

2021 ANNUAL REPORT

New Mexico Public Employee Labor Relations Board

MICHELLE LUJAN GRISHAM
Governor



THOMAS J. GRIEGO
Executive Director

Mark Myers, Board Chair

Nan Nash, Vice-Chair

Maryanne Bowers, Board Member

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 between employee organizations or individual public employees and either state agencies or units of local government that have not established a local labor board. The PELRB also has jurisdiction to ensure that those local labor ordinances and resolutions comport with the PEBA as discussed below.

The PEBA was significantly amended effective July 1, 2020. The 2020 amendments modified the definition of a "local labor board" reflecting changes to §§ 9 and 10 governing the continued operation of local boards, so that they may continue to exist under certain circumstances. Section 10-7E-9 was amended to make clear that, just as the PELRB is required to promulgate rules necessary to accomplish and perform its functions and duties, so are local boards, including procedures for the designation of appropriate bargaining units, the selection, certification and decertification of exclusive representatives and the filing of, hearing on, and determination of, complaints of prohibited practices. This Board is required to review rules promulgated by a local board to ensure that such rules conform with the PEBA, and that any deviation from PELRB administrative rules is warranted by the particular circumstances. Local boards are required to notify the PELRB of any revisions of its rules or changes in its membership within thirty days of any such revisions. The Board in turn is to maintain current posting of that information. See § 10-7E-10(C).

The amended Act gave the Board until February 15, 2021, to determine whether the local ordinance, resolution or charter amendment satisfies the requirements of § 10 and if not, any defects must have been cured by June 30, 2021 or the local board would cease to exist. The board then was required to certify by written order whether the requirements of this subsection have been met. NMSA 1978 § 10-7E-10(A).

As a result of the amendments to, 37 local boards ceased to exist, leaving only 15 local boards opting to continue operating.¹

The 2020 amendment of §§ 9 and 10 account for a significant portion of the Board's activity in first two quarters of 2021 because local boards were required to submit to the PELRB, copies of their revised local ordinance, resolution or charter amendment by the last day of the year 2020. Board staff was active in preparing Model Ordinance and Resolution templates to assist public employers in meeting that deadline. Tracking procedures were also

¹ The local boards that ceased operating were those in Alamogordo, Albuquerque Bernalillo County Water Utility Authority, Aztec Municipal School District, Belen, Belen Consolidated School District, Bernalillo County, Chama Valley ISD, Chaves County, Clovis, Clovis Municipal Schools, Cuba ISD, Curry County, Dulce ISD, Eddy County, Farmington, Gadsden ISD, Gallup, Grants, Lake Arthur Schools, Las Vegas, Lea County, Lincoln County, Los Lunas, Los Lunas Public Schools, Luna County, McKinley County, NM Highlands University, Northern New Mexico College, Otero County, Portales, Raton, Rio Rancho Public Schools, Roosevelt County, Ruidoso Schools, Santa Fe Community College, Taos, UNM, and WNMU. Those that continued to operate are in Alamogordo Public Schools, Albuquerque, Albuquerque Public Schools, CNM, Deming, Doña Ana County, Hobbs, Las Cruces, Los Alamos County, NMSU, Roswell, San Juan College, Sandoval County, Silver City and Zuni Schools.

created to monitor compliance. Those activities were reported to the Board beginning in January 2021 and regularly thereafter as changes by local boards were made and submitted.

Please refer to the section below pertaining to “Approval of Local Board Ordinances, Resolutions or Charters” for more specific information.

Representation Cases

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 through 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.

As an alternative to holding an election, a labor organization with a reasonable basis for claiming to represent a majority of the employees in an appropriate bargaining unit may submit authorization cards from a majority of the employees in an appropriate bargaining unit to the board or local board, which shall, upon verification that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards, 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).

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.

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 more than double the number of petitions filed in 2021 than in 2020. Please refer to the Operations Summary herein for details on all representation issues brought to the Board for resolution during the 2021 reporting period.

Approval of Local Board Ordinances, Resolutions or Charters

The 2020 amendments mentioned above modified §§ 9 and 10 governing the continued operation of local boards, so that they may continue to exist only if they submitted to the PELRB a revised local ordinance, resolution or charter amendment authorizing continuation of the local board conforming with the PEBA by December 31, 2020.

Thereafter, those local boards were required to submit affirmations that the public employer subject to that local board and each labor organization representing employees of such public employer submitted a written notice that it agrees to operate under the local board by the end of 2021. A local board that failing to timely submit the affirmation ceased to exist as of January 1, 2022 of the next even-numbered year. See § 10-7E-10(E).

At the Board’s January 6, 2021 meeting it acknowledged those public employers timely submitting proposed ordinances, resolutions or charter amendments that followed the model ordinance or model resolution, approved those proposals and set aside for further hearing those that did not meet the December 31, 2020 deadline or for those submissions requiring further amendment or clarification. Pursuant to § 10-7E-10(B) the PELRB had until February 15, 2021, to determine whether the local ordinance, resolution or charter amendment authorizing continuation of a local board provides the same or greater rights to public employees and labor organizations as the Public Employee Bargaining Act. Please refer to the Operations Summary below for details concerning the continuation of local board charters, ordinances or resolutions after the deadlines set by the 2020 amendments.

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 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 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.

Staff notes a general increase in the number of Prohibited Practices Complaints filed during the reporting period, with 2021 seeing an approximately 48% increase in the number of complaints filed compared with the prior reporting period. Please refer to the Operations Summary herein for details on the Prohibited Practices Complaints brought to the Board for resolution during the 2021 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 time frame 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 time frame 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 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].

Staff notes a general increase in the number of impasse proceedings filed during the reporting period discussed more fully in the Operations Summary below.

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. There was no rulemaking activity during the reporting period.

Adjudication and Settlement

The rate at which cases presented for adjudication are settled reflects the Board's policy of favoring resolution of disputes ahead of litigation. For example, during this reporting year, only one of the 33 Prohibited Practices Complaints (PPCs) initiated during 2021 were summarily dismissed. Of the remaining 32 cases, 13 (41%), were resolved by agreement, and seven (22%) were heard on the merits; 12 remain pending and will be resolved in the next reporting period. This settlement rate compares as follows to prior years:

- 32% of PPCs filed in 2020 were settled prior to hearing.
- 60% of PPCs filed in 2019 were settled prior to hearing.

The Board's adjudicatory function serves the critical purpose of resolving those PPCs that could not be settled amicably. 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. The data compiled by staff during this reporting period indicate that most of the issues brought to the Board followed that pattern. Of the seven cases that required a hearing, four involved retaliation/discrimination, two were based on a breach of a Collective Bargaining Agreement (CBA) with the remaining case being a dispute over good faith bargaining.

PPCs constituted the most commonly filed actions. Of the 33 PPCs filed in 2021, seven were filed against School Districts, six were filed against State agencies, two against municipalities, four against counties, two against UNM medical centers, one against an individual (dismissed as inadequate), with the remaining 11 cases filed against a “Special District”, the Albuquerque-Bernalillo County Water Utility Authority (ABCWUA). 10 of those 11 cases were transferred to the Board after the assumption of jurisdiction following the dissolution of the ABCWUA local labor board in 2021. 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 130 days, well within the stated goal. This compares as follows to prior years:

- 2020 average: 171 days
- 2019 average: 567 days (anomalous result due to lengthy appeals)

The average number of days for closure of all Representation Petition filed in the reporting period was 96 days, well within the stated goal. This compares as follows to prior years:

- 2020 average: 73 days
- 2019 average: 107 days

Case Sources

Analysis of cases filed in 2021 (excluding cases relating to local board ordinance and resolution approval dismissed as untimely), shows that as in the past several reporting periods, municipalities and counties comprised the largest source of filings in 2021 (21 of the 58 cases opened in the reporting period or 36.2% of all cases). Public schools were the next leading source of cases comprising 22% (13 cases) of all cases filed during the reporting period. The ABCWUA was the next most common source, comprising 19% (11 cases, 10 of which were transferred following the dissolution of the ABCWUA local board). The State was close behind, constituting 12% (seven cases) of all filings. Public universities and their related hospitals were involved in 9% of the filed cases (five cases). The remaining case was filed by an individual against an individual union official and was dismissed as inadequate.

Further analysis shows that AFSCME or its affiliates filed the most cases involving city issues (11 cases, or 19% of all cases). The Fraternal Order of Police filed two cases (33%) and one case was brought by the IAFF. Another AFSCME affiliate, Local 3022 representing employees of a “Special District” ABCWUA, accounted for a significant portion of filings (an additional 11 out of 58 new case filings or 19% of the total). AFSCME or its affiliates also brought the majority of cases concerning State employees filing five of the seven cases involving the State or its agencies during the reporting period or 71%. Communications Workers of America (CWA) filed the remaining two cases. Of the 13 cases involving school districts, AFT affiliates filed 10 (77%), National Education Association or their affiliates filed the remaining three cases (23%). Of the 15 cases involving counties, AFSCME filed eight

(53%), the NMCP SO filed 3 (20%), one case was filed by the Santa Fe County Professional Firefighters Association-IAFF, and one case was filed by an individual union member seeking to decertify the NMCP SO as the representative of her bargaining unit; the remaining two cases were untimely applications for approval of county labor boards.

The remaining case was an untimely application for approval of a local labor board.

2021 OPERATIONS SUMMARY

58 case files were opened in 2021 compared to 52 cases filed in the prior reporting period. It should be noted that of the 58 case files opened in 2021, 12 were transferred from local labor boards that had ceased to exist and three were untimely applications for approval of local labor boards. Removing those cases from consideration results in a fairly consistent number of filings compared with the reporting periods prior to the amendments to the PEBA. The number of new files is now approaching levels last seen in 2011-2013 and likely will continue at the present level as more than 30 employers that previously resolved their disputes before local boards now are under PELRB jurisdiction. As we continue to monitor trends during the 2022 reporting period, the Board should consider whether additional staffing is needed. More detailed analysis the statistical data by case category are detailed below:

Local Boards

Staff devoted considerable effort in working with local boards and employers to authorize continuation of those local boards timely submitting proposed ordinances, resolutions or charter amendments but that could not be approved on January 6, 2021 so that additional conforming boards could be approved at the Board's February 9, 2021 meeting. Those local boards not approved in February were given notice that they needed to correct any deficiencies by June 30, 2021, or they would cease to exist, pursuant to § 10-7E-10(C).

In the meantime, § 10-7E-10(C) also required each local board to submit copies of its rules conforming to the rules of the PELRB or show good cause why any variances meet the requirements of the Public Employee Bargaining Act no later than April 30, 2021, or the local board would cease to exist. No later than May 30, 2021, the board was required to determine whether the rules of a local board comported with the requirements of this subsection, with any non-conforming local board being able to cure any defects by June 30, 2021, or it would cease to exist.

As a result of those various deadlines 37 local boards ceased to exist and 15 continued to operate (see footnote 1, *supra*).

Because the 2020 amendment now requires public employers and labor organizations representing employees of those public employers to affirm their intent to continue operating under a local board between November 1 and December 31 of each odd-numbered year (the reporting period is such an odd-numbered year) staff closely monitored that process because a local board that fails to timely affirm its continuing operation as

required shall cease to exist as of January 1 of the next even-numbered year. See § 10-7E-10(E).

As of the last day of December 2021, the following local boards complied with the affirmation process:

1. Albuquerque
2. Albuquerque Public Schools
3. Deming
4. Hobbs
5. Los Alamos County
6. Roswell
7. Silver City
8. Zuni Schools

The following local boards, after initially having met the requirements of NMSA 1978 § 10-7E-10(A) by June 30, 2021 have ceased to exist for lack of the affirmations required by § 10-7E-10(E):

1. Alamogordo Public Schools
2. CNM
3. Las Cruces
4. San Juan College
5. Sandoval County

Furthermore, NMSA 1978 § 10-7E-10(F) (2020) provides that “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.”

After having met the requirements of § 10(A) through (E), Doña Ana County’s Labor Management Relations Board subsequently ceased to exist on September 14, 2021 after a vacancy on the board lasting longer than 60 days. Similarly, on November 10, 2021 the PELRB received information that the management recommendation to the New Mexico State University’s labor board resigned her seat and the position remained vacant for a period of more than 60 days and at a hearing on an Order to Show Cause why the PELRB should not assume jurisdiction the Board learned that the labor recommendation to that board also resigned. As a result the Executive Director determined that the NMSU board ceased to exist and pursuant to § 10-7E-10(I) all matters pending before the NMSU board at the time it ceased to exist, primarily, but not limited to, all case materials concerning United Electrical, Radio and Machine Workers of America (UE) and New Mexico State University Board of Regents, PELRB 313-21 transferred to this Board for resolution. These are the only two instances during the reporting period in which local boards ceased to exist by operation of § 10-7E-10(F).

Prohibited Labor Practice Cases

Of the 58 new case filings in 2021, 33 were prohibited practices complaints (PPCs) compared with 23 filed in 2020. This represents an approximate 48% increase in complaints from the preceding reporting period. As noted above, that increase can be attributed to the

transfer of 10 cases from the ABCWUA labor board and it remains for monitoring in the next reporting period to see whether that increase is constant and reflective of new entities coming under PELRB jurisdiction as a result of local boards ceasing to exist. Seven of the 33 PPCs remain to be decided and closed in the next reporting period. A summary of each of the PPCs filed with their outcomes or current status along with the disposition of any prior-year-filed PPCs resolved in 2021 is as follows:

1. *AFSCME v. Bernalillo County*; PELRB No. 101-21(65-PELRB-2021, August 6, 2021). Complainant alleged violations of Sections 17(A)(1), Section 19(F), Section 19(A), Section 19(B), and Section 19(E) of the PEBA when a Manager for the Respondent, asked bargaining unit members about the Union being organized, who signed interest cards, and told others that they cannot have union-related conversations in the workplace. AFSCME further alleged that Respondent retaliated against union organizers, against employees holding the “Boundary Spanner” positions and delayed scheduling contract negotiations.

After a hearing on the merits held on April 21 and 22, 2021, the Hearing Officer found that the Boundary Spanner job actions at issue constituted a layoff of bargaining unit employees, a mandatory subject of bargaining, and that the County refused to bargain both the layoffs themselves and the effects of those layoffs in violation of § 19(F); that the County committed a second violation of §§ 17(A)(1), and Section 19(F) by withholding information relevant to the layoff of Boundary Spanners. The Hearing Officer also found that the County violated Sections 19(B), 19(D) and 19(E) of the Act by its investigations of the two union organizers. Several other allegations of individual discrimination against the organizers were dismissed.

Both parties requested Board review of the Hearing Officer’s recommended decision. The board adopted the Hearing Officer’s decision as its own after amending the remedies to include requiring the County remove any reference to the investigation at issue in the case. There was no further appeal and the file was closed after monitoring compliance with the Board’s Order on January 19, 2021.

2. *MCFUSE, Local 3313 v. Gallup McKinley County Schools*; PELRB 102-21 (53-PELRB-2021, June 1, 2021). This Board affirmed and expanded a TRO/Preliminary Injunction issued by its Hearing Officer in PELRB Case No. 122-20, See 19-PELRB-2020 on December 23, 2020. The Complainant filed a Motion for Order to Show Cause why sanctions should not be entered to enforce compliance with that Order and this file was opened based on that motion. After a hearing on January 20, 2021, the PELRB issued Order 23-PELRB-2021, finding that the District violated the December 23, 2020 Order, and issued clarifications to the Order for the District’s compliance. In response, on January 22, 2021 the District’s Assistant Superintendent for Business Services, sent an email to “GMCS Teachers”, that

blamed the Union and its officials for “disruptions in [the] classroom” and claimed that the Union’s PPC and the resulting Board order caused “harm to learning environment,” and directed all employees to take up any concerns they had with the Union rather than the ordinary chain of command (i.e., through their supervisors, the principals). The question was whether Sections 5(A), 19(B) and 19(E) of the Public Employee Bargaining Act (“PEBA”) were violated by sending that email to bargaining unit employees.

Cross-Motions for Summary Judgment were filed on March 15, 2021. The Hearing Officer found in favor of the union and ordered the School District to (1) Cease and desist from all violations of the PEBA; (2) Post and email notice of the foregoing violations of the PEBA and its assurances that it will comply with the law; (3) Rescind its email of January 22, 2021, with an apology to all employees to whom it was sent, and (4) Reissue its compliance directive in a form acceptable to the Union. The Board adopted the Hearing Officer’s decision at its June meeting after changing the word “apology” in the remedy to “acknowledgement of wrongdoing”. See 53-PELRB-2021). The file was closed on July 8, 2021.

3. *NEA-Los Lunas v. Los Lunas School District*; PELRB 103-21 (July 8, 2021). The National Education Association-Los Lunas filed this PPC on February 16, 2021 alleging Los Lunas School District violated §§ 17(A), 17(G), 19(B), 19(C), 19(F), 19(G), and 19(H) when the District, without bargaining, altered a Distance Learning program that had previously been bargained. After denying the Union’s Motion for Summary Judgment and a separate Request for Preliminary Injunction, the parties settled their dispute the Union withdrew its complaint. The case was voluntarily dismissed before a scheduled hearing on the Merits and the file closed on July 8, 2021.
4. *Adrian Nogales v. Ellen Bernstein*; PELRB 104-21 (5-PELRB-2021, June 11, 2021). A teacher in the Albuquerque Public Schools and a member of the Albuquerque Teachers Federation, filed a Complaint against the Federation’s President alleging that she permitted its members and non-member teachers to receive work contracts illegally late. On March 22, 2021, the Board’s Executive Director found the complaint to be inadequate because it did not allege a violation of any provision of the Public Employee Bargaining Act. After the Complainant did not timely cure the defects, the Director summarily dismissed the complaint and the file was closed on June 11, 2021.
5. *Mesa Vista Federation of Teachers/AFT v. Mesa Vista Consolidated Schools*; PELRB 105-21 (November 5, 2021). The Complaint filed a Prohibited Practices Complaint on March 23, 2021 alleging two instances in which the Employer disciplined the Mesa

Vista Federation of Teachers President and a Federation member in violation of §§ 19(A), (B), (E) and (G). A hearing on the merits was held on June 21, 2021 after which the Hearing Officer determined that Respondent's discipline discriminated against the Federation's President because of her membership in the complainant union thereby violating §§ 19(A) and (G) of the PEBA. The Respondent incorrectly classified the President's emails concerning workplace issues as "conducting union business during work time" prohibited by the parties' CBA. The Hearing Officer also concluded that the Federation President was not required to follow the District's chain of command concerning either of the communications that resulted in her discipline because the Union is not within that chain of command. Furthermore, the preponderance of the evidence established that there is no basis for concluding that those communications obstructed, disrupted, or interfered with administrative functions of the district nor were they contrary to promoting positive labor relations. The Hearing Officer also found the Mesa Vista Schools restrained, coerced or otherwise interfered with the Union President's exercise of her rights under § 5 of the PEBA, thereby violating § 19(B) of the Act, but because the claimed violation of § 19(E) duplicated those under §§ 19(A) and (B), the § 19(E) claim was dismissed.

Mesa Vista Schools was directed to (1) Rescind two disciplines issued to the Federation President; (2) Cease and desist the violations found; (3) Post notice of the violation for no less than 180 days in all public buildings owned, leased or operated by the School District. No request for Board review was submitted, and after ensuring compliance with the remedy required, the file was closed on November 5, 2021.

6. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 106-21 (November 13, 2021). The Union alleged that Albuquerque-Bernalillo County Water Utility Authority conducted a shift bid on in connection with filling vacancies but did not conduct an annual bid in January or February 2021 as required by the CBA. Instead the Employer simply assigned the two new employees to a day shift, preventing more senior employees from bidding for positions on that shift. Moreover, the ABCWUA "underfilled" one of the positions filled in January with a person who did not hold the position's required certification in a manner that calls into question its compliance with State law, the CBA and its own Personnel Rules and Regulations. The Union alleged that by the foregoing, ABCWUA violated the following sections of PEBA: 1) Section 17(A)(1) (requiring Respondent and AFSCME to "bargain in good faith on wages, hours and all other terms and conditions of employment"); 2) Section 19(F) (making it a prohibited practice to "refuse to bargain collectively in good faith with the exclusive representative"); and 3) Section 19(H) (making it a prohibited practice to "refuse or fail to comply with a collective bargaining agreement"). A hearing on the merits was held June 28, 2021.

The Hearing Officer concluded that the shift bid did not comport with the parties' CBA so that ABCWUA violated § 19(H). Furthermore, by changing the Remote Site O & M Supervisor from an "M-series" to a "UT4" position before the December shift bid and by failing to post unit position vacancies a minimum of 10 working days prior to the shift bid, and by giving only three days' notice of the new shifts, ABCWUA failed to comply with Article 19, Section D and Article 21, Section A of the CBA, thereby violating both § 19(H) and § 19(F). The Hearing Officer determined that the evidence was insufficient to support monetary damages. ABCWUA was directed to post Notice of its violations and enjoined from similar violations in the future. The ABCWA was directed to conduct the requisite and overdue annual shift bid "as soon as is practicable".

On August 2, 2021 the Water Authority requested Board Review of the Hearing Officer's decision against it and on August 13, the Union requested Review of the Hearing Officer's denial of damages. The parties were able to settle their appellate issues and the request for Board review was withdrawn on October 4, 2021. The file was closed on October 13, 2021.

7. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 107-21(68-PELRB-2021, October 13, 2021) (Consolidated with PELRB 109-21). AFSCME, Local 3022 alleged that the Water Authority violated the parties' CBA as it relates to the continuation of longevity pay when an employee is promoted from the B-Series bargaining unit (represented by AFSCME Local 624) to the M-Series unit (represented by AFSCME Local 3022). In 2012, the Union took the same issue to final and binding arbitration on behalf of two affected employees and received an award in its favor construing Article 9 of the parties' CBA concerning wages to mean that employees maintain longevity pay upon promotion to the M-Series. That award was affirmed by the Second Judicial District Court in case number CV-2012-5866 (June 26, 2013). The District Court's Memorandum Opinion and Order has not been vacated despite the parties' settlement of the amounts owed the two employees affected at that time. The Union contends that since that time, the Water Authority continued to deny the continuation of longevity pay upon promotion despite the District Court affirming the arbitrator's construction of the parties' CBA resulting in the Union filing two Grievances/PPCs with the Water Authority's former Labor Management Relations Board, i.e. PPC 281 filed March 27, 2019 and grievance 290 filed July 26, 2019.

After the Water Authority's Labor Board ceased to exist on December 31, 2020 by operation of the Public Employee Bargaining Act Section 10, this Board assumed jurisdiction and assigned PELRB Case No's. 107-21 and 109-21 to the disputes. On

May 21, 2021 the parties agreed to consolidate the two cases under PELRB Case No. 107-21 as the earlier filed of the two cases.

The Water Authority contended that a settlement signed in December of 2013 and a Memorandum of Understanding (MOU) signed on June 5, 2014 established that only seven blue collar (B-series) employees promoted into the AFSCME Local 3022 bargaining unit after 2010 but before May 25, 2012 would continue to receive longevity pay. As for employees who were promoted into the M-series bargaining unit after May 25, 2012, the Union waived and settled their claims to B-series longevity pay in the 2014 MOU and as an explicit term of the 2018 CBA. Additionally, the Water Authority claims that the PPCs are time barred because they were not timely filed after receipt of the first paycheck by a bargaining unit member after promotion into AFSCME Local 3022 bargaining unit if that paycheck did not include a B-series Longevity amount.

A hearing on the merits was held on August 06, 2021, after which the Board's Hearing Officer declined to accept the PPCs were time-barred or that the Union waived enforcement as an explicit term of its 2018 CBA. The Hearing Officer concluded that the employer failed or refused to abide by the parties' CBA when it ceased those payment as alleged in the PPC. The Hearing Officer concluded that doctrines of res judicata or collateral estoppel applied to the arbitration award and the District Court Judgment construing the parties' CBA to require the water authority to continue payment of longevity pay to any employee receiving it as of July 1, 2010 regardless of any subsequent promotion.

On August 31, 2021 the Water Authority was ordered to:

- a. Cease and desist from the prohibited practices found now or in the future;
- b. Bargain in good faith with the Union before any changes to continuation of longevity pay when an employee is promoted from the B-Series to the M-Series, as required by PEBA during negotiations for its next successor contract or sooner if the parties so agree.
- c. Post at its administrative offices and at any of the facilities where bargaining unit members are assigned, copies of a notice substantially conforming with that appended as "Appendix A", after being signed by the Water Authority's Executive Director. The notice shall be posted immediately after exhaustion of all appeal rights and maintained for 60 consecutive days thereafter in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Water Authority to ensure that the notices are not altered, defaced, or covered by any other material.

- d. Notify the PELRB's Executive Director in writing within 20 days from the date of the Board's Order in this matter what steps the District has taken to comply with the Board's Order.
- e. Reinstate longevity payments for those employees eligible for such payments as found by Arbitrator Berman's Award and this Recommended Decision.
- f. Compensate those employees eligible for longevity payments as found by Arbitrator Berman's Award and this Recommended Decision for back pay from September 27, 2018, to the present (or until such time as the employee separated from employment or was promoted to a non-bargaining unit position), in the amounts they were receiving prior to their promotion.

The PELRB also enjoined the Water Authority from compelling any employee to pay back longevity payment made to them arising out of its misinterpretation of Article 9(E) of the CBA set forth a method for calculating damages.

The Water Authority appealed the Hearing Officer's Recommended Decision to the PELRB on September 19, 2021. The Board adopted the Hearing Officer's Report and Recommended Decision as its own. See 68-PELRB-2021 (October 18, 2021). The Water Authority then appealed to the District Court on November 17, 2021 as No. D-202-CV-2021-06572 and the case awaits further proceedings on appeal.

8. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 108-21(69-PELRB-2021, October 18, 2021). The Complaint in this case alleged that the Water Authority failed to bargain in good faith and violated the parties' CBA by unilaterally changing the job description for the Supervisory Control and Data Acquisition (SCADA) Systems Specialist. The Union received notice of the proposed change, submitted input and asked to bargain but the Union complains that ABCWUA refused to bargain, as required by both Article 19 of the CBA and § 17 of the PEBA, thereby violating §§ 19(H) (which makes it a prohibited practice to "refuse or fail to comply with a collective bargaining agreement") and 19(F) (which makes it a prohibited practice to "refuse to bargain collectively in good faith with the exclusive representative.") On July 7, 2021 the parties' filed a Joint Motion to Vacate the scheduled July 8, 2021 Merits Hearing in favor of briefing the issues on stipulated facts. The Hearing Officer granted the Joint Motion, vacated the hearing and after reviewing the parties' briefs, concluded that the parties' CBA contains a clear and unmistakable waiver of the obligation to bargain further over the job description changes and reclassification desired by the Union because it already bargained for such job descriptions to be performed and approved in management's discretion. Therefore it did not violate §§ 19(F) 19(H) by its actions in this case. The Hearing Officer dismissed the Complaint on July 27, 2021.

The Union sought Board review on August 10, 2021. The Board adopted the Hearing Officer's Recommended Decision as its Order on October 18, 2021 and the case was dismissed. No appeal was filed and the file was closed December 10, 2021.

9. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 109-21(68-PELRB-2021, October 13, 2021). On May 21, 2021 PELRB 109-21 was consolidated into PELRB 107-21. Please refer to the summary of PELRB 107-21 above for information on the outcome of this case.
10. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 110-21(October 13, 2021). This case is one of the eight "grievances" pending before the Water Authority's labor board when it dissolved around February of 2021. (Under the former local labor-management ordinance, ABCWUA's labor board had jurisdiction over both personnel grievances and labor relations matters.)² The Union contends that the Water Authority failed to remedy false statements and abusive treatment by one of its agents against a Union officer in violation of the parties' CBA and in violation of the PEBA's anti-discrimination provisions by not applying the same standards of discipline against his supervisor (a non-bargaining unit position) as it did against him (a union member). After scheduling a Hearing on the Merits, the parties reached a settlement of the dispute and the Union Withdrew its Complaint on August 10, 2021. A Voluntary Dismissal was issued the next day and after review of the dismissal by the Board, the file was closed on October 13, 2021.
11. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 111-21(June 2, 2021) (consolidated with PELRB 113-21). This case is another of the eight "grievances" pending before the Water Authority's labor board when it dissolved around February of 2021. The Union alleged that the Water Authority did not comply with the parties' CBA concerning approval of requested sick leave. This PPC was consolidated with PELRB 113-21 in May 2021, in which the Union alleged a similar denial of requested sick leave in violation of the parties' CBA. Prior to scheduling a Merits Hearing for these two cases, the parties settled the disputed and the Union withdrew its Complaint on May 26, 2021. The case was voluntarily dismissed on May 28, 2021 and after review by the Board, the case was closed on June 1, 2021.
12. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 112-21(October 13, 2021) (consolidated with PELRB 115-21). This case is another of the eight "grievances" pending before the Water Authority's labor board when it

² In any given case, a complaint may state a claim for both a grievance and a prohibited labor practice arising out of the same facts. In such cases transferred from the ABCWUA, this Board considered only those matters that stated a claim for violation of the PEBA.

dissolved around February of 2021. The Union alleged violation of the parties' CBA stemming from two grievances related to the scheduling of overtime shifts at the Surface Water Treatment Plant operated by the ABCWUA. Both of these grievances were taken through all of the steps in the grievance procedure and submitted to the Local Labor Board for resolution prior to the local labor board going out of existence. At that point, they were transferred to the PELRB for decision. On June 23, 2021 the parties jointly moved to consolidate this case and PELRB 115-21 on the same issue into a single proceeding under this case number. After scheduling a Merits Hearing but before the hearing commenced, the parties settled the dispute and the Union withdrew its PPC on August 12, 2021. The case was voluntarily dismissed the same day and the file was closed on October 13, 2021.

13. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 113-21(June 2, 2021). This case is another of the eight "grievances" pending before the Water Authority's labor board when it dissolved around February of 2021. The Union alleged that the Water Authority did not comply with the parties' CBA concerning approval of requested sick leave. This PPC was consolidated with PELRB 111-21 in May 2021. Please refer to the summary for PELRB 111-21 for the outcome of this case.
14. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 114-21(November 12, 2021). This case is another of the eight "grievances" pending before the Water Authority's labor board when it dissolved around February of 2021. The Union alleged a violation of the parties' CBA as it relates to the hiring practices of ABCWUA for Southside Wastewater Reclamation Plant (SWRP) Maintenance Superintendent and SWRP Maintenance Assistant Superintendent positions. The Union alleges a bargaining unit employee has been precluded from applying for those positions based on a minimum qualification not relevant to the position, specifically a certain level of Wastewater Operator certifications, in violation of the CBA.

The Water Authority contended that the Complainant has unsuccessfully challenged those minimum requirements in the past and this action is barred by res judicata, or limited by the doctrine of collateral estoppel, as a result of prior final decisions of the United States District Court for the District of New Mexico, and the Water Authority's Labor Management Relations Board. In any event, Complainant cannot establish a violation of the CBA or PEBA because the Water Authority has discretion to determine the qualifications for its positions and AFSCME has not identified any provision of the CBA, or Personnel Rules that prohibit the Water Authority from requiring operator certifications for these positions. It is the fact that Mr. Barrios does not hold the certifications required before one may be considered

for promotion that accounts for his failure to win promotion into one of the positions at issue, not any retaliation or discrimination.

After a hearing on the merits held September 21, 2021, the Hearing Officer concluded on October 26, 2021 that under the circumstances in this case, a violation of § 19(H) implicates issues of whether the Water Authority's policies or activities discriminated against the Union employee because of his Union or non-Union affiliation/membership. Accepting a violation of § 19(H) as including a discrimination claim in this case should not be interpreted to mean that in the future the Union may disregard the more specific allegations required by §§ 19(A), (B), (D) or (E) in the future, where facts exist to support a claim of discrimination. However, the Union failed to establish that the Water Authority discriminated or retaliated against the employee. The preponderance of the evidence suggested otherwise. Furthermore, determination of minimum job qualifications is a right reserved to management so that the Union did not meet its burden of proving that ABCWUA violated its personnel rules and regulations incorporated into its CBA and § 19(H) of the PEBA when it did not allow Joe Barrios to interview for the two positions at issue. Consequently, the PPC was dismissed.

The Union did not seek Board review of the Decision and so, the file was closed November 12, 2021.

15. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 115-21(October 13, 2021). This case is another of the eight "grievances" pending before the Water Authority's labor board when it dissolved around February of 2021. The Union alleged violation of the parties' CBA stemming from two grievances related to the scheduling of overtime shifts at the Surface Water Treatment Plant operated by the ABCWUA. Both of these grievances were taken through all of the steps in the grievance procedure and submitted to the local labor board for resolution prior to it going out of existence. At that point, they were transferred to the PELRB for decision. On June 23, 2021 the parties jointly moved to consolidate this case and PELRB 112-21 on the same issue into a single proceeding under PELRB 112-21. After scheduling a Merits Hearing but before the hearing commenced, the parties settled the dispute and the Union withdrew its PPC on August 12, 2021. The case was voluntarily dismissed the same day and the file was closed on October 13, 2021.
16. *AFSCME v. Torrance County*; PELRB 116-21 (August 10, 2021). On June 7, 2021 the Union filed a PPC alleging violations of Sections 19(A), 19(B), 19(D) and 19(E) when the Torrance County Sheriff allegedly took retaliatory action against Sheriff's Deputies involved in organizing a union in the Sheriff's Department. The Sheriff

withdrew a previous request of the County Commission for pay raises and initiated layoffs of Transport Officers.

On July 21, 2021 the County responded to the PPC and filed its own Counterclaim alleging that the Union's organizing agent obtained signatures submitted for a showing of interest by fraud, forgery or coercion.

Before scheduling a Hearing on the Merits of the PPC, the parties mutually withdrew their claims on August 6, 2021 and a Voluntary Dismissal was entered on August 10, 2021. The file was closed on the same day. Please refer to the Representation proceeding in PELRB 304-21 for additional details.

17. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*; PELRB 117-21 (October 13, 2021). On June 29, 2021 the Union filed this PPC alleging that the Water Authority violated the parties' CBA as well as a long-standing past practice, when it conducted a shift bid in December, just ahead of and instead of the bid to be conducted in January or February. Before scheduling a Hearing on the Merits of those allegations, the parties resolved their dispute and the Complaint was withdrawn on August 24, 2021. The case was Voluntarily Dismissed on August 24, 2021 and the file closed on October 13, 2021.
18. *AFSCME, Council 18, AFL-CIO, Local 3999 v. City of Santa Fe*, PELRB 118-21 (October 13, 2021). On July 15, 2021 the Union filed this PPC alleging discrimination & interference, in violation of sections 5(B), and 19(B)(E) and (H) of the PEBA. Prior to the Hearing on the Merits, the PPC was withdrawn on August 30, 2021 and a Voluntary Dismissal was issued the next day. The file was closed on October 13, 2021.
19. *Belen Fed. of School Employees v. Belen Consolidated Schools*; PELRB 119-21 (October 13, 2021). On July 22, 2021 the Union filed the PPC alleging a failure to bargain and a breach of the CBA in Violation of Sections 17(A) and 19(F) and (H) of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on August 24, 2021 and a Voluntary Dismissal was issued the same day. The file was closed on October 13, 2021.
20. *AFSCME v. NM Children Youth and Families Department*; PELRB 120-21 (December 23, 2021). The union filed a Prohibited Practices Complaint on July 23, 2021 alleging CYFD engaged in interference and retaliation in violation of §§ 19(A), (B), (D) and (E) of the PEBA when counsel for the agency interviewed employees at issue in an accretion petition (303-21 *infra*) and asked them about their support of the union. A hearing on the merits was held on June 21, 2021 after which the Hearing Officer determined that CYFD did violate section 19(B) of the PEBA, ordered a notice of

violation to be posted, and dismissed all other claims. After confirming compliance with the remedies the file was closed on December 23, 2021.

21. *NEA-Las Cruces v. Las Cruces Public Schools*; PELRB 121-21 (November 12, 2021). The union filed a Prohibited Practices Complaint on September 27, 2021 alleging bad faith bargaining in connection with contract negotiations in violation of §§ 5, 17(A), 17(G) and 19(B), (C), (F), (G), and (H) of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on October 20, 2021 and a Voluntary Dismissal was issued the next day. The file was closed on November 12, 2021.
22. *AFSCME v. NM Corrections Department*; PELRB 122-21. The union filed a Prohibited Practices Complaint on October 4, 2021 alleging breach of the CBA in violation of §§ 19(A), (B), (D) and (E) of the PEBA. A Scheduling Notice was issued on November 18, 2021, but the deadlines were subsequently vacated to facilitate settlement negotiations. The case remains pending.
23. *NMCPSO v. Sandoval County*; PELRB 123-21 (November 12, 2021). On October 5, 2021 the Union filed the PPC alleging a failure to bargain and a breach of the CBA in Violation of Sections 17(A) and 19(H) of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on October 13, 2021 and a Voluntary Dismissal was issued the same day. The file was closed on November 12, 2021.
24. *District 1199NM NUHHCE v. UNM Hospitals*; PELRB 124-21. On November 1, 2021 the Union filed the PPC alleging bad faith bargaining in Violation of Section 19 of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on December 14, 2021 and a Voluntary Dismissal was issued the same day.
25. *CFUSE v. Chama Valley ISD*; PELRB 125-21. The union filed a Prohibited Practices Complaint on October 4, 2021 alleging retaliation and discrimination and breach of the CBA in violation of §§ 19(A), (B), (E) and (G) of the PEBA. A Hearing on the Merits is scheduled for March 23, 2022. The case remains pending.
26. *AFSCME 3999 v. Santa Fe*; PELRB 126-21. On November 9, 2021 the Union filed the PPC alleging a failure to bargain and a breach of the CBA in violation of Sections 17(A) and 19(B), (F) and (H) of the PEBA. A Hearing on the Merits is scheduled for February 24, 2022. Consequently, this case will not be resolved until the next reporting period.
27. *UHPNM-AFT v. Sandoval Regional Medical Center*; PELRB 127-21. The union filed a Prohibited Practices Complaint on November 12, 2021 alleging interference, retaliation, discrimination and breach of the CBA in violation of §§ 19(A), (B), (D)

and (E) of the PEBA. The complaint was dismissed on December 10, 2021 pursuant to a Writ of Prohibition issued by District Court (see discussion of 306-21, *infra*).

28. *AFSCME, Council 18 v. State Personnel Office and N.M. Corrections Dep't.*; PELRB 128-21. 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. After a scheduling conference, dispositive motions are not due until January 14, 2022 and a Merits Hearing is not scheduled to take place until March 1, 2 and 3, 2022. Consequently, this case will not be resolved until the next reporting period.
29. *AFSCME, Council 18 v. State Personnel Office, Sandy Martinez, Melanie Martinez and N.M. Corrections Dep't.*; PELRB 129-21. The Union alleged illegal use of State funds in violation of Sections 19(B), (D), (G), and (H) when it sent an unsolicited communication to represented employees of their rights under the PEBA to revoke authorized dues deductions. At the request of the Parties, all deadlines were vacated on January 7, 2022. Consequently this case is not expected to be resolved until the next reporting period.
30. *TFUSE, AFT-NM and Francis Hahn v. Taos Municipal Schools*; PELRB No. 130-21. The Union filed a PPC on November 22, 2021 alleging retaliation and discrimination and breach of the CBA in violation of §§ 19(A), (B), (E) and (G) of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on January 12, 2022 and a Voluntary Dismissal was issued the same day.
31. *CWA v. State Personnel Office*; PELRB 131-21. On December 1, 2021 the Union filed the PPC alleging bad faith bargaining in violation of Sections 19(F), (G), and (H) of the PEBA. Prior to a Hearing on the Merits, the PPC was withdrawn on December 3, 2021 and a Voluntary Dismissal was issued December 7, 2021.
32. *CWA v. State Personnel Office*; PELRB 131-21. On December 1, 2021 the Union filed the PPC alleging interference in violation of Sections 19(B) and (G) of the PEBA. A Motion for Summary Judgement was granted dismissing the claims against the Respondent on January 31, 2022, with leave to amend the pleadings. No amendments were received and the file was closed on February 15, 2022
33. *NMCPSO v. Santa Fe County*; PELRB 133-21. The Union filed a PPC on December 9, 2021 alleging bad faith bargaining in violation of Sections 19(B), (F) and (G) of the PEBA. A Hearing on the Merits was conducted February 10, 2022; therefore, this case will not be resolved until the next reporting period.

Representation Cases

As with prohibited practice filings, the PELRB experienced an increase in representation petitions over the prior reporting period. 29% of the 58 case filings in 2021 were representation petitions (17 cases). This represents an increase of more than 140% over the preceding reporting period. The representation cases filed in 2021 comprised eight for initial certification of a bargaining unit (one of which was transferred from a local board that ceased to exist); one decertification petition, and eight petitions to accrete additional positions into existing bargaining units:

1. *Amanda Macias & NMCP SO*; PELRB 315-21. A member of the union filed a petition on December 8, 2021 seeking the decertification of NMCP SO as the exclusive representative of a group of behavioral health workers employed by Bernalillo County initially certified in PELRB 303-20. A decertification election was conducted from January 21 to January 31, 2022 using electronic ballots. Less than 40% of the bargaining unit participated in the election resulting in the election being invalid. The petition will be dismissed following Board review of the results at the March 2022 meeting.
2. *Santa Fe County Firefighters Association & Santa Fe County*; PELRB 301-21. The union filed a petition on March 25, 2021 seeking to clarify the existing bargaining unit to include the newly created position of Engineer. Members of the existing unit were used to fill the new Engineer positions so there was no change in the total number of employees in the unit. With agreement of both parties an amended certification was issued on May 21, 2021 adding the Engineer position.
3. *AFSCME Council 18 & CYFD*; PELRB 303-21. The union filed a petition on March 25, 2021 seeking to clarify the existing bargaining unit to include employees at CYFD Juvenile Justice Facilities. A unit composition hearing took place on August 23, 24, and 25, 2021. By Order 74-PELRB-2021 the Board adopted the Hearing Officer's Recommended Decision that the petitioned-for employees were not excluded from collective bargaining as "supervisors" or "managers" and an amended certification was issued on January 19, 2022. The file was closed on January 21, 2022.
4. *AFSCME Local 1782 & Santa Fe County*; PELRB 307-21. The union filed a petition on August 30, 2021 seeking to clarify the existing bargaining unit to include employees at the Santa Fe County Regional Emergency Communications Center. The petition was dismissed as facially invalid because the petitioned-for employees were represented by another union. The file was closed on October 13, 2021.
5. *AFSCME Council 18 & Luna County*; PELRB 308-21. The parties filed a Joint Petition on September 21, 2021 to clarify the existing bargaining unit to include security personnel at the Luna County Detention Center. The Petition did not raise a question concerning representation and it, together with the parties' stipulation on file presented sufficient facts to show that the amendment should be made. An

amended certification was issued September 30, 2021. The amended certification was ratified by the Board by Order 72-PELRB-2021 and the file closed on December 10, 2021.

6. *PFUSE & Peñasco Independent School District*; PELRB 310-21. The union filed a petition on August 30, 2021 seeking to clarify the existing bargaining unit by accreting security employees, school secretaries, counselors, maintenance employees, and bus drivers working for the district. In connection with an agreement as to unit composition, the petition was withdrawn and filed as a petition for recognition of the agreed-upon unit apart from the existing unit. See PELRB 317-21, *infra*). A voluntary dismissal was issued on January 11, 2022 and the file was closed on February 2, 2022.
7. *CSEC-Las Cruces & Las Cruces Public Schools*; PELRB 311-21. The union filed a petition on October 28, 2021 seeking to clarify the existing bargaining unit to include Translators/Interpreters, English Learner, Bilingual Programs, Parent Outreach workers, Data Analysts, Family and Community Support Specialists, Student/Parent/Family Facilitators, Nutrition Services Specialists and Nutrition Services Specialist – Produce. Because the number of positions to be accreted was more than 10% of the existing unit, a card check was conducted on December 20, 2021 where the Union established majority support. An amended Certification was issued December 28, 2021. The Board ratified the results of the card check and amended certification by order 5-PELRB-2022 and the file was closed January 28, 2022.
8. *AFSCME 1782 & Santa Fe County*; PELRB 312-21. This case represents AFSCME's second attempt to accrete the same group of employees as petitioned for in PELRB 307-21, *infra*. The only significant difference between the Petition in PELRB 307-21 and that in this case was an allegation that now "The unit proposed for accretion is not covered by a collective bargaining agreement. The unit formerly was covered by a collective bargaining agreement between the New Mexico Coalition of Public Safety Officers and the County of Santa Fe, which expired on October 31, 2021." The Director summarily dismissed the Petition on the ground that the critical element under NMAC 11.21.1.7(B)(16) is whether the employees to be accreted already belong to an existing bargaining unit, not whether they are currently covered under a collective bargaining agreement. No request for Board review of the dismissal was filed and the file was closed on November 18, 2021.
9. *AFSCME 1782 & Santa Fe County*; PELRB 316-21. This case represents AFSCME's third attempt to clarify the existing bargaining unit to include employees at the Santa Fe County Regional Emergency Communications Center. See PELRB 307-21 and PELRB 312-21, *supra*). The Union's petition for accretion was filed on December 8, 2021 contemporaneously with a decertification petition filed by a member of the

- existing union seeking to decertify the current exclusive representative. See, *Amanda Macias and NMCP SO*; PELRB 315-21, not completed and reported on until the 2022 reporting period. The petition was found to be facially invalid as the petitioned-for employees continued to be represented by the existing union while the decertification petition was in process. On December 16, 2021 the union requested a stay of the dismissal until the resolution of the decertification petition. The stay was denied because 11.21.2.13 does not allow discretion to not dismiss a facially invalid petition. Although the file was not closed until the next reporting period it is reported here because the petition was dismissed on December 17, 2021, no request for Board review was received and the file closure on February 2, 2022 was a mere formality.
10. *NEA-Turquoise Trail & Turquoise Trail Charter School*; PELRB 302-21. The union filed a petition on May 13, 2021 seeking recognition as the exclusive representative of a wall-to-wall unit. A valid election was held August 20, 2021 with a majority of votes cast in favor of the union. The results were ratified by the Board by Order 67-PELRB-2021 and a Certification of Representation was issued October 13, 2021. The file was closed the same day.
 11. *AFSCME & Torrance County*; PELRB 304-21. The union filed a petition on May 20, 2021 seeking recognition as the exclusive representative of a bargaining unit composed of sheriff's deputies that was found to be facially adequate. However, following the subsequent withdrawal of several interest cards, the union withdrew the petition on August 6, 2021 and the file was closed August 8, 2021.
 12. *Taos Prof. Firefighters Assoc. IAFF Local 5245 & Town of Taos*; PELRB 305-21. The union filed a petition on May 25, 2021 seeking recognition as the exclusive representative of a bargaining unit composed of all Firefighter rank positions excluding Chief. The petition was found to be inadequate due to a missing page of the form and a lack of showing of interest. The union cured these defects in an amended petition filed May 25, 2021. A card check was conducted July 26, 2021 which demonstrated majority support for the union. The Board ratified the results by Order 63-PELRB-2021 and a Certification of Representation was issued August 4, 2021. The file was closed August 10, 2021.
 13. *United Health Professionals of New Mexico & Sandoval County Regional Medical Center*; 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. The case was dismissed on December 10, 2021 and the dismissal was ratified by the Board by Order 2-PELRB-2022.

14. *United Health Professional of New Mexico & Sandoval County Regional Medical Center*; PELRB 309-21. The union filed a petition on October 4, 2021 seeking to represent all non-probationary, full-time, regular part-time, and per diem respiratory therapists (registered and non-registered), respiratory therapy assistants, imaging services techs, x-ray techs, mammography techs, MRI techs, ultrasound techs, radiation therapists, physical therapy techs, occupational therapy techs, cardiac catheterization techs, CT techs, surgical techs, computed tomography techs, echocardiography techs, nuclear medicine techs, interventional radiology techs, paramedics, and EMTs, 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 on October 21, 2021 on the same grounds as that filed in 306-21, *supra*. On October 25, 2021 the employer filed a Motion to Stay the proceedings until the resolution of the Petition for mandamus (filed in PELRB 306-21) by the District Court. The requested Stay of proceeding was granted on October 26, 2021. On December 3, 2021 the union filed a Motion to Lift Stay. Prior to a ruling on that motion, the case was dismissed on December 10, 2021 based on the District Court's Order in PELRB 306-21. The dismissal was ratified by Board Order 3-PELRB-2022.
15. *United Electrical Radio and Machine Workers & New Mexico State University*; PELRB 313-21. This case was originally filed with the NMSU Labor Management Relations Board and transferred to the PELRB after the dissolution of the local board pursuant to § 10(I) of the PEBA. The original Petition before the NMSU board sought recognition of a unit comprising graduate students holding an assistantship. A letter from legal counsel for United Electrical Radio and Machine Workers filed on November 10, 2021 requested that the PELRB assume jurisdiction over the pending representation Petition because a vacancy of longer than 60 days at the NMSU board meant that the NMSU ceased to exist and jurisdiction over the matter transferred to this Board by operation of law.

A hearing on an Order to Show Cause why the Board should not assume jurisdiction was conducted November 22, 2021 and the NMSU board was found to have ceased to exist pursuant to § 10(F) of the Act and the PELRB assumed jurisdiction over the case. The case remains pending and the outcome will be reported in the next reporting period.

16. *Tierra Encantada Charter School-NEA & Tierra Encantada Charter School*; PELRB 314-21. The union filed a petition on November 30, 2021 seeking to represent "all employees employed in the charter school" e.g. "teachers, janitor, secretaries, monitors, educational assistants, long term substitutes, counselor, lunch ladies, special education coordinator, student achievement coordinator, IT Director, nurse" and excluding "Administrators, business office staff, Business and HR Director." This petition was dismissed as inadequate on the grounds that the interest cards submitted in support of the petition were illegible and the description of the proposed unit was insufficient. On December 3, 2021 a First Amended Petition was

filed which did not state the number of employees in the unit. On December 6, 2021, a Second Amended Petition was filed, followed shortly thereafter by a Third Amended Petition the same day. The Third Amended Petition was deemed adequate on December 10, 2021.

This case remained pending in the current reporting period and the results of the unit composition dispute and card check scheduled for February 7, 2022 will be reported in the next reporting period.

17. *PFUSE & Peñasco Independent School District*; PELRB 317-21. The union filed a petition on December 22, 2021 seeking to represent all non-probationary employees of the Peñasco Independent School District, in the following job titles: Secretary/Clerk/Technical Assistant, MS/HS School Counselor, Custodial/Maintenance Worker, Security Officer, Bus Driver/Activity Bus Driver, Custodial/Bus Driver, and Cook. Following the parties' agreement to change unit composition to Secretary/Clerk/Technical Assistant, Custodial/Maintenance Worker, Security Officer, Bus Driver/Activity Bus Driver, Custodial/Bus Driver, and Cook, a petition for Voluntary Recognition was filed February 7, 2022 and a certification was issued the same day. Board review of the Voluntary Recognition was scheduled for March of 2022 and closure of the case will be reported in the next reporting period.

Impasse Proceedings

There were five impasse files opened in 2021:

1. *In re: Las Vegas Police Officers Ass'n/FOP and City of Las Vegas*; PELRB 501-21 (April 27, 2021). After referral to the Federal Mediation and Conciliation Service, in September 2021 the FOP reported that mediation was not successful and the parties' were moving forward to arbitration. By the end of this reporting period the parties had not yet selected an arbitrator and scheduled a hearing date. The conclusion of this case will be reported in the next reporting period.
2. *In re: Hatch POA (FOP) and Village of Hatch*; PELRB 502-21 (May 28, 2021). The parties reported that they were at impasse on May 27, 2021. The case was referred to the FMCS on May 28, 2021. On June 22, 2021, the parties informed the PELRB that they had reached an agreement. The file was closed on July 16, 2021.
3. *In re: AFSCME 2079 & Doña Ana County*; PELRB 503-21. On September 13, 2021 the parties informed the PELRB that they were at impasse. After determining that the Doña Ana County local labor board had ceased to exist due to vacancy, the PELRB referred the matter to the FMCS on September 14, 2021. On October 22, 2021, the parties reported that they had resolved the impasse and reached an agreement. The file was closed the same day.
4. *In re: Classified School Employees Council-Las Cruces*; PELRB 504-21. On November 20, 2021, the parties informed the PELRB that they had reached impasse and had

requested the intervention of the FMCS. On February 4, 2022 the parties informed the Board that the impasse had been resolved by FMCS mediation. The file was closed the same day.

5. *In re: New Mexico Coalition of Public Safety Officers and Santa Fe County*, PELRB 505-21 (December 27, 2021). In connection with a Denial of Preliminary Injunctive Relief in PELRB 133-21, the Director found that the parties were at impasse in their negotiations over the County's Vaccine Mandate. By the end of this reporting period the parties had not yet attended mediation with the FMCS and so, had not yet selected an arbitrator and scheduled a hearing date if the matter is not successfully mediated. The conclusion of this case will be reported in the next reporting period.

While the above five impasse files could be described as a 150% increase in impasse cases compared to the prior reporting period, (even fewer cases have been reported in annual reports prior to 2020) the statistical sample is too small to draw a conclusion that the increase is due to more negotiations ending in impasse. A more likely explanation is that the increase is due to better reporting of bargaining impasses as they occur. Beginning in this reporting period, staff began encouraging public employees and employers to more strictly comport with § 10-7E-18(B) of the Act³ whereas in prior years the Board was content to allow the parties to contact FMCS directly on their own whenever an impasse occurred. That process did not always result in notice to the Board that the parties were at impasse.

SUMMARY OF COURT DECISIONS

There were no Court decisions concerning matters on appeal from the Board or otherwise affecting the Board rendered during the reporting period.

PENDING APPEALS

There were three matters pending before the District or Appellate Courts during the reporting period:

1. *Albuquerque-Bernalillo County Water Utility Authority v. American Federation of State, County and Municipal Employees, Council 18, AFL-CIO, Local 3022, and New Mexico Public Employee Labor Relations Board*, 2nd Judicial District Court No. D-202-CV-2021-06572 (In re: PELRB 109-21 consolidated with PELRB 107-21) (J. O'Connell).

On November 17, 2021, the Employer appealed from an Order of the Board finding that it violated the parties' CBA concerning the continuation of longevity pay when an employee is promoted from the B-Series to the M-Series and requiring the Water Authority to pay the longevity premium to qualifying employees. Because the appeal was filed so near to the end of this reporting period, there has been little activity in the case on appeal and it will be reported on in the next period.

³ § 10-7E-18(B) provides that if an impasse occurs, either party may request *from the board or local board* that a mediator with the federal mediation and conciliation be assigned *by the board* unless the parties agree to another mediator.

2. *United Health Professionals of New Mexico & Sandoval County Regional Medical Center*; 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. (2nd Judicial District Court No. No. D-202-CV-2021-06067, J. Ramczyk). 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 (A-1-CA-40178) 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.

3. *United Electrical Radio & Machine Workers & UNM*; PELRB 307-20. On December 9, 2020, the Union filed a petition seeking to represent all Graduate Assistants, Project and Research Assistants, Teaching Assistants and Teaching Associates of the University of New Mexico. After a hearing on unit composition and request for review, the Board reversed its Hearing Officer’s Recommended Decision and found that the graduate students at issue were public employees under the PEBA (66-PELRB-2021). On November 19, 2021, UNM filed a Notice of Appeal with the District Court (D-202-CV-2021-06615). There being no stay of proceedings pending that appeal, the Board conducted a Card Check on December 17, 2021 where the union demonstrated majority support and the results were issued by the Board’s Director on December 27, 2021. Ratification of those results by Board issued in the next reporting period (Order 4-PELRB-2022) as was UNM’s appeal of the Board’s Order to the District Court. The outcome of that appeal awaits reporting in the next reporting period.

Conclusions

This reporting period was noteworthy for the 44 local labor boards that went out of existence and this Board’s assumption of jurisdiction over those labor relations matters formerly were under the former local boards’ jurisdiction. Perhaps surprisingly, adding 44 jurisdictions did not materially affect the Board’s caseload with a noticeable, but manageable 10.35% increase in the Board’s total caseload (58 case files opened in 2021 compared to 52 cases filed in the prior reporting period). It has been noted that of the 58 case files opened in 2021, 12 were transferred from local labor boards that had ceased to exist and three were untimely applications for approval of local labor boards. Primary among the employers transferring jurisdiction over cases was the Albuquerque-Bernalillo County Water Utility Authority with the transfer of eight cases and Union representing its employees, AFSCME Local 3022, filing one case after its local board ceased to exist. Because the former local board ordinance at the Water Authority granted its board jurisdiction over both grievances

as well as prohibited labor practice charges, the eight cases transferred included matters that while stating a claim under the PEBA were arguably more appropriately resolved by an arbitrator through the grievance process. Now that those workers are under PELRB jurisdiction, staff anticipates that such cases will be brought under the contract grievance process and the single case filed directly with this Board is more likely representative of the number of future filings to be anticipated from that employer.

Future years will not see the number of cases concerning the continuation of local boards as was seen in this reporting period. As noted, only eight local boards remain in operation so that even if in future years unions representing employees or the governing bodies themselves in those jurisdictions withhold their consent to continue operating a local board between November 1 and December 31 of each odd-numbered year pursuant to § 10-7E-10(E) of the PEBA, the “pool” of remaining jurisdictions that could exercise that option is relatively small.

Having written that, staff is nevertheless concerned that the result of local boards ceasing to exist has brought some pretty significant employers under the PELRB’s umbrella with respect to the number of represented employees in those entities. For example, Central New Mexico Community College has 1472 employees under Collective Bargaining Agreements; the City of Las Cruces has 658 such employees; San Juan Community College, 146; Sandoval County, 104; University of New Mexico, 1830; UNM Hospitals, 4,423; New Mexico State University, 1125. Each of these entities and their approximately 10 additional bargaining units were among those that came under the jurisdiction of the PELRB during the reporting period. It is reasonable to assume that the addition to this Board’s jurisdiction of so many employees new CBAs under which they work, increases the possibility if not the certainty that the number of PPCs and impasse filings will increase in the coming reporting periods, notwithstanding that increase not yet materializing, except as noted.

Should the Board’s workload increase to a degree that additional staffing is needed, the Board must consider requesting additional funding from the legislature for that purpose and staff will be tasked with compiling sufficient data and preparing justification for any such increase. In the meantime, and perhaps as a bridge between the need for increased personnel and any funding for new positions, Staff have entered into an informal agreement with the State of New Mexico Administrative Hearings Office (Brian VanDenzen, Executive Director) for the cross-training of their Administrative Law Judges and our Hearing Officer so that each may fill in for the other as the need may arise to conduct each other’s administrative hearings.

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. 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 encourages cooperation as an alternative to Board-imposed solutions and, where such cooperation is not possible, a timely Board

decision provides the parties with clarity and a sense of direction concerning specific public policies to be pursued.

APPENDIX 1

PUBLIC EMPLOYEE LABOR RELATIONS BOARD STRATEGIC PLAN FY20

- 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 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 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 is to train its own staff and Board to develop expertise in the substantive law of public employee bargaining generally and PEBA specifically. 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, including newly acquired teleconferencing equipment that will allow the Agency to improve its remote meeting/hearings capabilities. The Agency's goal is to continue training for Board staff through FY20.

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 FY20 and the Operations Manager's performance review measures comply with these procedures.
 - d. The Board's Executive Director, assisted by the Operations Manager, 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 Operations Manager, 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.
 - f. The Board's Executive Director, assisted by the Operations Manager, will hold a series of hearings to elicit public comment on comprehensive revision of the Board's procedural rules. After the statutory comment period they will present the changes to the Board for approval and once approved comply with the statutory requirements for archiving and publishing the changes.
- **Applicable FY20 Performance Measures**
 - a. Percent of decisions overturned on appeal;
 - b. Percent of determinations of approval of local labor relations boards, bargaining unit recognition petitions and prohibited practice complaints processed and completed within the applicable regulatory 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 FY20.
 - 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 act, 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 FY20 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:
 - c. 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 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 FY20 Performance Measures**
 - a. Percent of decisions overturned on appeal
- **Goal: Conduct training.**
 - Objectives:

- a. Conduct interagency training on 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 FY20, 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 FY20 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 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 FY20 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.

CASE COMPLETION TIME FRAMES

Table A

Case Series	Description	Number of Cases	Average Days Open
100 Series	PPCs	33	130
200 Series	Local Boards	3	51
300 Series	Representation Petitions	17	96
500 Series	Impasse	5	54

ALL CASES FILED WITH THE PELRB IN 2021 BY TYPE OF EMPLOYER OR RESPONDENT

Table B

Type of Employer or Respondent	Types of Cases					TOTAL
	PPCs	Representation Petitions	Decertification Petitions	Related to Approval of Local Board	Impasse	
State*	6	1				7
County	4	6	1		2	13
Municipality	2	1			2	5
Public School	8	5			1	14
Higher Education		1				1
Medical Facility	2	2				4
Other	11					11
Court						
Union						
Individual						
Local Labor Board				3		3
TOTAL	33	16	1	3	5	58

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

**ALL CASES FILED WITH THE PELRB IN 2021
BY PETITIONER OR COMPLAINANT**

Table C

Type of Petitioner						TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Related to Approval of Local Board	Impasse	
State*						
County						
Municipality						
Public School						
Higher Education						
Medical Facility						
Other						
Court						
Union	32	16			5	53
Individual	1		1			2
Local Labor Board				3		3
TOTAL	33	16	1	3	5	58

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

**ALL CASES FILED WITH THE PELRB IN 2020
BY PETITIONER AND TYPE
Table D**

Petitioner	Types of Cases				Impasse	TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Local Board matter		
AFSCME Council 18	7	3				10
AFSCME 1782		2				2
AFSCME 2079					1	1
AFSCME 3022	9					9
AFSCME 3999	2					2
AFSCME 624	2					2
AFT & IAMAW	1					1
Belen Fed. of School Employees	1					1
Chaves County				1		1
CSEC-Las Cruces AFT		1			1	2
Chama Valley FUSE AFT	1					1
CWA	2					2
Gallup				1		1
Hatch POA					1	1
Las Vegas POA					1	1
Luna County				1		1
Amanda Macias			1			1
McKinley County FUSE AFT	1					1
Mesa Vista Fed. of Teachers AFT	1					1
NEA-Las Cruces	1					1
NEA-Los Lunas	1					1
NEA-Turquoise Trail		1				1
NMCPSO	2				1	3
Adrian Nogales	1					1
NUHHCE-1199NM	1					1
Peñasco FUSE AFT		2				2
SFCPFFA IAFF-4366		1				1
Taos PFFA IAFF-5245		1				1
TECS-NEA		1				1
Taos FUSE AFT	1					1
UE		1				1
UHPNM		2				2
Total	34	15	1	3	5	58

PPC OUTCOME 2021

Table E

Total PPCs Resolved		29
Sustained (In whole or in part)		7
By Hearing Examiner (w/o Board review)	6	
After Board Review	1	
After Review by Court		
Dismissed – no violation found		4
By Hearing Examiner (w/o Board review)	1	
After Board Review	2	
After Review by Court	1	
Summarily Dismissed		1
Dismissed after preliminary review (NMAC 11.21.3.12)	1	
Dismissed after Motion		
Deferred to Agency		
Deferred to Arbitration		
Dismissed on collateral estoppel grounds		
Deferred to local board		
Withdrawn and/or Settled		17
Withdrawn upon receipt of notice of facial inadequacy		
Withdrawn in favor of alternate venue		
Withdrawn as moot		
Settled prior to hearing	17	
Resolved after a Merits Hearing		7