Marianne Bowers because she is a practicing labor attorney and she allegedly acted unfairly to the District in other proceedings involving the District. Member Bowers declined to recuse herself, stating that there was no actual bias or the appearance of bias in this case. The Board later voted to deny the District's motion to recuse Member Bowers. The Court disagreed with the School District's allegation that the Board's refusal to recuse Member Bowers demonstrates systemic bias, nor was it arbitrary or capricious. "...there is a presumption of honesty and integrity for those serving as administrative adjudicators. It was reasonable to find that a history as a

'labor union advocate' is not disqualifying. The law requires one Board member to be recommended by organized labor so it is unsurprising that the labor designee may have a history advocating for labor unions. Such a history does not necessarily create impropriety or the appearance of impropriety... The District made general allegations regarding Member Bowers' prior conduct; however, the District did not identify specific disqualifying conduct concerning this case. (Citation omitted). Therefore, the District has failed to demonstrate the motion to recuse decision was in error."

- 5) The Board's findings were found to have been supported by substantial evidence and substantial evidence supported the finding that the Instructional Coach position has always been part of the bargaining unit.
 - 6) The Board's conclusions that the District committed a *per se* prohibited practice by refusing to bargain collectively in good faith over elimination of the Instructional Coaches, which was presented as a *fait accompli* was in accordance with the law.
3. *University of New Mexico Sandoval Regional Medical Center v. United Health Professionals of New Mexico, AFT, AFL-CIO*, D-202-CV-202207805. UNM-SRMC appealed from a Decision of the PELRB issued February 1, 2022 rejecting in part, its Hearing Officer's Recommended Decision as to its conclusion that that SRMC violated Section 10-7E-19(B) of the PEBA, when on May 31, 2022 SRMC's Medical Surgical Nursing Director, Nancy Santiesteban, conveyed to employees during a mandatory meeting misleading and negative comments about the Union, and further, allowed one employee at the meeting to speak negatively about unions, while telling the participants that they could not speak about unions during work hours. The Board adopted the remainder of the Hearing Officer's remaining conclusions finding that Respondent violated Sections 10-7E-19(D), (E) and (G) of the PEBA. Respondent is therefore ordered to cease and desist from all violations of the PEBA as found, including enforcing its social media policy against the Union or its members in such a way that unlawfully chills or inhibits rights protected under § 5(A) of the PEBA. See 28-PELRB-2022 (December 1, 2022; In re: PELRB 111-22).
 4. *United Health Professionals of New Mexico, AFT, AFL-CIO v. UNM Sandoval Regional Medical Center, Inc.* S-1-SC-40270, Petition for Writ of Certiorari (January 26, 2024) (In re: PELRB 111-22). Complainant alleged violations of Section 5(A), Section 5(B), Section 19(B), Section 19(D) and Section 19(E) of the PEBA for interfering with an organizing campaign. A Hearing on the Merits took place on September 1, 2022 and on September 28, 2022 the Hearing Officer issued his Decision finding that SRMC violated the prohibitions of NMSA 1978 § 10-7E-19(B) (2020), making it a prohibited practice for a "public employer or his representative" to "interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the [PEBA]"; or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization. That violation occurred on May 31, 2022 when SRMC's Medical Surgical Nursing Director conveyed to employees during a mandatory meeting misleading and negative comments about the Union and further, allowed one employee at the meeting to speak negatively about unions, while telling the

participants that they could not speak about unions during work hours. The Hearing Officer further concluded that SRMC discriminated against putative bargaining unit employees generally and Adrienne Enghouse particularly, in regard to tenure or a terms or conditions of employment in order to encourage or discourage membership in a labor organization through its application of its policies to restrict discussion of the union in the workplace as it has done and by putting Adrienne Enghouse on notice on May 26, 2022. Those acts by the Employer constitute a prohibited labor practice under § 19(D) of the Act. The Union also met its burden of proving by a preponderance of the evidence that SRMC otherwise discriminated against a public employee, Adrienne Enghouse, because she is forming, joining or choosing to be represented by a labor organization, in violation of Section 19(E) of the Act. With regard to its claim that SRMC violated NMSA 1978 § 10-7E-19(G) (2020) prohibiting a public employer's refusal or failure to comply with a provision of the Public Employee Bargaining Act or board rule.

The Board's Hearing Officer concluded that SRMC's Social Media Policy "chilled" or inhibited employee rights protected under §§ 5(A) and (B) guaranteeing those employees the right to engage in other concerted activities for mutual aid or benefit. SRMC requested Board review and the matter was heard at a Special Meeting on November 19, 2022 convened for that purpose.

The PELRB rejected in part, the Hearing Officer's Decision as to its conclusion that SRMC violated § 19(B) but adopted his findings and conclusion that SRMC violated §§ 19(D), (E) and (G). Respondent was therefore ordered to cease and desist from all violations of the PEBA as found, including enforcing its social media policy and post notice of its violation and assurances that it will comply with the law in the future in a form acceptable to the parties and this Board for a period of not less than 30 days.

SRMC filed an appeal to the 2nd Judicial District Court on December 29, 2022 as *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center, Inc.*, Case No. D-202-CV-2022-07805 (J. O'Connell) on the grounds that the Board Order 28-PELRB-2022 and Hearing Officer's Report and Recommended Decision are contrary to law, unsupported by substantial evidence, arbitrary, capricious and an abuse of discretion. The Union responded to SRMC's Statement of Issues on appeal on March 6, 2023.

On August 9, 2023, the District Court reversed the Board's determination that SRMC violated Sections 10-7E-19(D), (E) and (G) of the PEBA, relying on *Boeing Co.*, 365 NLRB No. 154, 2017 WL 6403495, for the proposition that:

"To determine if a challenged policy is lawful, its justifications must be painstakingly examined, based on evidence, and weighed against its impact on protected concerted activity. *Id.* at *19-22.

In this case, the Hearing Officer considered only the potential chilling effects of the social media policy and considered none of its justifications. Thus, even if the *Boeing* test were to apply-a determination this Court does not make-the Board's decision would be arbitrary and capricious because it failed to consider

important aspects of the problem. Further, the Board’s decision that Employer’s social media policy violates Section 10-7E-19(G) is not supported by substantial evidence where the only evidence is the policy itself.”

On September 8, 2023, the Union filed a Petition for Writ of Certiorari, Court of Appeals No. A-1-CA-41371. In its Petition the Union pointed out that the District Court relied upon the admittedly nonbinding NLRB decision in *Boeing Co.*, 365 NLRB No. 154 (2017). That case was not a “well-settled, longstanding interpretation” of the NLRA at the time of PEBA, which was enacted some 13 years prior. Indeed, given the long NLRA history described above, the *Boeing Co.* case is an aberration, one that the PELRB could well decide not to follow and which the NLRB overruled it in *Stericycle, Inc.*, 372 NLRB No. 113 (Aug. 2, 2023), wherein the NLRB recognized that “the primary problem with the standard from Boeing ... is that it permits employers to adopt overbroad work rules that chill employees’ exercise of their rights under Section 7 of the Act...” *Id.* at 1.

The Union also argued that the *Boeing* approach applied by the District Court also “fails to account for the economic dependency of employees on their employers[,] ... gives too little weight to the burden a work rule could impose on employees’ Section 7 rights[, and] gives too much weight to employer interests.” *Id.* The PELRB applied an objective test to the social-media policy in line with United States Supreme Court and NLRB precedent going back nearly 80 years. The District Court found that test to be arbitrary and capricious, relying instead on the new *Boeing* test from 2017, an admittedly “nonbinding” NLRB case that has since been overruled as a historical aberration.

The Union’s Petition for a Writ of Certiorari was denied by the Court of Appeals without comment on December 27, 2023. The Union then Petitioned the Supreme Court for review pursuant to Rule 12-505 NMRA on January 26, 2024 (A-1-SC-402-70). The case remains pending on what may well turn out to be a critical question in future determinations by this Board, until a ruling on the Union’s Petition. That outcome will be a subject for the 2024 Annual Report.

5. *Albuquerque Bernalillo County Water Utility Authority v. AFSCME, Local 3022*; Case No. D-202-CV-202300071 (In re: PELRB 114-22). On November 3, 2022, the Board’s Hearing Officer issued a Report and Recommended Decision, concluding that the Water Authority “unilaterally imposed changes to a position description entitled O/M Supervisor-Drinking Plant, refusing to negotiate and enter a written agreement with AFSCME Local 3022 regarding such changes to employees’ hours, and terms and conditions of employment, thereby committing a prohibited practice under NMSA § 10- 7E-19(F).” The PELRB adopted and affirmed that decision on December 1, 2022 in 25-PELRB-2022.

On January 5, 2023, the Water Authority appealed the Board’s Order to the District Court on the grounds that: (1) The Hearing Officer misinterpreted the CBA, and acted arbitrarily and capriciously in declining to decide this matter in accordance with the board’s prior decision in a previous dispute between the parties; (2) The Hearing Officer’s decision that the union satisfied its burden to establish that the Water

Authority failed to bargain in good faith was arbitrary, capricious, not in accordance with law, and not supported by substantial evidence, because the Hearing Officer declined to follow a prior controlling decision on point; (3) The Water Authority and the Union voluntarily and unqualifiedly waived the right to bargain with respect to wages, hours, or any other terms and conditions of employment unless mutually agreed in writing otherwise; (4) The Hearing Officer's determination that the Water Authority unilaterally impacted wages, hours and working conditions was not supported by substantial evidence, so that any award of damages would be arbitrary and capricious.

The Union responded to the employer's Statement of Appellate issues on April 19, 2023 noting that there was no factual dispute that the Water Authority altered the existing terms and conditions of employment for the positions and decided despite demand for bargaining to make the change unilaterally because of its mistaken belief that the parties had waived bargaining over this issue. Such a unilateral change to existing terms and conditions of employment of employees in a bargaining unit represented by a union is a per se violation of the employer's duty to bargain in good faith with the union. Concerning the employer's claim that the Union clearly and unmistakably waived its statutory right to bargain over the changes at issue, the Union notes that the PELRB correctly rejected the employer's argument that the change falls within the employer's reserved management right to create and editing job descriptions, and that a general "zipper" clause in the parties CBA constituted a clear and unmistakable waiver of statutory bargaining rights. According to the Union, the PELRB "...saw through the ruse of claiming that the fundamental alteration of job duties could be accomplished without bargaining through the guise of altering an existing job description and assigning those removed duties to a 'revived' job description of a position that had not been in existence for seven years."

Before the matter was heard on appeal, the parties settled their dispute on May 5, 2023, which settlement called for:

- a. The job description for Control Room Operator will be revised to add the following language: "May exercise functional or technical lead or supervision over lower-level staff," which will be considered supervisory experience when applying for Water Authority positions.
- b. The Groundwater Control System Operators title will change to Control Center Supervisor.
- c. Daniel Trujillo, currently an O/M Supervisor Drinking Plant, will be re-assigned to the Control Center, and a shift bid will be conducted for the Control Center Supervisors with the new shifts effective June 3, 2023. Mr. Trujillo may be required to take refresher training for the Control Center.
- d. Marcos Orona will be assigned to the position currently held by Daniel Trujillo, O/M Supervisor Drinking Plant effective June 3, 2023. Mr. Orona will make a good faith effort to obtain Groundwater UT Level 3 and 4 or challenge such levels to demonstrate required skills for the position. Mr. Orona will make a faithful effort to challenge both levels (written and field evaluation) within five (5) years of assignment to O/M Supervisor Drinking Plant. Mr. Orona will be eligible for overtime or standby when determined by

the Superintendent not to exceed six months after the start of work in the position. Mr. Orona will not be bound by the CBA time frames on challenging levels.

- e. Mr. Orona will be provided no less than 3 hours per week during work hours of training time in pursuit of his UT Levels 3 and 4.
- f. Mr. Orona and Mr. Trujillo will retain their original seniority dates, which will be unaffected by this reassignment. Reassignment will occur June 3, 2023.
- g. In consideration for this agreement, the Water Authority will pay Mr. Orona a one-time lump sum of \$1500 as full and final resolution of all issues raised in PELRB Case No 114-22, PELRB Case No 106-23, and Grievance No 353.

Based on the parties' settlement agreement and after review by the Board, Staff closed the file on July 18, 2023

- 6. *University of New Mexico Sandoval Regional Medical Center v. United Health Professionals of New Mexico, AFT, AFL-CIO*, D-202-CV-202302118; D-202-CV-2023-01330 (In re: PELRB 304-22). On May 18, 2022, the *United Health Professionals of New Mexico, AFT, AFL-CIO* (AFT), filed a Petition seeking to represent the following full-time, regular part-time, and per diem, non-probationary employees of the University of New Mexico Sandoval Regional Medical Center (SRMC or Hospital):

Case Managers, Clinic Techs, CT Techs, Dietitians, EEG Techs, Emergency Medical Techs, Interventional Radiology Techs, Licensed Clinical Social Workers, Medical Assistants, Mammography Techs, MRI Techs, Nuclear Medical Techs, Occupational Therapists, Paramedics, Patient Care Techs, Pharmacists, PSG Techs, Physical Therapists, Physical Therapy Assistants, Radiological Techs, Registered Nurses, Rehabilitation Techs, Respiratory Therapists, Respiratory Therapy Assistants, Sleep Lab Techs, Social Workers, Special Procedures Techs, Speech Language Pathologists, Sterile Processing Techs, Surgical Techs, Techs, Ultrasound Techs, X-Ray Techs.

On June 3, 2022, the Hospital contested the Petition's inclusion of per diem positions as not being "regular" employees subject to the Public Employee Bargaining Act as defined in NMSA 1978, § 10-7E-4(Q) (2020) and contested inclusion of House Supervisors, Charge Nurses and Lead positions, included within the general job titles Petitioner seeks to represent, on the ground that they are excluded from coverage of the Act as supervisory or managerial employees. The Hospital also objected that there is an insufficient community of interest between licensed and unlicensed staff in the proposed unit to constitute a single appropriate bargaining unit.

NMSA 1978 §10-7E-13(B) requires that the Board shall hold a hearing on unit composition before designating an appropriate bargaining unit within thirty days of a disagreement arising between a public employer and a labor organization concerning the composition of a unit. A hearing on unit composition originally scheduled to be held on July 25, 2022 was postponed to August 03, 2022. In lieu of oral closing

arguments, both parties filed simultaneously submitted legal briefs on August 17, 2022.

On August 23, 2022, The Board's Hearing Officer determined that the PELRB has both personal jurisdiction and subject matter jurisdiction to decide the case, that SRMC employees employed on a per diem basis (PRN) are not "regular" employees because of their irregular, occasional employment status, which distinguishes them from others in the putative unit so that their inclusion in the bargaining unit would render it inappropriate. The decision further concluded that House Supervisors are not "Management" employees as defined by Section 4(N) of PEBA and, as such, are not excluded from coverage under the Act and Charge Nurses at UNM SRMC do not devote a majority of their work time performing supervisory duties so that they are not supervisors as defined by § 4(T) of the Act.

SRMC requested Board review on September 7, 2022 and a Special Meeting was convened on November 17, 2022 for that purpose. On December 1, 2022, the PELRB reversed the Hearing Officer's report in part, but only with respect to its conclusion that SRMC employees employed on a per diem or PRN basis are not "regular" employees for the purposes of the PEBA. The Board adopted its remaining conclusions that found that house supervisors and charge nurses are not excluded from coverage under the PEBA and are appropriate for inclusion in the bargaining unit. The Board remanded the matter to the Hearing Officer for the purpose of determining whether the PRNs share a community of interest with others in the petitioned-for unit. UNM-SRMC's request that this matter be certified for an interlocutory appeal was denied.

Rather than hold another evidentiary hearing, the parties agreed, with the addition of some stipulated facts, that there were sufficient facts on the record to determine community of interest so that the question could be decided on briefs. Upon request of SRMC, the deadline for cross briefing of the community of interest factors originally scheduled for December 28, 2022 was amended to January 6, 2023. On January 13, 2023, the Board's Hearing Officer determined that the PRNs at issue share a community of interest with others in the petitioned-for unit so that it is appropriate to recognize a single bargaining unit that includes them. The Executive Director then conducted a card-check on January 18, 2023 and determined majority support for the unit as prayed for by AFT.

SRMC then sought Board review of that decision. The Board reviewed that Decision at its regularly scheduled meeting on February 7, 2023 and issued two Orders:

1. 8-PELRB-2023, by which the Board affirmed the Executive Director's designation of the appropriate bargaining unit; and
2. 9-PELRB-2023, by which the Board ratified and affirmed the Executive Director's Card Check Results Report issued January 19, 2023 and the Certification of Representation resulting therefrom.

On March 17, 2023 SRMC appealed the PELRB's Orders 26-PELRB-2022, 8-PELRB-2023 and 9-PELRB-2023 as Case No. D-202-CV-2023-02118. On August 14, 2023, the District Court (J. Lopez) "reversed those decisions and remanded them

to the Board to explain the reasons for its written determination that per diem or “PRN” employees in the proposed unit are “regular” employees under the PEBA, “and for any other remaining proceedings that may be consistent with this opinion.”

On November 20, 2023, the PELRB issued its Order On Remand, 59-PELRB-2023, by which it provided the rationale required by Judge Lopez’s Remand for its conclusion that the PRNs are regular public employees. Further, the PELRB reaffirmed and gave “full force and effect” to its prior Orders 8-PELRB-2023 and 9-PELRB-2023.

The Board’s Order on Remand was filed with the District Court on December 5, 2023 and SRMC appealed from that Order on December 20, 2023. In January 2024 SRMC moved for a Stay of all proceedings, petitioned for and received an Alternative Writ of Mandamus requiring the PELRB to Show Cause why it should not vacate its Order 59-PELRB-2023 and cease all proceedings predicated upon certification of the bargaining unit. A Hearing on that Writ is scheduled for February 6, 2024. Therefore, this case remains pending and its resolution or progress will be reported in the next reporting period.

7. *Santa Fe County v. New Mexico Coalition of Public Safety Officers Association*, D-101-CV-2022-00913. (In re: PELRB 133-21). On May 16, 2022, the PELRB issued its Order 13-PELRB-2022, by which it adopted the Hearing Officers Recommended Decision as its Order. The Hearing Officer determined that he Report and Recommended Decision found the County violated the PEBA by implementing its the COVID-19 vaccine mandate that included discipline for non-compliance following declaration of an impasse in negotiations. The Hearing Officer observed: “Reduced to its essence this case is about one thing: Whether Santa Fe County may unilaterally impose the last, best and final offer referred to in its November 11, 2021 response to the Union’s declaration of impasse.” The Hearing Officer took the opportunity presented by this case to re-iterate this Board’s long-standing policy that a public employer under New Mexico’s Public Employee Bargaining Act may not unilaterally impose its LBO. Doing so was found to be a breach of the County’s duty to bargain in good faith.

On May 24, 2022, Santa Fe County appealed the Board’s Order as District Court Case No. D-101-CV-2022-00913. On June 30, 2023 the 1st Judicial District Court (J. Wilson) reversed the PELRB concluding that the parties’ Collective Bargaining Agreement demonstrated that the Union clearly and unmistakably waived its right to bargain over both the decision of the County to adopt the emergency Policy *and* any attendant effects of the Policy.

Following review of Judge Wilson’s Memorandum Opinion and Order by the PELRB at its September 5, 2023 meeting and being informed that the Union does not intend to seek further appeal, the Executive Director considered the matter to be closed. Staff closed the file September 5, 2023.

8. *International Association of Machinists and Aerospace Workers, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*; D-202-CV-202207547. The Union petitioned

the Second Judicial District Court for an Order directing bargaining following this Board's certification of a bargaining unit and recognition of IAMAW as its exclusive representative. See 24-PELRB-2022, entered December 9, 2023. Because UNM-SRMC voluntarily began bargaining, the requested Order was moot so, IAMAW withdrew its Petition and the District Court entered a Stipulated Dismissal on July 20, 2023.

PENDING COURT CASES AND APPEALS

There were five matters pending before the District or Appellate Courts by the end of the reporting period:

1. *University of New Mexico Sandoval Regional Medical Center v. IAMAW*; D-202-CV-202300132 (In re: PELRB 303-22); 16-PELRB-2022 (July 22, 2022); 21-PELRB-2022 (September 14, 2022); 24-PELRB-2022 (December 9, 2022). Please refer to the summary of this case in the section above setting forth Representation cases, begun in the prior reporting period, 2022, that were either resolved or continue as open cases during this reporting period, 2023.
2. *United Health Professionals of New Mexico & Sandoval County Regional Medical Center*; D-202-CV-2021-06067, Court of Appeals No. A-1-CA-40178 (In re: PELRB 306-21). The Union filed a petition on August 13, 2021 seeking to represent all full-time, regular part-time, and per diem, non-probationary registered nurses and educators, excepting case managers, employed by the University of New Mexico Sandoval Regional Medical Center at its acute care hospital of the UNM Sandoval Regional Medical Center. A motion to dismiss was filed by the employer claiming the SRMC was not public employer due to certain provisions of the University Research Park and Economic Development Act, NMSA 1978, §§ 21-28-1 to 25 ("URPEDA"). Following the Board's denial of the Motion to Dismiss (Order 70-PELRB-2021), the employer sought a Writ of Mandamus from the District Court ordering the dismissal of the petition. On December 9, 2021, the District Court issued a Writ of Mandamus directing the Board to cease all proceedings and dismiss the case. Following the Writ, the Board's Director dismissed the case on December 10, 2021 (affirmed by the Board in Order 2-PELRB-2022). On January 5, 2022, the union appealed the Writ to the Court of Appeals and the Board filed a Motion for Reconsideration with the District Court. Both the Appeal and the Board's Motion remain pending at this time and will be reported on in the next reporting period. The legislature amended the URPEDA, effective May 18, 2022, adding a provision that a research park corporation that operates a healthcare facility is considered a public employer for the purposes of the PEBA. This amendment rendered the arguments on appeal moot, but the cases remain pending because of the unresolved Motion for Reconsideration and will be reviewed in the next reporting period.
3. *UNM Sandoval Regional Medical Center, Inc., v. United Health Professionals of New Mexico, AFT, AFL-CIO*; 2nd Judicial District Court Case No. D-202-CV-2022-07805 (12-29-22, In re: PELRB No. 111-22; 28-PELRB-2022). On December 29, 2022, UNM Sandoval Regional Medical Center, Inc. filed its Notice of Appeal the Board's Decision to the 2nd

Judicial District Court. The Record on Appeal was filed on January 19, 2023. Briefing was completed on April 12, 2022. On August 9, 2023, the District Court reversed the Board's determination that SRMC violated Sections 10-7E-19(D), (E) and (G) of the PEBA. The union filed a request for certiorari on September 8, 2023, Court of Appeals No. A-1-CA-41371. The Union's Petition for a Writ of Certiorari was denied by the Court of Appeals without comment on December 27, 2023. The Union then Petitioned the Supreme Court for review pursuant to Rule 12-505 NMRA on January 26, 2024. That outcome will be a subject for the 2024 Annual Report.

4. *UNM Sandoval Regional Medical Center, Inc., v. New Mexico Public Employee Labor Relations Board*, D-202-CV-2023-06037. On July 29, 2023, UNM Sandoval Regional Medical Center filed a Petition For Declaratory Judgment claiming that the New Mexico Legislature violated both the New Mexico and United States Constitutions when it passed Senate Bill 41, by which it amended the University Research Park Economic Development Act (URPEDA) to deem SRMC to be a "public employer" for purposes of the PEBA. The Board filed an answer on August 28, 2023, however, UNM SRMC subsequently abandoned its URPEDA status as a result of UNM Hospitals acquiring its assets and liabilities effective January 1, 2024. A question remains whether this renders the Petition for Declaratory Judgment moot and until that question is resolved the case remains pending and will be unresolved and will be reviewed in the next reporting period.

5. *United Health Professionals of New Mexico, AFT, AFL-CIO v. UNM Sandoval Regional Medical Center, Inc.*, D-202-CV-202301330. The Union filed a Motion for a Declaration of Obligation to Bargain with the District Court. A hearing was held October 5, 2023 and the parties certified to the District Court that briefing was completed on January 18, 2024. As the Court has not issued a Memorandum Opinion and Order as of the end of the reporting period, this case will not be resolved until the next reporting period, if then, and so, remains pending and will be reviewed in the 2024 reporting period.

Conclusions

During this reporting period, Staff concern over how the number of local boards ceasing to operate and this Board's assumption of jurisdiction over those labor relations matters formerly were under the former local boards' jurisdiction have so far proven unwarranted. The number of PPCs and impasse filings have remained constant with those in preceding reporting periods. The significant increase in the number of Representation Petitions filed during this reporting period (45 such Petitions filed in this reporting period compared with 28 such petitions filed in 2022 and 17 filed in 2021) is an anomaly resulting from 14 joint petitions filed by the State and the Communications Workers of America seeking long overdue clarification of their bargaining units due to changes in job titles and classifications that are largely undisputed. Please refer to the Operations Summary herein for details on all representation issues brought to the Board for resolution during the 2023 reporting period. Staff anticipates that in the next reporting period, cases opened under the 300 series, Representation cases, will return to prior year numbers.

Despite the apparent increase in the Board's workload during this reporting period, Staff believes the PELRB is fully staffed with its two FTE and one contract CFO. There is no need at present to consider requesting additional funding from the legislature for increasing staff. The formerly informal agreement with the State of New Mexico Administrative Hearings Office for using their cross-trained Administrative Law Judges to fill in for this Board's Hearing Officer has now been formalized and funded for FY 25 so that any increase straining current staffing levels will be offset by some of that workload being assumed by contract Hearing Officers.

As this report reflects, staff have consistently met all expectations for the timeliness of hearings and have reduced or eliminating errors in notice and scheduling and have done so despite the increase in the number of cases filed. Understaffing, should it occur in the future will be reflected in Staff being consistently unable to meet its deadlines.

APPENDIX 1

PUBLIC EMPLOYEE LABOR RELATIONS BOARD STRATEGIC PLAN FY24 AGENCY 37900

- I. **Vision Statement** - The Agency will become the leading collective expert on public employee bargaining in New Mexico, the preferred source for the resolution of labor/management disputes, and the recognized clearinghouse for information on pending issues and developing trends in labor law in order to promote “harmonious and cooperative relationships between public employers and public employees.”

- II. **Mission Statement** - The New Mexico Public Employee Bargaining Act (PEBA), (§§ 10-7E-1 through 10-7E-26 NMSA 1978), reinstated in 2003 collective bargaining for public employees after the former public employee collective bargaining law expired in 1999. As the agency responsible for executing PEBA the Public Employee Labor Relations Board has authority over all general collective bargaining matters between public employee labor organizations or individual public employees under the Act and either state agencies or units of local government that that have not established a local labor board. The Board’s mission is to guarantee public employees the right to organize and bargain collectively with their employers; promote harmonious and cooperative relationships between public employers and employees; and protect the public interest by assuring the orderly operation and functioning of the state and its political subdivisions as required by the PEBA, § 2. As part of its mission the Board also ensures that local labor ordinances and resolutions and local labor boards comply with PEBA.

- III. **Program Purposes** – As one of the State’s smallest agencies, the PELRB has only one budgeted purpose – to fulfill the mission set by statute for the agency as outlined above. That purpose will be achieved by accomplishing the goals set forth in this plan.

- IV. **Program Goals** – The primary goal of this strategic plan must be to meet the continuing need for promptly scheduling hearings and providing involved parties with timely notice of hearings and related deadlines. A comprehensive review and revision of the Board’s procedural rules is being undertaken in furtherance of this primary goal. In addition, a comprehensive review of the Board’s procedural rules relating to the ability of newly approved local boards to operate is under way.

Equally as important is the ongoing need for processing the Board’s day-to-day business in a timely manner, such as paying its bills and exercising budget control.

A second goal of the agency’s program is to improve the Board’s website by timely and regular posting case summaries as well as the actual court and Board decisions, posting the Board’s hearings calendar, and making the posted forms interactive. The Board’s website will also be improved by updating it and the Board’s database with this information on an ongoing basis including subject, statute, rule and key word

indexes, phrase digest, in depth and current case statistics, local board information, posting of all PELRB decisions and improved tracking of cases on appeal.

As its third goal, the Board must monitor developing trends as expressed in decisions by local labor boards, the National Labor Relations Board and the Federal Labor Relations Authority. Monitoring local board decisions will also serve the purpose of ensuring local board compliance with PEBA requirements.

A fourth goal is to conduct interagency training on application of the Public Employee Bargaining Act as needed and as time and budget permits given the priority of processing complaints and petitions and to increase public awareness through public speaking teaching and writing.

The Board's fifth goal of training its own staff and Board to develop expertise in the substantive law of public employee bargaining generally and PEBA specifically is on hold due to budgetary constraints. As funds become available in future years staff will be fully trained in the software programs and equipment needed to complete the tasks necessary to accomplish each of the goals referenced herein, including newly acquired teleconferencing equipment that will allow the Agency to improve its remote meeting/hearings capabilities.

V. **Objectives Specific to Each Goal**

- **Goal: Scheduling hearings, providing timely notice processing the business of the Board.**
 - Objectives:
 - a. The board shall: (1) hold hearings and make inquiries necessary to carry out its functions and duties; (2) conduct studies on problems pertaining to employee-employer relations; and (3) request from public employers and labor organizations the information and data necessary to carry out the Board's functions and responsibilities. Within thirty days of a disagreement arising between a public employer and a labor organization concerning the composition of an appropriate bargaining unit, the board or local board shall hold a hearing concerning the composition of the bargaining unit before designating an appropriate bargaining unit. See NMSA 1978 § 10-7E-13(B).
 - Strategies/Tasks for accomplishing the objective:
 - a. The agency has already established a shared, centralized calendaring system and has established routine procedures for maintaining the hearing calendar. Staff compliance with those procedures is ongoing. The agency will work with DoIT personnel to improve the shared calendaring and tickler system by having it interact with the case contact and tracking database.
 - b. Staff will also work with DoIT to update the agency website, posting the calendar on the site, linking to reported cases and making the forms interactive. Ongoing maintenance of electronic files will continue hereby reducing paperwork and file space while simultaneously easing access to working files and speeding production monitoring and performance.

- c. The agency has already established uniform performance expectations, policies and procedures in addition to incorporating those existing by statute or rule along with the State's performance measures. Work will continue on standardizing procedures and evaluation criteria throughout FY24 and the Administrative Assistant's performance review measures comply with these procedures.
- d. The Board's Executive Director, assisted by the Administrative Assistant, will continue to hold hearings as required by the deadlines set in statute and the Board's rules for designating appropriate bargaining units, certifying and decertifying exclusive representatives and determining prohibited practices complaints as well as maintain proper records of all proceedings before the Board.
- e. The Board's Executive Director, assisted by the Administrative Assistant, will continue to hold hearings as needed upon request of the Board for the purposes of information gathering and inquiry, adopting rules pursuant to PEBA § 10-7E-12.
- **Applicable FY24 Performance Measures**
 - a. Percent of decisions overturned on appeal.
 - b. Percent of local labor relations board applications for approval processed and completed within the applicable deadlines.
- **Goal: Improve the Board's website.**
 - Objectives:
 - a. The Board has made substantial improvements to its website during the preceding fiscal year, updating information and making it easier to navigate. Much remains to be done however, primarily updating posted statistics and case summaries, key word digest and practice manual. These updates are ongoing and will be improved during FY24.
 - Strategies/Tasks for accomplishing the objective:
 - a. Court and arbitration decisions as well as Board statistics regarding the number and types of cases heard or other Board action taken are routinely monitored and updated on the Board's website quarterly. On a monthly basis, as the Board meets to take action, updates to the website must be posted. This is done by calendaring a task in proximity to each Board meeting requiring staff to post the outcome of each board decision on a case as it occurs. With regard to the court decisions, once notice of each decision is made known to the Executive Director either through the courts' electronic filing notice system or through the Board's legal advisor, staff standard operating procedures will require posting of a .pdf version of each decision under the appropriate tab on the website.
 - b. Maintaining public access through the website to PELRB decisions with regular posting of those decisions as they occur will be ongoing throughout the fiscal year on a monthly schedule. This plan will ensure the public has electronic access to the most accurate and up to date information on New Mexico Public Employee Bargaining.
 - Applicable FY24 Performance Measures:
 - a. There is no specific performance measure associated with this goal and objective. It will be self-evident whether this goal has been achieved.

- **Goal: Monitor developing trends.**
 - Objectives:
 - a. Pursuant to PEBA § 10-7E-9(B)(2) one of the Board’s duties is to conduct studies on problems pertaining to employee-employer relations. The Board is empowered to request from public employers and labor organizations the information and data necessary to carry out that duty. This objective is to anticipate trends and educate the Board about them in order to be prepared to modify the Board’s procedural rules if necessary or to remain informed about cases across New Mexico and the nation in order to make better decisions as issues are brought before the Board.
 - Strategies/Tasks for accomplishing the objective:
 - a. If the budget allows, the Executive Director and one or more members of the Board should attend the National Judicial College to increase proficiency as administrative law judges and in the area of alternative dispute resolution.
 - b. If budget allows, staff will maintain the Board’s membership in two professional organizations — Association of Labor Relations Agencies (ALRA) and Labor and Employment Relations Association (LERA). The Agency expects that at least the Executive Director if not one or more members of the Board will have attended one or more training session and/or the LERA or ALRA conferences by the end of fiscal year 2017. The Agency subscribes to *The New Mexico Labor Letter*, as well as ALRA and LERA newsletters online, which analyze cases and trends in Public Employee labor law. Relevant information from those publications will be transmitted to the Board via e-mail. Staff will maintain these subscriptions and regularly send relevant material to the Board members on a regular basis.
 - c. As the Board identifies issues or areas of interest that are relevant to its mission it will direct staff to undertake the kind of studies contemplated by the Act. The staff will issue subpoenas as necessary to fulfill its investigatory function.
 - d. Staff will track existing performance measures on a quarterly basis.
 - Applicable FY24 Performance Measures:
 - a. Percent of decisions overturned on appeal

- **Goal: Conduct training.**
 - Objectives:
 - a. Conduct interagency training on the application of the Public Employee Bargaining Act as needed and as time permits given the priority of processing complaints and petitions. The agency will conduct at least one interagency training session in FY21 and the Director will solicit opportunities to address labor relations groups on matters of public interest concerning the Board and its role.
 - Strategies/Tasks for accomplishing the objective:

- a. Staff will update the PowerPoint presentation outlining the PEBA and put on a presentation using invited speakers and panel discussion moderated by experienced practitioners before the Board and/or members of the judiciary involved in PEBA related cases.
 - b. Once the presentation is prepared staff will notify interested parties via the Board's website and individual invitation to attend the seminar and will be responsible for scheduling and securing a convenient location.
 - c. The ongoing Board statistical tasks being undertaken in connection with other goals and objectives will provide presentation material for presentation to other interested groups as invitations for public speaking are received.
 - Applicable FY24 Performance Measures:
 - a. There is no specific performance measure associated with this goal and objective. It will be self-evident whether this goal has been achieved.
- **Goal: Improve Staff and Board training.**
 - Objectives:
 - a. It is important to the Board's mission that its staff and the Board develop expertise in the substantive law of public employee bargaining generally and PEBA specifically.
 - b. The Agency's goal is to continue training for Board staff related to the computer software used by the Board as well as the state SHARE network with an emphasis on budgeting and reporting procedures.
 - Strategies/Tasks for accomplishing the objective:
 - a. Responsible staff should be fully trained in the software programs and equipment needed to complete the tasks necessary to accomplish each of the goals referenced herein. If the budget permits, the Executive Director and one or more members of the Board should attend the National Judicial College to increase proficiency as administrative law judges and in the area of alternative dispute resolution.
 - b. Staff has identified training seminars, at a minimal cost. Staff will pursue these training opportunities as the budget and time permits.
 - Applicable FY24 Performance Measures:
 - a. There is no specific performance measure associated with this goal and objective. It will be self-evident whether this goal has been achieved.

VI. **Conclusion:**

This plan supports the overall mission of the Board to “to guarantee public employees the right to organize and bargain collectively with their employers” by improving the timeliness of hearings and reducing or eliminating errors in notice and scheduling. The collateral effect of improving the speed and number of hearings being held with fewer errors supports the Board's mission of promoting “harmonious and cooperative relationships between public employers and public employees” because it would encourage cooperation as an alternative to Board imposed solutions, and where such cooperation is not possible, a timely Board decision will provide the parties with clarity and a sense of direction with regard to public policies to be pursued. This in turn protects the public interest by ensuring a more orderly operation.

2023 CASE COMPLETION TIME FRAMES*

Table A

Case Series	Description	Number of Cases	Average Days Open
100 Series	PPCs	24	226
200 Series	Local Boards	0	N/A
300 Series	Representation Petitions	52	118
500 Series	Impasse	2	402
Total		78	159

ALL CASES FILED WITH THE PELRB IN 2023 BY TYPE OF EMPLOYER OR RESPONDENT

Table B

Type of Employer or Respondent	Types of Cases					TOTAL
	PPCs	Certification or Accretion Petitions	Decertification Petitions	Related to Approval of Local Board	Impasse	
State**	2	21				23
County	4	8			1	13
Municipality	4	3			2	9
Public School		3			1	4
Higher Education	3				1	4
Medical Facility	10	6				16
Other	2	1				3
Court						
Union			3			3
Individual						
Local Labor Board						
TOTAL	25	42	3		5	75

*Cases Closed in 2023, including those filed in prior years

**Cases involving both a State Agency and the State *qua* State are counted here

**ALL CASES FILED WITH THE PELRB IN 2023
BY PETITIONER OR COMPLAINANT**

Table C

Type of Petitioner					TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Impasse	
State*					
County					
Municipality					
Public School					
Higher Education					
Medical Facility					
Other					
Court					
Union	25	42		5	72
Individual			3		3
Local Labor Board					
TOTAL	25	42	3	5	75

*Cases involving both a State Agency and the State *qua* State are counted here

**ALL CASES FILED WITH THE PELRB IN 2023
BY PETITIONER AND TYPE
Table D**

Petitioner	Types of Cases				Impasse	TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Local Board matter		
AFSCME Council 18	3	22			1	26
AFSCME 3022	2					2
AFSCME 1782		1				1
AFSCME 3999	1				1	2
Bernalillo County Firefighters, IAFF 244	1					1
Central New Mexico Employees Union					1	1
CSEC-Las Cruces		3				3
IAFF 4625 (Las Vegas)	1	1				2
IAFF 5441 (Torrance County)		1				1
IAMAW	3					3
IUPA		1				1
Joseph Urbaniak			1			1
Kelli McKee			2			2
LCPOA	1					1
Los Lunas Firefighters' Assoc.		1				1
NMCPSO	2	1				3
NUHHCE 1199NM		6				6
PFUSE					1	1
Sandoval County SDA		2				2
Sandoval County PFFA		1				1
SEIU	1					1
Santa Fe County FFA		1				1
UE 1498 (NMSU)	2					2
UHPNM	7					7
United Steelworkers 9424					1	1
UWUA	1	1				2
Total	25	42	3		5	75

PPC OUTCOME 2023

Table E

Total PPCs Resolved		24
Sustained (In whole or in part)		2
By Hearing Examiner (w/o Board review)	1	
After Board Review		
After Review by Court	1	
Dismissed – no violation found		4
By Hearing Examiner (w/o Board review)		
After Board Review	1	
After Review by Court	3	
Summarily Dismissed		3
Dismissed after preliminary review (NMAC 11.21.3.12)		
Dismissed for non-action (NMAC 11.21.1.29)	1	
Dismissed after Motion	2	
Deferred to Agency		
Deferred to Arbitration		
Dismissed on collateral estoppel grounds		
Deferred to local board		
Withdrawn and/or Settled		15
Withdrawn upon receipt of notice of facial inadequacy		
Withdrawn in favor of alternate venue		
Withdrawn as moot		
Settled prior to hearing	15	

ALL CASES FILED WITH THE PELRB IN 2023 BY OUTCOME

Table F

Outcome	PPCs	Representation Petitions	Impasse	Total
Certification		35		35
Upheld After Board Review	1			1
Dismissed After Board Review	2	2		4
Dismissed for inadequacy		1		1
Dismissed on Motion for Summary Judgment				
Dismissed After Hearing				
Withdrawn	7		1	8
Cases That Remain Pending	15	7	4	26
Total	25	45	5	75