



MINUTES
STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Peggy Nelson, Board Chair
Regular Meeting

Tuesday, August 6, 2024, 9:00 a.m.

2929 Coors Blvd. NW, Suite 303, Albuquerque, NM 87120

1. **Call to Order.** Vice-Chair Myers called the meeting to Order at 9:02 a.m. having been designated to serve as the Chair in the physical absence of Peggy Nelson, who participated telephonically. Member Nash was also present, so that a quorum was present
2. **Approval of Agenda.** Member Nash moved to approve the agenda. The motion was seconded by Ms. Nelson and carried unanimously upon a roll call vote.
3. **Approval of July 2, 2024, Meeting Minutes.** Member Nash moved to approve the July 2, 2024 minutes. The motion was seconded by Ms. Nelson and carried unanimously upon a roll call vote.
4. **Public Comments.** There were no public comments.
5. **Voluntary Dismissal.** *Committee of Interns and Residents/ Service Employees International Union v. University of New Mexico*; PELRB 107-24. The Executive Director stated he had dismissed this case after the Complaint had been withdrawn prior to a hearing. Therefore, no action by the Board is called for, and the dismissal is presented for the Board's information only.
6. **Request to Permit Interlocutory Appeal.** *United Health Professionals of New Mexico, American Federation of Teachers v. UNM Regents*; PELRB 109-24. The Executive Director gave a brief history of the procedural posture of the case. The Board heard from the Parties' representatives and Mr. Myers stated that the Board would deliberate in closed session after hearing other agenda items and announce their decision once returning to open session after that.
7. **Motion to Set Aside Determination of Default.** *LAFF Local 5441 v. Torrance County*; PELRB 111-24. The Executive Director explained that he was required by NMAC11.21.3.11 to issue a Determination of Default in this case after the Answer was not timely submitted. The Board heard from the parties' representatives, Michael Garcia for Torrance County, as to why the Default Determination should be set aside, and from Daniel Sweat for the union, as to why it should stand. Mr. Myers again that the Board would deliberate in closed session about whether to set aside the default after hearing other agenda items and then announce their decision once returning to open session.
8. **Hearing Officer's Reports and Recommended Decisions.**
 - a. *Hobbs Professional Firefighters Association, LAFF Local 4384 & City of Hobbs*; PELRB 303-24. The Executive Director explained that this case concerned a Petition to accrete EMT Specialists and Captains into an existing unit of firefighters. The City opposes including Captains. After

a hearing, he issued a Report and Recommended Decision on July 10, 2024 in which he concluded that the position of Captain was not excluded from the bargaining unit as formed in 2005 and has not been historically excluded from the unit since that time. He further concluded that the position of Captain is not a “supervisor” as that term is defined by NMSA 1978 § 10-7E-4(I). However, they are “managers” as that term is defined by NMSA 1978 § 10-7E-4(N) such that it should be excluded from bargaining.

The Union had filed a request for Board Review and the City’s Response was received the day before this meeting. The Board heard argument from James Montalbano representing the Union and from Dina Holcomb representing the City. After hearing argument, Mr. Myers announced that the Board would deliberate in closed session later, after hearing other matters on the agenda, and announce their decision after returning to open session

- b. *United Health Professionals of New Mexico, American Federation of Teachers v. UNM Regents*; PELRB 117-23. The Executive Director explained that this case concerned allegations that Respondent made unilateral changes in terms and conditions of employment in violation of the Public Employee Bargaining Act. After conducting a hearing on those claims he issued and issued a Report and Recommended Decision dismissing the Union’s complaint as being without merit. The Union had filed a request for Board Review but the time for filing a response had not yet passed. Michael Calderon, representing the Employer, confirmed the Director’s assertion that the Employer would rather take the full ten-day period to file a written response. Accordingly, the Board postponed this agenda item, directing staff to schedule the matter for review on the Board’s September agenda.
 - c. *United Health Professionals of New Mexico, American Federation of Teachers v. UNM Regents*; PELRB 121-23. Director Griego told the Board that this case concerned an allegation that Respondent denied non-employee Union representatives reasonable access to its UNM Sandoval Regional Medical Center campus in violation of the PEBA. After a hearing he issued a decision in favor of the union from which the Employer sought Board review. As with the prior agenda item, there remained approximately a week remaining in the time allowed under our rules for the Union to file a written response, or if it preferred, it could waive that deadline and present oral argument now. James Montalbano, representing the Union, announced that the union preferred providing a written response. Accordingly, the Board postponed this agenda item, directing staff to schedule the matter for review on the Board’s September agenda.
9. **Ratification of Card Check Results.** *NM School For the Deaf Faculty and Staff Association & NM School for the Deaf*; PELRB 309-24. The Executive Director explained that he had conducted a unit composition hearing, issued a report resolving all issues of unit inclusion, and conducted a Card Check which indicated the Union had majority support. The time for requesting Board review of the Hearing Officer’s Report or objecting to the Card Check Results had passed and no requests for review or objections had been filed. The Board voted 3-0 to ratify the card check results finding majority support for Petitioner to be certified as the exclusive bargaining representative for the unit. The Board directed Staff to issue a Certification of Representation and close the file.

10. **Ratification of Bargaining Order.** *NMSU-NEA & New Mexico State University*; PELRB 310-24. Director Griego gave the Board a summary of the issues that were in dispute in this Petition by NMSU-NEA to represent Full-Time College-Track, Tenured and Tenure-Track Faculty at all four campuses of New Mexico State University. NMSU objected to the exclusion of Cooperative Extension Agents, who are also Full-Time College Track Faculty, Tenured Faculty, or Tenure-Track Faculty as are others in the petitioned-for unit. After a hearing on June 21, He issued a decision on June 28, 2024 in which I dismissed the employer's objections to composition of the unit and required the Respondent to immediately provide a list of the employees in the petitioned - for unit and that failure to do so by July 5, 2024 "may result in my issuing a bargaining order." No request for Board Review of the Director's June 28, 2024 decision was filed, nor was an objection to the card check results as reflected in the bargaining order timely filed.

After hearing statements from Dina Holcomb, representing the University, and from Todd Wertheim representing the union, the Board, voted 3-0 to affirm the Hearing Officer's Bargaining Order. The Board further directed Staff to issue an appropriate Certification of the bargaining unit consistent with the Bargaining Order.

11. **Amended Certification.** *AFSCME 1461 & Bernalillo County*; PELRB 312-24. The Executive Director informed the Board that the parties had filed a Joint Petition seeking to clarify the bargaining unit to accrete new positions. After determining that the Petition did not raise a question concerning representation and presented sufficient facts to show that an amendment should be made, he issued an Amended Certification of Representation now before the Board for approval. Member Nash moved to affirm the Amended Certification and the findings contained therein. The motion was seconded by Mr. Myers and carried unanimously upon a roll call vote.

Mr. Myers then moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss Items 6 through 8 on the agenda; the motion was seconded by the Member Nash and carried unanimously upon a roll call vote. The Board went into closed session at 10:25 a.m.

At 11:19 a.m. Mr. Myers moved that the Board go back into regular session pursuant to sections 10-15-1(I)(I) and 10-15-1(J) and stated that the only matters discussed in the closed executive session were Items 6 through 8 on the agenda. Member Nash seconded the motion and the motion was carried unanimously upon a roll call vote. The Board resumed open session at 11:19 a.m.

Concerning Agenda item 6, *United Health Professionals of New Mexico, American Federation of Teachers v. UNM Regents*; PELRB 109-24, Member Nash moved to deny the request for interlocutory appeal. The motion was seconded by Ms. Nelson and carried unanimously upon a roll call vote.

The Board then addressed agenda item 7, *LAFF Local 5441 v. Torrance County*; PELRB 111-24. Mr. Myers moved to set aside the Determination of Default. The motion was seconded by Member Nash and carried unanimously upon a roll call vote.

Regarding agenda item 8, *Hobbs Professional Firefighters Association, LAFF Local 4384 & City of Hobbs*; PELRB 303-24, Mr. Myers moved to affirm the Hearing Officer's Recommended Decision. The

motion was seconded by Member Nash. Upon a roll call vote, Mr. Myers and Ms. Nash voted to affirm the decision. Ms. Nelson voted “No” with the result that the decision was affirmed 2-1.

12. **Director’s Reports.** The Executive Director informed the Board that the Job Posting for the upcoming vacancy upon his retirement, had been re-posted and he was networking with other labor relations professionals to solicit applications; the new application period ends September 13, 2024, and so far, there has been renewed interest in applying for the job so that a good pool of applicants to be considered at the October 1, 2024 meeting is expected.

The Notice of Rulemaking has been submitted for publication in the August 18, 2024 edition of the NM Register. That Notice will call for written comments on the Rule changes to be submitted by September 27, 2024 and the Rulemaking Hearing at the October meeting would proceed as scheduled.

13. **Adjournment.** After a discussion the Board agreed to schedule the next meeting to begin at 10:00 a.m. on Thursday, September 5, 2024, to be held at the Board’s offices in Albuquerque. Mr. Myers moved to adjourn. The motion was seconded by Member Nash and carried unanimously upon a roll call vote. The time was 11:50 a.m.