

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

**2024 ANNUAL REPORT**

**AND**

**20+ YEAR REVIEW OF OUR MISSION AND OPERATIONS**

Albuquerque, New Mexico  
March 31, 2025 (Rev. 12/21/25, 2/18/26)

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This report was prepared by the Staff of the New Mexico Public Employee Labor Relations Board under its authority to “conduct studies on problems pertaining to employee-employer relations” found in NMSA §10-7E-9(2) and to keep the Board members informed regarding the results and trends surrounding its business. By publication of this Report the PELRB seeks to provide a public service disseminating general information concerning its functioning and its role in New Mexico’s public employee labor relations.

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## I. INTRODUCTION

The 2024 Annual Report marks the transition, effective January 17, 2025, from the New Mexico Public Employee Labor Relations Board's (PELRB's) longest serving Executive Director, Tom Griego, Esq., to Pilar Vaile, Esq.<sup>1</sup>

Director Vaile comes to the PELRB after previously serving as a Board Member and Vice Chair (2004), the PELRB Deputy Director and primary Hearing Examiner under Director Juan Montoya (2005-2009), and a private neutral and labor arbitrator (2010-present; Member of the National Academy of Arbitrators).

The 2024 Annual Report also marks an important historical highlight for the PELRB. In 2024, the Agency marked the 20-year anniversary of its first bargaining unit/exclusive representation certifications and its first Board Order under "PEBA II", or the second enactment of the State's Public Employee Bargaining Act. See NMSA §§ 10-7E-1 et seq. Happy belated birthday, NM-PELRB!

The PELRB is a *small agency with a big public mission or purpose*<sup>2</sup>: to implement PEBA, which, guarantee[s] public employees the right to organize and bargain collectively with their employers, to promote harmonious and cooperative relationships between public employers and public employees and to protect the public interest by ensuring, at all times, the orderly operation and functioning of the state and its political subdivisions.

See NMSA § 10-7E-2 (Purpose of act). Since it received its first filing in 2004, the PELRB has processed 1,225 total cases, including 725 Prohibited Practice Complaints (PPCs), 404 Representation Petitions, and 96 Local Board Applications or Affirmations. See Appendix A, All Cases Filed 2004-2024.

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<sup>1</sup> Director Vaile is licensed to practice law in New Mexico and California but both licenses are in inactive status since she does not provide legal representation services to anyone, and inactive Bar dues represents a significant budgetary savings for the PELRB.

<sup>2</sup> With only two full-time employees or FTEs (the Executive Director and a Legal Assistant II) and a budget for Fiscal Year 2024 of \$304,800,<sup>2</sup> we are the smallest or second smallest State Agency depending on whether you are looking at the number of personnel or budget. The NM MLK Commission is the smallest Agency by number of employees, with only one FTE (see <https://nmmlksc.org/staff/>), but the PELRB is smallest by budget. The Office of Military Base Planning and Support is the second smallest agency by budget, with an FY25 budget of \$309,400. See <https://www.nmdfa.state.nm.us/wp-content/uploads/2024/12/Executive-Budget-FY26-4.pdf>. (The Public Employees Retirement Association, with a State FY25 budget of \$57.4, is omitted because their operations are largely funded through a separate trust fund by user fees. See <https://www.spo.state.nm.us/wp-content/uploads/2021/02/PERA-Overview-Handout.pdf>.)

At the time of PEBA’s reenactment, however, State and local collective bargaining in New Mexico and the PELRB already had a rich history. This Annual Report aims to celebrate and highlight that history, while also informing the public about our statutory obligations and operations; updating the Board and labor practitioners on the work of the PELRB in 2024; and forecasting the goals and challenges of 2025.

### **A. Brief History of PEBA and the PELRB**

As many New Mexico public sector labor practitioners know, various local governments within the State enjoyed collective bargaining rights and relationships for several decades before the State passed its first collective bargaining statute in 1992, with the enactment of NMSA §§ 10-7D-1 *et seq.* (PEBA I). Some notable examples include the City of Albuquerque and Albuquerque Public Schools, which continue to maintain their own local Labor Boards.

The first NM-PELRB Executive Director under PEBA I was Walter Daugherty, a well-reputed arbitrator hailing from California. Walter returned to Los Angeles after setting up the office and was replaced by local New Mexico labor professional and arbitrator Patrick Halter, on July 12, 1993. Director Halter served faithfully until June 30, 1999.

Members at the time of Director Halter’s appointment were Bill Giron, Chair; Jim Ellis, Labor; and Jim Keaton, Management. Allen Ferguson, Assistant Attorney General, served as the Board’s legal advisor. PELRB Members serve by appointment of the Governor and their service is entirely voluntary and uncompensated, other than payment of modest per diem fees (currently \$45-95) and mileage. Nonetheless, the PELRB has had a tradition since its inception of being filled by highly competent and well-credentialed individuals. This tradition began with the very first and well-assembled Board under PEBA I – as former-Director Halter writes,

Allen and I previously worked together at the Office of the General Counsel, Federal Labor Relations Authority, Washington, D.C. I had crossed paths with Jim Keaton over the years when he was an executive at General Motors in Detroit. I did not know Jim Ellis, retired to New Mexico from Boston, or Bill Giron. As I quickly learned, appreciated and leaned on, Bill Giron was a respected presence in any administration regardless of the incumbent party.<sup>3</sup>

During this time, Director Halter oversaw the certification of many bargaining units for the first time. He also processed about 55 applications for approval of Local Boards in the first years alone, and each case involved a separate Prohibited Practice Complaint (PPC) – he observes that all the applications and PPCs were “practically identical”. During his time, he sought to combat “misinformation about the state law” and the PELRB’s role thereunder. His observation was that

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<sup>3</sup> Belarmino “Bill” Giron “had a distinguished career as a public servant” before his PELRB service. He served in the US Army during the Korean Conflict from 1948-52 and attained the rank of sergeant. Thereafter, he served as Consultant to the US Department of State, as Administrative Aid to Governor King, and as Assistant to the State of NM Commissioner of Public Lands. He also held various positions in the Department of Finance and Administration. He passed away in 2015. See <https://www.legacy.com/us/obituaries/abqjournal/name/belarmino-giron-obituary?id=17808881> (last accessed 3/21/25.)

decisions and Orders of the Agency were resented by some; and that Local Boards, for many, “represented a mechanism to blunt PEBA I until it expired in June 30, 1999” due to an internal sunset clause.<sup>4</sup>

The New Mexico Legislature attempted to reauthorize PEBA I before its sunset, but that legislation was vetoed by then-Governor Johnson and the State legislature could not override the veto. Accordingly, “at 5:03 p.m. [then-Director Halter] turned off the lights at the office and returned the office keys to the onsite property manager.”

In 2003, the Legislature enacted a second and very similar act, NMSA §§ 10-7E-1 *et seq.* (PEBA II). In the interim years between the two Acts, a number of public employers continued to permit collective bargaining under their own ordinances or resolutions, some of which predated PEBA I and some of which were created and approved under PEBA I. Accordingly, PEBA II included a number of provisions designed to protect pre-existing bargaining units, bargaining representatives and collective bargaining agreements (CBAs). Additionally, PEBA II initially authorized the creation of new Local Boards, many of which were created in the reconstituted PELRB’s first several years.

The very first Board under PEBA II was comprised of Edmund “Joe” Lang, Esq., Chair and management nominee; Linda Vanzi, Esq., Vice Chair and labor nominee; and Lew Harris, Esq., formerly of the NLRB, as the neutral nominee. Vice-Chair Vanzi withdrew from the Board early in her term and was appointed as a District Court Judge<sup>5</sup>; she was succeeded by Pilar Vaile, Esq. (subsequently the Deputy Director and now the Exec. Director). Shortly thereafter, Member Harris was succeeded by Duff Westbrook, Esq., who would go on to be the longest serving Board Member (2005-2019), and the longest serving Chair (2010-2019). In 2005, Chair Lang passed away<sup>6</sup> and his position was filled by Martin Dominguez, Labor/Employment Relations Director of Los Alamos National Laboratory, and a former Member under PEBA I. That same year, Ms. Vaile was replaced by John Boyd, Esq., after she took the position of PELRB Deputy Director.

The present Board is comprised of Chair Mark Myers, Vice Chair Nan Nash (Hon.-Ret.), and Member Peggy Nelson (Hon.-Ret.). It is the longest serving Board to date and continues the PELRB tradition of being well-constituted by dedicated and competent Members: Chair Myers is a retired public servant coming from the public safety and corrections sectors and Members Nash and Nelson are retired State District Court Judges. A list of all past and present PEBA II Board Members, with years of service, are appended as Appendix B. See also <https://www.pelrb.nm.gov/the-board/board-members/>.

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<sup>4</sup> Quotes are from the new Director’s interviews with the former Directors, seeking reflections about their time with the PELRB.

<sup>5</sup> Vice-Chair Vanzi later advanced to the Court of Appeals and served as Chief Judge there before her eventual retirement in 2020.

<sup>6</sup> Chair Lang served in the Senate in the 1970s, and on the Bernalillo County Commission in the 1990s. He was a fixture in New Mexico politics, a successful lobbyist, and devoted to many good public causes including the PELRB. “An estimated 1,200 mourners, including a who’s who list of New Mexico politicians, turned out” for his funeral services and he is still missed by many all these years later. See [https://www.hhsalbuqclass64s50th.com/class\\_profile.cfm?member\\_id=6177961](https://www.hhsalbuqclass64s50th.com/class_profile.cfm?member_id=6177961) (last accessed 3/25/25).

Juan Montoya, Esq. was hired as the first Executive Director under PEBA II in October of 2003, and he served faithfully until his retirement on July 1, 2010.<sup>7</sup> He was aided at the time by the first Deputy Director, Judy DeAtley; and also by Bernadette Carian, who would serve as the Administrative Assistant to the PELRB until about 2012. Deeply appreciated by all Staff and Parties for her entire tenure, Bernadette was especially critical to the Agency during its early formation, and during the 2010-2012 period between Director Montoya and Director Griego.

As former Director Montoya observed, in those early days, “[t]he Board didn’t have office space, a communication system or a filing system; it’s only connection to the world, including the state government, was a cell phone.” After leasing office space, acquiring telecommunication equipment, and ordering furniture from NM Prison Industries in Los Lunas, “[t]he Board was operational and began hearing” cases. During the early years, a large number of employees of the State or its political subdivisions were successfully organized or reorganized, and their exclusive bargaining representatives certified. For instance, one 2003 AFSCME certification involved bargaining units at 15 different State agencies, and covered nearly 7,000 State employees. See State/AFSCME Certification dated 8/7/03. Also, early PPCs frequently raised jurisdictional issues such as whether New Mexico Judicial Branch employees were covered (they are not, as determined by the Judge Kase for the Second Judicial District in 2006)<sup>8</sup>, or whether the Employer under a grandfathered labor board could unilaterally select an interim neutral Board Member, in addition to selecting the Management Member (they cannot).<sup>9</sup>

Director Montoya observed about his years at the PELRB that some groups representing Public Employers harbored suspicion of the PELRB after its sunset and revival. For instance, one Employer-side organization passed a resolution early in the life of the Board under PEBA II that negatively described the PELRB as being “pro-Union”. Director Montoya countered this at the time and still does today by observing that “[i]n fact, the Board was always pro-collective bargaining, which is the reason for the PEBA’s and the PELRB’s creation in the first place.”<sup>10</sup>

In June of 2012, after several short-lived Directors, Thomas Griego, Esq. was appointed as Executive Director, and he served faithfully until his retirement effective December 31, 2024. Like former-Director Montoya, former-Director Griego was aided by competent and long-serving assistants. Dir. Griego had multiple competent assistants who served ably for several years at a time, but one stands out for his longevity and the level of competence and knowledge that he brings: Legal Assistant II Matthew Huchmala. Mr. Huchmala is legally trained, has worked as a

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<sup>7</sup> Since his retirement, Director Montoya has served on the Albuquerque and Albuquerque Public School Labor Boards. See Sec. III.A.

<sup>8</sup> Chama-Ortega and Second Judicial Court, D-202-CV-2004-07883, Order by Dist. Court Judge Edmund H. Kase, III of the Seventh Judicial District, dated 4/10/06.

<sup>9</sup> City of Albuquerque v. Montoya, 2010-NMCA-100, 148 N.M. 930, 242 P.3d 49, cert granted, 2010-NMCERT-010, 149 N.M. 64, 243 P.3d 1146, rev’d, 2012-NMSC-007, 274 P.3d 108.

<sup>10</sup> Current Staff observes that this is a common issue, and it was only in 2008 that ALRA was able to attain consensus to say, in its black letter statement on neutrality, that ALRA unequivocally supports statutory collective bargaining rights. See ALRA Neutrality Report (2008), located at <https://alra.org/wp-content/uploads/2019/03/NeutralityProject-FinalReport.pdf>.

licensed lawyer for several years in California, and is trained and experienced in mediation. He has been with the PELRB since 2016 and has provided particularly essential services during the 2024/2025 transition in directorship. Recently, the Executive Director has assigned him additional responsibilities as a mediator upon request<sup>11</sup>, and as an alternate Hearing Examiner.<sup>12</sup>

During the tenures of Director Griego and Legal Asst. Huchmala, significant amendments were made to PEBA II that tended to further strengthen the rights of public employees to engage in collective bargaining effectively. Effective July 1, 2020, the New Mexico Legislature amended PEBA II in numerous respects.

Most notably for PELRB operations, the 2020 amendments imposed certain conditions on Local Boards, including the requirements that all Local Board positions remain filled, that the Local Board meet regularly, that the Local Board enact rules consistent with PEBA II and the PELRB's rules, and that the Local Board certifies its continuing conformity with the amended law in the odd-numbered years. The amendments also provide for automatic transfer of jurisdiction to the PELRB in the event a Local Board does cease to operation See § 10-7E-9(H) (requirement that Local Boards inform the PELRB of any rule changes; § 10-7E-10 (prohibiting approval of future Local Boards and imposing conditions on their continued operation, including a biennial reporting requirement affirming their compliance with PEBA II as amended); § 10-7E-13(D) (ensuring that “[j]obs included within a bargaining unit pursuant to a local ordinance in effect on January 1, 2020 shall remain in that bargaining unit”); and § 10-7E-13(I) (ensuring that “[w]henver a local board ceases to exist, all matters pending before such local board shall be transferred to the board for resolution”].

Within the first biennial reporting year of the amendment (2021), many Local Boards were disbanded. In 2021 the number of Local Boards fell from 37 to only 15, as many Local Boards opted not to continue operations; and the number of Local Boards has continued to decline since then. In 2023, that number fell to eight (8). Currently, only four (4) Local Boards continue to exist, and no new Local Boards may now be created under PEBA II. See NMAC 11.21.1.10(J). Current Local Boards include those for the City of Albuquerque, Albuquerque Public School (APS) District, the City of Deming, and the Town of Silver City. As noted in the past several Annual Reports, the attrition of Local Boards has not resulted in a significant or obvious increase in PELRB filings to date. That could change, however, if the largest of the Local Boards (that for

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<sup>11</sup> Because of the small size of our office, PELRB Staff necessarily work closely. However, as officers of the Agency, Staff would not discuss amongst themselves matters being mediated in-house, to maintain the confidentiality of those mediations if Parties were to seek free in-house mediation services from the PELRB. Additionally, the Parties would be required to waive any remaining potential appearance of conflict before proceeding with in-house mediation.

<sup>12</sup> To that end, in Fiscal Year 2026 and the coming years, Matt will be attending courses with the National Judicial College that are part of NJC's Judicial Skills Development Certificate Programs in Administrative Law and ADR. He is presently registered for their foundational two-week, in-person “Administrative Law: Fair Hearing” course in August 2025, and an online “Evidence for ALJs” course, in September 2025, for both of which he applied and was granted significant scholarships. Besides helping our small office meet day-to-day operational needs of case processing, this will also fulfill our historical strategic goal of educating Staff to better serve our constituent service users or clients, New Mexico's public employers, New Mexico public employees, and labor organizations representing or seeking to represent the latter.

the City of Albuquerque, which processes approximately 30 cases a year) were to cease operations. See Sec. III.A, Local Boards.

A second 2020 amendment that had a significant impact on PELRB operations, was the change made to § 10-7E-14(C), providing for certification of majority support by “card check”. Previously, certification by card check was only available as an alternative procedure if there were no employer objection. Now, as a practical matter, all Representation Petitions are based on a “card check” by PELRB Staff, rather than by secret ballot election unless another labor organization intervenes. Id.; see also Sec. III.C, Representation Petitions.

Other amendments made by the New Mexico Legislature in 2020 had less impact on PELRB operations but likely a big impact on non-Federal public sector collective bargaining in New Mexico:

1. removing the definition of “fair share” and its option as a permissive subject of bargaining, see § 10-7E-4 (Definitions) and § 10-7E-9(G) (Board; powers and duties)<sup>13</sup>;
2. providing public employees “the right to engage in concerted activities for mutual aid or benefit”, other than strike activity as prohibited under Section 21 therein, see § 10-7E-5(B)<sup>14</sup>;
3. clarifying the administrative remedies available under PEBA II, see § 10-7E-9(F)<sup>15</sup>;
4. adding an express requirement that the public employer provide certain critical identity and contact information to the petitioning labor organization within 10 business days of the PERLB’s acceptance of a valid representation petition, see § 10-7E-14(A)<sup>16</sup>;

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<sup>13</sup> This simply codified the US Supreme Court’s decision in Janus v. AFSCME Council 13, 138 S. Ct. 2448, 585 U.S. \_\_\_\_ (2018), holding that requiring public sector employees to pay “fair share” or “agency” fees to unions violates their First Amendment rights.

<sup>14</sup> When the present Exec. Dir. and then-Deputy Director left the PELRB at the end of 2009, there was a lively debate within the NM public sector labor relations community whether PEBA already included this right, based upon precedent arising from the National Labor Relations Act, on which PEBA was generally modeled. See Las Cruces and Las Cruces Firefighters, 1997-NMCA-031, 123 N.M. 239, 938 P.2d 1384 (“[a]bsent cogent reasons to the contrary, [Courts] should interpret language of the PEBA in the same manner that the language of the NLRA has been interpreted, particularly when that interpretation was a well-settled, long-standing interpretation of the NLRA at the time the PEBA was enacted”).

<sup>15</sup> Subsection F of § 10-7E-9 previously only referenced “appropriate administrative remedies”, and now provides that “[t]he board or a local board each has the power to enforce provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the board or local board.” Id.

<sup>16</sup> Specifically, § 10-7E-14(A) provides that “the board or local board shall require the public employer to provide the labor organization within ten business days the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in the proposed bargaining unit. This information shall be kept confidential by the labor organization and its employees or officers.”

5. adding that “[a] claim by a public employee that the exclusive representative has violated this duty of fair representation shall be forever barred if not brought within six months” of reasonable discovery, see § 10-7E-15(A);<sup>17</sup>
6. adding that “[a] public employer shall provide an exclusive representative of an appropriate bargaining unit reasonable access to employees in the bargaining unit”, including certain specific access rights depending on whether it concerns newly hired employees or not, see § 10-7E-15(C)<sup>18</sup>;
7. applying the 12-month certification bar in cases of “an election sought by a competing labor organization”, in addition to decertification petitions, see § 10-7E-16(D);
8. specifying that any waiver of bargaining over terms and conditions of employment during the life of a CBA must be “clear[] and unmistakable[e]”, see § 10-7E-17(A);
9. allowing that “a public employer in a written collective bargaining agreement may agree to assume any portion of a public employee’s contribution obligation to retirement programs provided pursuant to the Public Employee Retirement Act or the Educational Retirement Act”, see § 10-7E-17(B);
10. providing the terms by which a bargaining unit employee can revoke a prior payroll authorization for the payment of union dues, within an annual 10-day window, see § 10-7E-17(D);
11. providing a “safe harbor” for fair share provisions and deductions that were permitted at the time under the law of New Mexico and paid before 6/27/2018, see § 10-7E-17(E);
12. adding that “[t]he scope of bargaining for the exclusive representative and the state shall include enhancements of employee rights and benefits existing pursuant to the personnel Act [Chapter 10, Article 9 NMSA 1978]”, see § 10-7E-17(F);

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<sup>17</sup> Note, however, that the PELRB does not have jurisdiction or authority to hear duty of fair representation or “DFR” claims, which must be asserted in a civil suit in State District Court. See Callahan v. New Mexico Federation of Teachers-TVI, 2006-NMSC-010, 139 N.M. 201, 131 P.3d 51 (that because the PELRB lacks authority under § 9(F) to remedy DFR violations through money damages or reinstatement, such claims must be filed in District Court).

<sup>18</sup> Specifically, NMSA § 10-7E-15(C) provides as follows:

- (1) for purposes of newly hired employees in the bargaining unit, reasonable access includes:
  - (a) the right to meet with new employees, without loss of employee compensation or leave benefits; and
  - (b) the right to meet with new employees within thirty days from the date of hire for a period of at least thirty minutes but not more than one hundred twenty minutes, during new employee orientation or, if the public employer does not conduct new employee orientations, at individual or group meetings; and
- (2) for purposes of employees in the bargaining unit who are not new employees, reasonable access includes:
  - (a) the right to meet with employees during the employees’ regular work hours at the employees’ regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and
  - (b) the right to conduct meetings at the employees’ regular work location before or after the employees’ regular work hours.

13. removed certain deadlines for resolving bargaining impasses, see § 10-7E-18(F); and
14. made it a prohibited practice for a public employer to use public funds to influence an election regarding representations, see § 10-7E-19(B).

Another major trend during Director Griego’s tenure was the 2023 clarification of the various State bargaining units that were first certified in 2003 and 2004, often on a “wall-to-wall” basis. In 2023, the New Mexico State Personnel Office worked with both AFSCME Council 18 and CWA – each of whom represent many employees and bargaining units across various State agencies – and the Parties agreed to update the original unit descriptions to reflected job title and classification changes over the years, and to accrete any agreed-upon new positions.

All in all, Director Griego oversaw the PELRB during times of great change, while also solidifying and standardizing its internal and external practices. He was unable to provide a personal reflection for this Report due to other time commitments, but his presentations and communications reflect tremendous and well-deserved pride in the Agency; in Staff efforts to systematize internal case handling procedures; in PELRB’s strong record of timely processing matters without being reversed on appeal; and in making service on the Board sufficiently organized and desirable that it has retained longstanding, well-credentialed and highly experienced Board Members.

The following sections of this Annual Report will review the basic legislative purpose of the PEBA; the PELRB’s essential responsibilities; the basic rights and responsibilities of public employees and public employers; an explanation of the types of cases heard; the PERLB’s 2024 operations; and case statistics; and forecasts for the coming year. While some of it will be familiar to practitioners before the PELRB that have read prior Annual Reports, this Annual Report also represents and/or notes several modest changes going forward, as we strive to improve operations, transparency, and outreach.

## **B. Overview of the Purpose and Provisions of PEBA and the PELRB**

Although small, the PELRB is a *vital State Agency*, insofar as we are statutorily charged with ensuring prompt and fair processing of complex and disputed legal matters, to help the State and its political subdivisions maintain harmonious labor relations, and ensure efficient government operations.

As noted, the main purposes of the PEBA are “to guarantee public employees the right to organize and bargain collectively with their employers”, with the twin end goals of “promot[ing] harmonious and cooperative relationships” between them, and “protect[ing] the public interest by ensuring, at all times, the orderly operation and functioning of the state and its political subdivisions.” See NMSA § 10-7E-2.<sup>19</sup>

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<sup>19</sup> In implementing PEBA, the PELRB may often be guided by relevant precedent arising under similar language in the National Labor Relations Act (NLRA). See Las Cruces and Las Cruces Firefighters, 1997-NMCA-031, 123 N.M. 239, 938 P.2d 1384 (“[a]bsent cogent reasons to the contrary, [Courts] should interpret language of the PEBA in the same manner that the language of the NLRA has been interpreted, particularly when that interpretation was a well-settled, long-standing interpretation of the NLRA at the time the PEBA was enacted”); see also AFSCME, Council 18 v. N.M. Dep’t of Health, 06-PELRB-2007

The PEBA vests the PELRB with authority over all general collective bargaining matters among public employers, labor organizations and individual public employees subject to the Act. The PELRB now also has jurisdiction to ensure that ordinances, charters or resolutions of any special districts or local governments establishing a local labor board (hereinafter “Local Board(s)”), comport with the PEBA.

Aside from ministerial or administrative functions, the PELRB’s *primary enforcement activities* fall within one of the following categories,<sup>20</sup> all of which are described in more detail below:

1. processing Representation Petitions (Secs. II.A; III.C, *infra*);
2. monitoring Local Boards for compliance with NMSA § 10-7E-10(D), (E), (F) and (G) (2020) (Secs. II.B; III.A, *infra*);
3. processing Prohibited Practice Complaints (PPCs) (Secs. II.C; III.B, *infra*); and
4. rulemaking activity as needed (Sec. II.E, *infra*).

All of these primary enforcement activities or functions relate directly to the following *basic rights and responsibilities* that PEBA provides to public employees and public employers, which include but are not limited to the following items:

- The right of public employees to form, join or assist a union for the purpose of collective bargaining through representatives of their choice, or refrain from such activities without interference, restraint or coercion. See NMSA §§ 10-7E-2 and 5 of the PEBA.
- The right of public employees to engage in other concerted activities for mutual aid or benefit. See NMSA § 10-7E-5(B).
- The duty of public employees and labor organizations to refrain from engaging in or encouraging strike activity, and the corresponding duty public employers to refrain from causing, instigating or engaging in a public employee lockouts. See NMSA § 10-7E-21(A) (Strikes and lockouts prohibited).
- The reciprocal duty of public employers and unions to negotiate in good faith over mandatory subjects of bargaining such as wages; hours and most terms and conditions of employment,<sup>21</sup> including payroll deduction of membership dues if a party requests

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(applying NLRA precedent to similar but not identical PEBA language); and SSEA, Local 3878 v. Socorro Consolidated School District, 05-PELRB-2007. (Dec. 13, 2007), citing Excelsior Underwear, Inc., 156 NLRB 1236 (1996) (citing Excelsior for the proposition that it should be guided more by NLRA precedent than FLRA precedent). However, sudden changes to NLRB interpretation of the NLRA that merely reflect a change in executive administration may have less relevance under PEBA.

<sup>20</sup> Previous versions of the Annual Report included “monitoring impasse” among its operations but it is more appropriately considered a ministerial or administrative function. The decision to omit them as a category of significant operations is explained below. See Sec. II.D, Operations, Local Boards.

<sup>21</sup> The major exceptions are for retirement programs provided pursuant to the Public Employees Retirement Act or the Educational Retirement, and during the life of an executed CBA, outside of the prescribed

bargaining that subject; and to bargain over the impact of professional and instructional decisions made by the employer, in the case of public schools and educational employees in state agencies. See NMSA §§ 10-7E-17(A), (D) and (G); see also NMSA § 19(F) and § 20(C).

- The reciprocal duty of public employers and unions to abide by the provisions of PEBA and any CBA. See NMSA § 10-7E-19(G), (H); and § 10-7E-20(D), (E).<sup>22</sup>
- The duty of public employers to provide an exclusive representative with the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in a proposed bargaining unit. See § 10-7E-15(F); see also *American Federation of Teachers and International Association of Machinists and Aerospace Workers v. University of New Mexico Sandoval Regional Medical Center*, PELRB No. 112-22; 29-PELRB-2022 (11-28-22) and *SSEA, Local #3878 v. Socorro Consolidated School District*, 05-PELRB-2007 extending similar rights to organizing labor organizations prior to their recognition by the Board.

Moreover, while the PELRB is a relatively small State Labor Board<sup>23</sup>, ***our jurisdiction covers tens of thousands of public employees, and our operations potentially affect many more of the***

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window for opening bargaining, although the 2020 amendments allowed limited bargaining regarding a public employer assuming a portion of public employees' retirement contributions. See § 10-7E-17(B); § 10-7E-18(A)(1), (B)(1).

<sup>22</sup> Traditionally, Complaints alleging a violation of the CBA will be first grieved because of the usually shorter limitation periods in a CBA as compared to PEBA; and the PEBA then often defers such claims to the grievance arbitration process if a PPC is also filed. Additionally, the Federal Mediation and Conciliation Service (FMCS) – which is also the major Western paneling Agency for the appointment of impasse and grievance arbitrators in federal, state/local, and private sectors – has traditionally offered free mediation services to any labor disputants within a FMCS Mediator's geographical region of assignment. However, Staff notes the recent scaling back of FMCS services to its core or "mandated" federal and private sector functions with Executive Order 14238, "Continuing the Reduction of the Federal Bureaucracy", dated 3/14/25 (located at <https://www.whitehouse.gov/presidential-actions/2025/03/continuing-the-reduction-of-the-federal-bureaucracy/>, last accessed 3/19/25). The PELRB is informed by local labor practitioners and FMCS Staff that FMCS has recently discontinued the provision of mediation and arbitration services to members of state and local government, as falling outside of FMCS's core functions. As a result, the PELRB may see an increase in cases that cannot, as a practical matter, be deferred to arbitration under NMSA § 10-7E-18 (regarding impasse mediation and arbitration referrals) or NMRA 11.21.3.22 (regarding grievance mediation deferral).

<sup>23</sup> See Note 1. By way of comparison, Executive Director Mike Sellars of the Washington Public Employment Relations Commission (PERC), has reported that they have 33 FTE positions authorized and

29 filled. Of those 29, 14 are field staff who conduct the mediations and adjudications; and two people conduct the representation work. They have jurisdiction over about 475,000 public employees, and they administer 11 different statutes. In 2024, they had 950 cases filed, which was unusually high – typically they range over 800 cases per year. They have a biennial budget of about \$11.5 million. This is one of the largest "large" State Labor Boards. By way of further comparison, the Oregon Employment Relations Board (ERB), in FY24, handled 135 complaints or representation matters, and 58 contract mediation cases, with a budget of about \$3,150,000 a year and 13 FTEs. The State Labor Board most comparably sized to the PELRB is the Vermont Labor Relations Board. Vermont has a population of about 600,000 and the

**160,000-165,000 state and local government workers and/or public employer representatives of New Mexican workers.**<sup>24 25</sup>

At the same time, we operate in a *specialized area of law that involves legal terms of art, nuanced fact patterns, and extensive judicial or administrative precedents to consider*. Additionally, it is not uncommon for PELRB cases to involve pro se litigants and/or litigation-minded attorneys, each of which may present their own unique challenges in ensuring fair and efficient proceedings. Some of the complexity of the PELRB’s work is reflected in the *increasing number of formal Board Orders required* of our volunteer Board Members, the number of which has dramatically increased during periods of more tense labor relations, including over the most recent years.<sup>26</sup> It is *also not uncommon for PELRB Orders to be appealed to the District Court and/or beyond*, as seen below and in past Annual Reports.

***Staff are proud to report that the PELRB continued to fulfill its mission and purpose in 2024, as it has since 2003, notwithstanding these challenges. For instance, the vast majority of the cases filed with the PELRB are ultimately settled and/or resolved without a hearing on the merits: about 83%. Nonetheless, as the reader will see below, most of our cases require litigation through some level of “motion practice”. See Sec. III, 2024 Case Loads and Operations Summary; and Appendix C, Tables 2 and 3.***

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Executive Director of its labor board, Judith Dillon, has reported that her Agency has a budget similar to that of the NM-PELRB, two full-time employees and they process about 49-60 cases a year, with an approximate 50% settlement rate, and an average of 10 hearings held and decisions issued a year. (Vermont is distinct in its operations, however, in that all hearings and decisions are held/written by a three-member Board Panel, rather than Staff as at the NM-PELRB.)

<sup>24</sup> For likely public sector unionization rates, see Bureau of Labor Statistics, [www.bls.gov](http://www.bls.gov), News Release USDL-25-0105), “Union Members – 2024” (that the union membership rate—the percent of wage and salary workers who were members of unions—in 2024 was 32.5%). Although the average rate of public sector unionization is 32.5% (see Note 17), the universe is larger than merely union membership. First, a number of the foregoing PEBA rights and responsibilities may adhere even before certification of an exclusive bargaining representative, and/or in the absence of a collective bargaining agreement. Second, collective bargaining agreements, the duty to bargain, and labor disputes in a department or work group necessarily impact everyone, including the Public Employer, its Union bargaining partner, and Public Employees that are not in the Union.

<sup>25</sup> For data on the number and types of government employees in the State of New Mexico, see Federal Reserve Bank of St. Louis, MO, Data: All Employees: Government: State Government in New Mexico, <https://fred.stlouisfed.org/series/SMU35000009092000001> (59,200); All Employees: Government: Local Government in New Mexico, <https://fred.stlouisfed.org/series/SMU35000009093000001> (104,100); All Employees: Government in New Mexico, <https://fred.stlouisfed.org/series/SMU35000009000000001A> (190,900); All Employees: Federal Government in New Mexico, <https://fred.stlouisfed.org/series/SMU35000009091000001A> (30,000) (all last accessed 3/18/25).

<sup>26</sup> Board Orders concerning review of the Director’s or Hearing Examiner’s determinations in a specific case were issued by the Board in the following number, over the past years: 2004 – 1; 2005 – 3; 2006 -7; 2007 – 7; 2008 – 2; 2009 – 11; 2010 – 10; 2011 – 13; 2012 – 78; 2013 – 31; 2014 – 18; 2015 – 7; 2016 – 27; 2017 – 13; 2018 – 14; 2019 – 24; 2020 – 18; 2021 – 74; 2022 – 29; 2023 – 67; 2024 – 46. See <https://www.pelrb.nm.gov/the-board/board-orders/peba-ii/> (Orders adopting an Open Meetings Resolution or rules have been omitted).

As an incoming Executive Director and returning PELRB Staff, I am proud to see how much the PELRB has accomplished and continues to accomplish in timely processing matters, steadily improving its procedures and facilities, and faithfully fulfilling its mission of promoting harmonious labor relations and efficiency in State and local government. I look forward to building on the PELRB's fine work and legacy to date, and I hope to increase our Staff and Board education and public outreach in the coming year as budget and Staff hours permit, to better meet our mission.

More details about our 2024 activities follow.

## II. WHAT THE PELRB DOES & ITS REGULATORY TIMELINES

Although the PELRB handles far more PPCs than Representation Petitions, review of our work functions in this section begins with Petitions, because that is how most Parties first come to be before the PERLB.

### A. Representation Petitions

There are several different Representations Petitions that can be filed with the PELRB, including Petitions for recognition, decertification, amendment or clarification of a unit or its representative. All such matters are generally referred to as a "representation proceeding", and today they are largely concluded by card check. See NMAC 11.21.2.35; NMSA §10-7E-14(A) and (C).

Nonetheless, a Representation hearing may still be required along the way, to resolve such issues at questions concerning representation (QCRs), the appropriate bargaining unit, eligible bargaining unit employees, whether there are any intervenors, and objections to the card check or election processes.

The *basic types of Representation Petitions* are as follows:

#### 1. Unit Certification.

Under the PEBA, one of the PELRB's major functions is to determine the appropriateness of collective bargaining units based on the PEBA and guidelines established in relevant case law. The Board also determines whether the employees in an appropriate bargaining unit wish to be represented by a particular labor organization.

Labor organizations seeking to represent a bargaining unit ***must file a Petition with the Board that is supported by at least 30 percent of the employees in the proposed unit.*** Thereafter, the PELRB solicits a list of employees in the proposed bargaining unit; inquires whether the Parties believe any questions or disputes concerning representation (QCRs) or unit scope are raised; and it will set the matter for a Status and Scheduling Conference if needed.

Thereafter, if the PELRB determines that the petitioned-for unit is appropriate, and if it resolves any QCR or unit scope disputes in the labor organization’s favor by hearing, the bargaining unit and the labor organization’s status as exclusive representative ***will be certified by the PELRB upon verification that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards. This is known as a “card check election”***. As noted, due to the 2020 PEBA II amendments, verification of majority support is principally done today by card check conducted by PELRB Staff. See NMSA §10-7E-14(A) and (C). We will only proceed to a formal secret-ballot election if the Union submits cards for 30% but less than 50%+1 of the eligible bargaining unit members.

Once certified, a labor organization is the exclusive bargaining representative 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.” See NMSA §10-7E-15(A).

## **2. Unit Decertification.**

Just as employees may petition the PELRB for recognition of a collective bargaining representative, they may also seek decertification of a previously recognized exclusive representative. A member of the labor organization or the labor organization itself may initiate decertification with the requisite 30% showing of interest discussed above. See NMSA §10-7E-16. Decertification Petitions are processed in a manner substantially the same as that for certification.

## **3. Amendment, Clarification and Accretion Certifications.**

PELRB 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. See NMAC 11.21.2.35. PELRB rules also permit other modifications to Certification, based on the facts and circumstances. These include provisions 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 to clarify upon a ***merger or realignment*** of previously existing bargaining units represented by the same labor organization. See NMAC 11.21.2.37. PELRB rules also provide 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 an existing unit. See 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.

### ***Overview of Petitions Filed in 2024:***

***Staff notes a decrease in the number of Representation Petitions filed during the reporting period, with 25 such Petitions filed during in 2024 period compared with 45 Petitions filed in 2023 and 28 petitions filed in 2022.*** The 2023 Annual Report described the volume of 2023

Representation Petitions as being anomalous, and this proved to be an accurate assessment.<sup>27</sup> All 2024 Representation Petitions were fully processed and closed by the end of that year; and the ten (10) hold-over case from 2023 and the one (1) hold-over case from 2022 were also concluded.<sup>28</sup>

***As to processing times, 34 or 92% of the 37 Representation Petitions processed in 2024 were resolved within six (6) months, and only 3 or 8% were not resolved in that time frame. See Appendix C, Table 3. Of the three (3) Representation Petitions that took more than six (6) months to resolve, all are pending further review before the District Courts or Court of Appeals. All of the matters not resolved within six months, or within any relevant regulatory deadline, were the subject of extension(s) for good cause. Notably, Representation Petitions are more reliably closed within six (6) months than PPCs because they involve far less motion practice: only two Representation Petitions processed in 2024 required motion practice, compared to 14 PPCs. There were also 23 Representation Petitions approved without Motion practice or hearing, and 1 voluntarily dismissed. The same percentage of Petitions as PPCs do, however, require an evidentiary hearing: 17% (5 of 37 Petitions and 8 of 47 PPCs). Additionally, a similar percentage of the Representation Petitions processed in 2024, as PPCs processed in 2024, involved judicial appeals that year: 8.1% for Petitions compared to 8.3% for PPCs. See Appendix C, Tables 2 and 3.***

## **B. Monitoring Local Board Ordinances, Resolutions or Charters**

As discussed above, the landscape for Local Boards has changed drastically since the PELRB's inception under PEBA I and PEBA II. No more may be created, and the four remaining Local Boards must now be certified biennially as being fully staffed and functioning in compliance with the Act.

This reporting period did not include a biennial period during which local boards must take action to continue in existence. As such, ***there were no filings related to Local Boards. The next reporting period will fall between November 1 and December 31, 2025.***

Then, the PELRB will be monitoring the remaining four (4) Local Board operations to ensure that there are no vacancies exceeding sixty days in length prohibited by subsection 10(F); that the Local Boards have not repealed their local ordinances, resolutions or charter amendments authorizing

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<sup>27</sup> As noted in the 2023 Annual Report, that year 14 Joint Petitions were filed by the State and the Communications Workers of America seeking clarification of their bargaining units due to changes in job titles and classifications that were largely undisputed.

<sup>28</sup> As discussed in the Operations Summary section, eight (8) of the 2023 Representation Petitions were concluded in January of 2024 upon Board review of the Director's Certification, while one (1) had additional processing to address objections to the Card Check before the unit was certified, and the Board approved certification. The two 2022 Representation Petition hold-over cases involved the University of New Mexico Sandoval Regional Medical Center (UNMH-SRMC) and one has now been resolved by final Order of the District Court affirming the Board. See D-202-CV-2023-00132, In re PERLB 303-22. The other remains on appeal, now before the New Mexico Court of Appeal. See Case No. A-1-CA-42271, In re PELRB 304-22 and D-202-CV-2024-09660.

continuation of the local board; and that the Local Boards continue to meet and have not voted to cease their operations. See NMSA § 10-7E-10(G).

### C. Prohibited Practice Complaints

As noted above, the PELRB enforces and protects the PEBA rights and responsibilities of both public employers and employees, in part, through the investigation and adjudication of charges of prohibited labor practices – e.g., “prohibited practice complaints” or PPCs.

Moreover, the PELRB has the power to enforce the provisions of PEBA through the imposition of “*appropriate administrative remedies*”. Appropriate administrative remedies include “actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions.” The PELRB is also empowered to petition the New Mexico Courts for enforcement of PELRB Orders. See NMSA § 10-7E-23. However, “[n]o punitive damages or attorney fees may be awarded by the board or local board.” See NMSA § 10-7E-9(F).

The *typical process for PPCs* is as follows:

- Upon receipt of a PPC, the PELRB conducts initial screening and investigation to ensure timeliness and jurisdiction. See NMAC 11.21.3.12. If the PPC is untimely, it shall be dismissed. See NMAC 11.21.3.12(A). If it is facially invalid, such as by lacking a named Respondent, certificate of service or facts sufficient to allege a violation of PEBA, the PPC will be dismissed unless cured within 5 business days of notice of the deficiencies. Id. The Hearing Examiner may also request any evidence in the Complainant’s possession and determine if that evidence is sufficient to prove the factual allegations. If it is not, the Complaint may be dismissed if not withdrawn upon notice of the deficiencies See NMAC 11.21.3.12(B) and (C). Id. This is the first step at which the PELRB begins its dispute resolution functions, by limiting fruitless or unfounded litigation.
- If the PPC is deemed facially valid, the Respondent will be required to file an Answer within 15 business days of service. See NMAC 11.21.3.10; see also NMAC 11.21.1.8 (Computation of time).
- The PELRB is required to hold a *Status and Scheduling Conference* in disputed cases. There, we assist, facilitate or review any settlement efforts; narrow the issues to be addressed; determine whether and what discovery and/or motion practice is required by the facts alleged and relevant legal standards; and set discovery, motion and evidentiary hearing schedules. See NMAC 11.21.1.16(A).
- Thereafter, if a matter is not resolved through settlement, the Director will serve as or appoint another to serve as Hearing Examiner to decide the merits. See NMAC 11.21.1.28 (Director’s delegation and hearing examiner appointment authority). Notably, however, merits hearings are not the only evidentiary hearings PELRB conducts – it is not uncommon for a pre-hearing motion to require an evidentiary hearing. See NMAC 11.21.1.23 (Parties’ right to file and respond to motions).

- In all cases, the designated Hearing Examiner provides a fair hearing on all relevant facts or issues presented that “shall meet all minimal due process requirements of the state and federal constitutions.” See NMSA § 10-7E-12 (B); see also City of Albuquerque v. Joseph Chavez, 1997-NMCA-0534, 123 NM 428, 941 P.2d 509 (although arms of the government do not possess due process rights, they have a right to a fair hearing pursuant to the relevant law or regulation, which includes a decision maker free from bias or objective appearance of such); and NMAC 11.21.3 generally (Prohibited practices proceedings). At any evidentiary hearing, the Hearing Examiner has the discretion to examine witnesses, call witnesses, or call for the introduction of documents. See NMAC 11.21.3.16 (Prohibited practices hearings). Additionally, either Party may request post-hearing briefing, which shall be allowed in that case. Any briefs are to be filed in 10 business days unless extended for cause, after which the Hearing Examiner shall issue his or her Report. (NMAC 11.21.3.17 (Briefs). The Hearing Examiner’s Report is comprised of “findings and recommendations” and is issued within 15 business days (or three weeks) of the close of the record unless that deadline is extended for cause. See NMAC 11.21.3.18 Hearing Examiner reports); NMAC 11.21.1.31 (Time limits for Board actions).
- Thereafter, the Hearing Examiner’s Report is “submitted to the board or local board for its decision”. See NMSA § 10-7E-12(C); NMAC 11.21.3.19 (Appeal to Board of Hearing Examiner’s recommendations). Board Review of the Hearing Examiner’s Report occurs in one of two ways:

  1. A Party may appeal the Hearing Examiner’s Report to the Board, which generally meets once a month. A Party seeking review by the Board does so by filing a notice of appeal within ten (10) business days following service of the Hearing Examiner’s Report. The Board will either determine an appeal on the papers filed or, in its discretion, upon hearing oral argument. The Board’s Decision may adopt, modify, or reverse the findings or recommendations, or take other action it may deem appropriate such as remanding the matter to the hearing examiner for further findings or conclusions.
  2. Alternatively, 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 Report, or any part therein, 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.

***Overview of PPC Activity in 2024:***

***The number of Prohibited Practices Complaints filed during the 2024 reporting period represents a significant increase from 2023: 35 in 2024 compared to 25 in 2023. The PELRB also continued to process the thirteen (13) cases that were holdovers from 2023.*** As seen in the Tables in Appendix C, the increase in PPCs was somewhat offset by a decrease in Representation

Petitions; but as seen in Appendix A (All Cases Filed 2004-2025), annual filings tend to ebb and flow from year-to-year or every several years.

***Of the 35 PPCs filed in 2024, 20 or 57% were closed by the end of that year and 15 remained open at the start of 2025.*** Of those 15 that remained open, seven (7) of those 2024 holdovers closed within the first few months of 2025 and only eight (8) remain open as of the issuance of this Report. ***Of the 13 hold-over PPCs filed in 2023, ten (10) or 77% were closed by the end of 2024 and three (3) remained open at the start of 2025.*** Of those three, one closed within the first few months of 2025, so there are now only two remaining 2023 cases.

***As to processing times, 32 or 67% of the 48 PPCs processed in 2024 were resolved within six (6) months, and 16 or 33% were not resolved in that time frame.*** Of the 16 PPCs that took more than six (6) months to resolve, ***12 or 75% involved a single set of Parties*** and arose from or related to a 2022 organizing campaign and/or Representation Petition.<sup>29</sup> Similarly, these same Parties were involved in the five (5) of the six (6) cases that have remained unresolved after twelve (12) months. All of the matters not resolved within six months, or within any relevant regulatory deadline, were the subject of extension(s) for good cause.

Another set of metrics by which to judge PELRB performance related to the amount of work individual PPCs require to resolve. For instance, this metric would examine such things as ***how many cases settle without requiring a hearing on the merits; and/or how many require some sort of motion practice or evidentiary hearings, even if a merits hearing is not ultimately required.*** As noted above and discussed below, many PELRB cases settle without requiring evidentiary or adjudicatory hearings, but there will still be a fair amount of litigation effort involved to “promote harmonious and cooperative relationships between public employers and public employees”, and “protect the public interest by ensuring, at all times, the orderly operation and functioning of the state and its political subdivisions.”

***As seen in the Operations Summary and data Tables below, although only eight (8) or 17% of the 48 PPCs processed in 2024 required an evidentiary hearing; 14 or 29% of them required some amount of active litigation or motion practice; and only 11 or 22% settled voluntarily. Additionally, 8.3% of the PPCs processed in 2024 involved judicial appeals that year.*** See Appendix C, Tables 2 and 3.

#### **D. Impasse Resolution<sup>30</sup>**

To date, the Board has also had limited powers related to bargaining impasses between employers and employees under the Act, acting primarily as a nominal monitor of any reported mediation or

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<sup>29</sup> These were cases filed between United Health Professionals and the Sandoval Regional Medical Center, mostly by the Union.

<sup>30</sup> See NMSA § 10-7E-4(J) (“‘impasse’ means failure of a public employer and an exclusive representative, after good-faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement”).

arbitration performed by other entities. This may change, however, in the coming months or years due to changes at the federal level of government.

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 (FMCS) procedures, specific timelines are imposed in the case of the State and its exclusive representatives, pursuant to Section 17 of the PEBA and the Uniform Arbitration Act, NMSA §§ 44-7A-1, et seq. See § 10-7E-18(A)(1).

Traditionally, the PELRB would refer Parties to Section 17 of the PEBA and the Uniform Arbitration Act, because impasse mediation and arbitration are functionally outside of the PELRB's control, notwithstanding some language of PEBA or PELRB rules.

For instance, § 10-7E-18 of PEBA presently provides that for either State or its political subdivisions, "either party may request from the board or local board that a mediator be assigned to the negotiations unless the parties can agree on a mediator"; and that "[a] mediator with the federal mediation and conciliation service shall be assigned by the board or local board to assist negotiations unless the parties agree to another mediator." See 10-7E-18(A)(1), and (B)(1). In fact, however, the PELRB has no authority to assign a private mediator through an independent Federal agency such as FMCS. Moreover, because one of the fundamental tenets of mediation is Party consent, the PELRB does not believe it has the authority to require Parties to seek a mediator from a particular source. Parties have in the past occasionally sought mediation services directly from PELRB Staff, an activity that the PELRB hopes to resume in the future.

In contrast to its mediation related provision, § 10-7E-18 of PEBA provides that for either State or its political subdivisions, "if the impasse continues after a thirty-day mediation period, either party may request a list of seven arbitrators from the federal mediation and conciliation service" (FMCS). See 10-7E-18(A)(1), and (B)(1). Thus, PEBA appropriately directs the Parties to contract with FMCS directly, but the Parties would occasionally notify the PELRB that they are at impasse.

In past years under Director Griego, the PELRB opened cases on those files. In 2024, the PELRB was not notified of any impasses, so no impasse files were opened. In contrast, in 2023, five impasse files were opened and the PELRB continued to monitor one additional impasse file was opened in 2021. As Director Griego noted in the 2023 Annual Report, the number of impasse matters ebb and flow with the general two- to three-year contract cycle for CBAs. However, we at the PELRB have no way of knowing what percentage of actual impasse matters are or will be reported to us, and the work of monitoring is minimal, so the case numbers are not meaningful as a measurement of PELRB operations or productivity.<sup>31</sup> At the issuance of this Report, all impasse

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<sup>31</sup> By way of comparison, no cases were opened for impasse matters from 2004 through the end of 2009. Thereafter, then-Director Griego opened and monitored the following number of impasse cases from 2011 through 2023: 2011 – 2 cases; 2012, 1 case; 2013, 1 case; 2017, 1 case; 2020, 2 cases; 2021, 5 cases; and 2023, 5 cases.

cases pending at the start of 2024 have been closed upon settlement or issuance of an arbitration award for which PELRB review was not sought.

***Because impasse mediation and arbitration are outside of the PELRB’s statutory authority to address or resolve, they are more in the nature of ministerial or administrative matters. As such, the PELRB intends to discontinue opening separate files on impasse arbitration matters, and notices of impasse will be filed with general correspondence for document retention and IPRA purposes. See NMSA §§ 14-3-1 et seq. (“Public Records Act”); NMAC §§ 1.21.2.1 et seq. (PRA implementing regulations); and NMSA §§ 14-2-1 et seq. (“Inspection of Public Records Act”).***

***However, it is possible that the PELRB will receive more requests for grievance and/or impasse mediation and/or arbitration services in FY25 and beyond.<sup>32</sup> As observed in Note 22, supra, Executive Order 14238 presently limits FMCS to its core or “mandated” federal and private sector functions. Upon PELRB information and belief, FMCS is no longer providing mediation or arbitration related services for state and local government actors. See E.O. 14238, “Continuing the Reduction of the Federal Bureaucracy”, dated 3/14/25 (located at <https://www.whitehouse.gov/presidential-actions/2025/03/continuing-the-reduction-of-the-federal-bureaucracy/>, last accessed 3/19/25). Accordingly, moving forward, PELRB Staff will monitor how EO 14238 impacts state and local collective bargaining in New Mexico.***

## **E. 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, to comport with changes in the substantive law, or simply to adjust procedures to better serve the PELRB’s mission.

The PELRB’s standard practice, preparatory to engaging in rulemaking, is to convene an ad hoc committee to advise PELRB Staff and/or the Board concerning possible changes to the PELRB rules. In June and July of 2023, the Staff convened an ad hoc committee to advise the PELRB on possible changes to the Board’s rules, and this ultimately led to the 2024 amendment of two PELRB rules: Rules 11.21.1.17 (Evidence admissible) and 11.21.2.37 (Unit clarification). The resulting proposed amendments were first presented to the Board for discussion at its regularly scheduled meeting held October 3, 2023, but not published for public comment during the 2023 reporting period. Notice and public comment occurred in early 2024, and the issue was addressed at the Board’s July 2, 2024 and October 1, 2024 meetings.

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<sup>32</sup> “Grievance” or “rights” disputes concern rights afforded by CBA; “impasse” or “interest” disputes instead concern the inability to form a CBA in the first instance.

*Effective November 5, 2024, Rules 11.21.1.17 (Evidence admissible) and 11.21.2.37 (Unit clarification) were amended upon an ad hoc committee’s recommendation. Changes to NMAC 11.21.1.17 expanded the scope of inadmissible evidence to include confidential information, and specified how and under what circumstances it may be excluded. Changes to NMAC 11.21.2.37 clarified that unit clarification is appropriate for resolving ambiguities concerning the unit placement of individuals who come within a newly established classification. The PELRB Rules as amended are available on our website: <https://www.pelrb.nm.gov/>.*

*For 2025, PELRB Staff plans to convene another ad hoc Rules Committee to consider whether the PELRB and its clients/users would benefit from additional clarity of the rules. Topics might include such things as clarifying PELRB regulatory deadlines, their extension, paper reduction, conditions of effective filing or service by email, effective and appropriate use of video hearings, the process for submitting interlocutory appeals, and/or other topics proposed by the ad hoc committee.*

## **F. Adjudication and Settlement**

The PELRB’s adjudicatory function serves the critical purpose of resolving both PPCs and Representation disputes or questions concerning representation (QCRs), although the former type of hearings are more common.

As prior Annual Reports have observed, historically, the PPC 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. Additionally, the PELRB is also often called upon to decide Representation Petition related questions, such as those concerning positions’ inclusion in or exclusion from a particular bargaining unit, appropriateness of a proposed unit, or objections to ballots or elections.

Over the course of PELRBs history, a majority of PPCs and Representation Petitions have not ultimately required a hearing on the merits – even if they required some level of motion practice or an evidentiary hearing on procedural matters – because the Parties were able to settle the matter. The 2023 Annual Report concluded that 2023 was a notable year in that only 20% of cases settled prior to hearing. *In 2024, we have returned to more normal rates of resolution without the need of a hearing on the merits, but robust and recurring motion practice has nonetheless impeded the ability of the PELRB to close cases within six months.* See Appendix C, Tables 2 and 3.

In both 2023 and 2024, these anomalies are largely attributable to the many hotly contested cases involving the University of New Mexico Hospital - Sandoval Regional Medical Center (UNMH-

SRMC or SRMC). Most of these cases involved extensive motion practice and preliminary hearings, and a number of them ended up in the New Mexico Courts on appeal.<sup>33 34</sup>

The only other Party with significant exposure in 2024 was UNM, which was involved in five (5) PPCs filed in 2024. However, those matters were not as heavily litigated as the SRMC matters.<sup>35</sup> Other than the outliers involving SRMC and UNM, the 2024 filings were spread between the various types of public employers.

There is also some *good news to report about the pending UNMH-SRMC related matters*. In 2024, *one of the two 2022 Representation Petitions was ultimately resolved* after the District Court affirmed Board Order 21-PELRB-22 regarding unit inclusion (IAMAW & UNMH-SRMC, PELRB 303-22). Additionally, *eight (8) of the 15 total PPCs filed or pending between the United Health Professionals of New Mexico, AFL-CIO (UHPNM) and UNMH-SRMC in 2024 have been resolved*. This leaves only seven (7) remaining open PPCs and one Representation Petition pending between these two Parties, four of which – the Petition and three PPCs – are pending at District Court or the Court of Appeals. Moreover, although only three (3) of these PPCs were resolved within six months in 2024, *the pace of litigation is clearly slowing; and all three of the Board Orders appealed during 2024 were affirmed*. *Lastly, UHPNM and UNMH-SRMC have recently expressed willingness to seek global mediation and settlement of the matters still*

<sup>33</sup> In 2023, there were ten (10) PPCs filed involving UNMH-SRMC, that emanated in wake of Representation Petitions involved disputes over unit composition. The PPCs generally alleged violations such as failure to bargain, discrimination, and retaliation related to individual and/or Union organizing activities. These 2023 filings also resulted in several District Court appeals and one before the Court of Appeals. See International Association of Machinists and Aerospace Workers (IAMAW), AFL-CIO v. UNMH-SRMC, PELRB 103-23; United Health Professionals of N.M., AFT (UHPNM) v. UNMH-SRMC, PELRB 105-23, appealed to District Court in 2023 as Case No. D-202-CV-2023-09603; UHPNM v. UNMH-SRMC, PELRB No. 107-23; IAMAW v. UNMH-SRMC, PELRB 108-23; UHPNM v. UNMH-SRMC, PELRB 109-23, appealed to District Court as Case No. D-202-CV-2024-01995; UHPNM v. UNMH-SRMC, PELRB 110-23, appealed to District Court as Case No. D-202-CV-2024-01996; UHPNM v. UNMH-SRMC, PELRB 111-23, appealed to District Court as Case No. D-202-CV-2024-01099; IAMAW v. UNMH-SRMC, PELRB 115-23; UHPNM v. UNMH-SRMC, PELRB 117-23, appealed to District Court as Case No. D-202-CV-2024-07978; UHPNM v. UNMH-SRMC, PELRB 121-23. See also PELRB 303-22, IAMAW and SRMC and 304-22, appealed to the District Court as Case No. D-202-CV-2023-00132 (Board Order 24-PELRB-2024 affirmed); PELRB 304-22, UHPNM & UNMH-SRMC, appealed to District Court as Case Nos. D-202-CV-2023-02118 (Board Orders 8-PELRB-2023 and 9-PELRB-2023 reversed) and D-202-CV-2023-09660 (Board Order 59-PELRB-23 reversed); and Court of Appeals Case No. A-1-CA-42271 (appealing the decision in D-202-CV-2023-09660).

<sup>34</sup> In 2024, there were eight (8) PPCs filed involving UNMH-SRMC, which also related to organizing activities related to the 2022 Representation petitions. See UHPNM v. UNMH-SRMC, PELRB 109-24; UHPNM v. UNMH-SRMC, PELRB 114-24; UHPNM v. UNMH-SRMC, PELRB 115-24; UHPNM v. UNMH-SRMC, PELRB 116-24, appealed to District Court in 2025 as Case No. D-202-CV-2025-02461; UHPNM v. UNMH-SRMC, PELRB 125-24; UHPNM v. UNMH-SRMC, PELRB 127-24; UHPNM v. UNMH-SRMC, PELRB 128-24; UHPNM v. UNMH-SRMC, PELRB 130-24.

<sup>35</sup> See US-UNM v. UNM, PELRB 103-24; Committee of Interns and Residents/SEIU v. UNM; PELRB 107-24; *UE v. UNM*; PELRB 108-24; *UA-UNM Unit 1 v. UNM*; PELRB 110-24; *NUHHCE v. UNM Hospital*; PELRB 123-24. In contrast to the SRMC related matters, all of these cases were resolved within 2024, all but one was resolved within six months of filing, and no judicial appeals were taken.

*pending* and the remaining seven PELRB matters pending between these two Parties have been stayed for good cause pending mediation/settlement efforts.

Should the remaining seven (7) PPCs and one Representation Petition pending between these two Parties be resolved without need of further motion practice, hearing, Board Review, or judicial appeal, it will free up PELRB Staff and resources to focus on its various outreach and education efforts. Settling these matters amicably will also hopefully return the PELRB to our former settlement numbers. ***To this end, the PELRB will continue to build into its Status and Scheduling Conferences prompts to encourage and facilitate settlement. Additionally, the PELRB hopes to make Staff available to the Parties to provide free mediation services in-house, in the future.*** See Note 11, supra.

### **G. Case Resolution Time Frames**

One of the PELRB's primary performance measures is the processing of cases within the time limits prescribed under PELRB rules. See FY26 DFA Performance Based Budgeting Data System, Annual Performance Report (APR), Agency 37900, PELRB (Performance measure: "percent of determinations of approval of local labor relations board, bargaining unit recognition petitions and prohibited practice complaints processed and completed within the applicable regulatory deadlines" – Target: 100%, 2025-24 Result 99%).<sup>36</sup>

Historically, as discussed, a large percentage settle without need for a hearing on the merits or extensive motion practice or other adjudication. As a matter of internal policy, the PELRB has aspired to close all matters within "**180 days**", see, e.g., 2023 Annual Report at 8-9, which is a **laudable goal**. **However, going forward this policy or heuristic is clarified as a "6 month" guideline.**

This change is made for several reasons. First, under PELRB rules, the computation of a stated number of days excludes weekends and holidays, so 180 days would actually be more like 255 business days, which is not a normal or standard time frame in legal or labor matters. Second, PELRB's regulatory timelines are complicated and variable and cannot be directly equated to a six-month process deadline. See Appendix D, Regulatory Case Processing Timelines. Sometimes the PELRB rules will require resolution sooner than six months, and in some cases the timelines will be extended or stayed based upon the Parties' actions. For instance, Parties may file any number of motions that require response; and deadlines may be extended upon Party request or *sua sponte* for good cause. Id. Third, although it is far less common, a number of Board Orders are appealed further to the New Mexico District Courts or beyond, so may therefore take additional months or even years to resolve.

At the same time, while it is not a "perfect fit" for PELRB operations, maintenance of a six-month guideline is critical to ensure attainable accountability for the PELRB. Specifically, it would be unduly burdensome, with our limited Staff, to document whether each PPC or Representation

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<sup>36</sup> The FY26 APR incorrectly states that PELRB only achieved a 1% compliance rate.

Petition was processed in compliance with the myriad of PELRB rules related to time. See Appendix D, Regulatory Case Processing Timelines.

*As such, the PELRB will continue to aspire to the six-month processing goal. Note, however, that it is not a statutory or regulatory requirement. It is also not always possible to achieve unless the PELRB treats extensions of time for good cause as extending the deadline. As such, the PELRB shall so treat extensions for good cause – including extensive motion practice and/or appellate litigation – as extending deadlines. Additionally, the six-month guideline shall not be applied where it conflicts with relevant PELRB regulatory timelines.*

*In 2024, 92% of Representation Petitions and 67% of the PPCs processed that year were resolved within six months. Where the target was not met, processing time was extended for good cause, such as illness, extensive motion practice, judicial appeal, etc. Additionally, all matters processed in 2024 were still timely processed under PELRB rules.*

Because the 2024 Annual Report represents a shift in methodology, the incoming Director is unable to say how 2024 processing time compares to that in prior years but she notes that the weight of the 2013-2023 Annual Reports is that the PELRB under Executive Director Griego has continued the commitment to prompt processing first begun under PEBA I Executive Director Patrick Halter, and continued under PEBA II by Executive Director Juan Montoya. Under Director Vaile, the PELRB intends to maintain that same commitment to efficiency and timeliness, as balanced against the dictates of providing a fair hearing and/or due process to the Parties appearing before us.

### **III. 2024 PELRB CASELOAD AND OPERATIONS SUMMARY**

*A total of 60 cases in all categories were opened in 2024, compared to 70 cases filed in the 2023 reporting period.*

Although the total number of case filings in 2024 decreased compared to the prior reporting period, experience and the case data teaches us that annual case filings vary, sometimes wildly. They also teach us that a certain amount of Staff hours will always be needed to timely process whatever Complaints or Petitions are filed; and to ensure continued effective administrative operations such as managing our budget, annual audit, service contracts and purchasing, maintaining files, assembling the “record proper” in the event of an appeal, and updating the case indexes, practice manuals and advisories maintained pursuant to the PEBA and PELRB Rules. See NMSA § 10-7E-9(B)(2) (“the board...shall...conduct studies on problems pertaining to employee-employer relations”); and NMAC 11.21.1.30 (Publication of Board decisions).

*For instance, we have seen years in which cases spiked, such as from 130 to 85 in 2004 to 2005; from 70 to 47 and back to 70 from 2009 to 2011; and from 16 to 50 from 2019 to 2020. During periods of low case activity, Staff focuses more on administrative imperatives and other strategic goals. As such, the Executive Director considers the PELRB to be fully and appropriately staffed to manage filings in the foreseeable future, and to maintain effective operations. Although the case load in some years will not permit Staff hours be devoted to maintaining our*

*Practice Manual or Keyword Digest, or engage in public outreach and education, there will inevitably be a bit of a “lull” at some point, when we are able to do so.<sup>37</sup> This forecast, however, presumes we will not see a sudden and statistically significant increase in our filings, such as related to changes at FMCS or discontinuation of a Local Board with a large case volume. See Notes 22 and 38.*

More detailed analysis of the 2024 statistical data by case category is available in the Case Loads and Operations Summary section below the Tables appended herein. See Sec. III and Appendix C, Tables 1-7. Tables demonstrating the ebb and flow of PELRB case filings over the past 20+ years are also appended. See Appendix A, All Cases Filed 2004-2024.

## **A. Local Boards**

Staff continued to monitor those remaining Local Boards operating in 2024 to ensure that they remained fully functional, including without vacancies on their boards for more than sixty days, and that they have not been voted out of existence by the public employer or by the Local Board itself. See NMSA § 10-7E-10(F) and (G) (2020); see also <https://www.pelrb.nm.gov/wp-content/uploads/2024/02/local-boards-contact-and-filing-info-2024-02-01.pdf>.

The following local boards continue to operate:

1. *City of Albuquerque* - The necessary affirmations were submitted so that they continue to operate as of 2023. The City of Albuquerque’s Labor Management Relations Board is comprised of the Hon. (Ret.) Ted Baca, Chair, and Members Juan Montoya and Bruce Perlman. They meet twice a month and average about 30 cases a year, 75% of which are estimated to settle without a hearing on the merits.<sup>38</sup> The City Labor Board’s contact information, Agendas, and Meeting Minutes can be found here: <https://www.cabq.gov/clerk/administrative-hearings/labor-management-relations-board>; see also <https://www.pelrb.nm.gov/wp-content/uploads/2024/02/local-boards-contact-and-filing-info-2024-02-01.pdf>.
2. *Albuquerque Public Schools* - The necessary affirmations were submitted on December 8, 2023 so that so that they continue to operate as of 2023. The APS Labor Management

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<sup>37</sup> All of these functions are identified as strategic goals in the PELRB’s “Strategic Plan”. The PELRB provides its Strategic Plan to the Department of Finance and Administration (DFA) as part of its annual budget building process, and the PELRB has typically been appended that Strategic Plan to the PELRB’s Annual Report. In this and future Reports, the Strategic Plan will be summarized and scaled down to focus on goals that are attainable within our authorized staffing and budget. See Appendix E.

<sup>38</sup> On March 24, 2025, PELRB Staff attended a meeting of the City of Albuquerque Labor Management Relations Board; this information was provided in the course of our interviews with the Albuquerque Local Board members before and after their meeting. We at the PELRB wish them great luck in maintaining their Local Board’s membership, because the PELRB presently lacks the staffing and budget to handle 30 additional cases a year. See Appendix E, Note on Performance Measures, Strategic Goals, and PELRB Staffing and Budgetary Constraints.

Relations Board is comprised of the Hon. (Ret.) Ted Baca, Chair, and Members Juan Montoya and Sandra Jo Sloan. Their case load is far smaller than that of the City of Albuquerque. The APS Labor Board's contact information can be found here: <https://www.aps.edu/human-resources/labor-relations>.

3. *Town of Silver City* - The necessary affirmations were submitted so that they continue to operate as of 2023. The most recent Board members currently listed on their website are: A.J. Tow, Tony Garcia, Terry Fortenberry. The Town Labor Board's contact information can be found here: <https://www.townofsilvercity.org/440/Town-Labor-Management-Relations-Board>. See also <https://www.pelrb.nm.gov/wp-content/uploads/2024/02/local-boards-contact-and-filing-info-2024-02-01.pdf>.
4. *City of Deming* - The necessary affirmations were submitted on December 29, 2023 so that they continue to operate as of 2023. The Members are Tyler Benting, Edward Apodaca, and Michelle Apodaca. See <https://www.pelrb.nm.gov/wp-content/uploads/2024/02/local-boards-contact-and-filing-info-2024-02-01.pdf>.

The next biennial reporting/certification deadline is December 29, 2025.

## **B. Prohibited Labor Practice Cases**

***Of the 60 new case filings in 2024, 35 were Prohibited Practice Complaints (PPCs), compared with 25 PPCs filed in 2023.*** Thus, Staff's conclusion in the 2023 Annual Report that PPC filings would continue to be fairly constant has not proven correct. However, as noted above, all filings have ebbed and flowed year to year. See Appendix A, All Cases Filed 2004-2024. In addition to processing the 35 new PPCs, the PELRB ***also resolved or continued to process thirteen (13) matters pending from 2023.***<sup>39</sup>

### **(1) New PPCs Filed in 2024**

The process history and status of the 35 PPCs filed in 2024 are summarized below. It is from this data that the Tables in Appendix C are generated, although the Tables only tabulate activity that occurred in 2024.

As will be seen, ***20 of the 2024 PPCs and 10 of the remaining 2023 PPCs were closed in 2024. Five (5) were sustained in part, three (3) were dismissed after hearing; seven (7) were summarily dismissed for facial inadequacy or upon motion to dismiss or deferral to arbitration; and 15 were withdrawn and settled voluntarily prior to a hearing on the merits. At the same time, as discussed, 14 or 29% required some level of motion practice.*** See Appendix C, Tables 2 and 4.

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<sup>39</sup> As of the issuance of this Report at the end of the first quarter of 2025, nine (9) PPCs have been filed in 2025 so far. Should 25Q1 be representative of the entire year, the PELRB is on track to receive about 36 cases in 2025. As noted elsewhere, however, the data and past experience teaches us that there is no reason to presume there will be fewer or greater filings than occurred in the first quarter.

1. *AFSCME Local 3822 v. WNMU*, PELRB 101-24 (January 16, 2024). The Union filed the Complaint on January 16, 2024, alleging unilateral changes to the time-clock policy. An Answer was filed on February 14, 2014. The Complaint was withdrawn on June 7, 2024 and a Voluntary Dismissal issued the same day. The file was closed on July 11, 2024, after the July meeting of the PELRB.
2. *Herrin v. Albuquerque Teachers' Federation*, PELRB 102-24 (January 23, 2024). An Employee filed a Complainant on January 23, 2024, against the Union representing teachers at Albuquerque Public Schools. The Complaint was found to be inadequate because Albuquerque Public Schools has a Local labor Board, pursuant to Section 10 of the PEBA. The file was closed on February 8, 2024.
3. *US-UNM v. UNM*, PELRB 103-24 (February 13, 2024). The Union filed the Complaint on February 13, 2024, alleging discrimination and retaliation against bargaining unit members. An Answer was filed on March 5, 2024. The Complainant requested injunctive relief, which was denied after a hearing, by letter decision on April 8, 2024. The Complaint was withdrawn on September 16, 2024 and a Voluntary Dismissal issued the next day. The file was closed on October 4, 2024, after the PELRB's regular October meeting.
4. *AFSCME Local 3422 v. NM Corrections Department*, PELRB 104-24 (February 14, 2024). The Union filed the Complaint on February 14, 2014, alleging unilateral changes to the shift-bid process. An Answer was filed on February 29, 2024. An Amended PPC was filed on April 16, 2024, and an Answer to the Amended PPC was filed on May 7, 2024. A Petition for a Temporary Restraining Order was filed on May 31, 2024; a Response was filed on June 13, 2024, and a hearing was held on June 14, 2024. Closing Briefs were submitted and a Decision granting the TRO was issued June 20, 2024. Prior to a hearing on the merits, the Parties informed Staff that the matter had been resolved, but on September 16, 2024, the Union filed a motion to enforce the settlement agreement. A Response was filed on September 26, 2024. A hearing on the merits of the Motion to Enforce was conducted December 9, 2024 and a Letter Decision issued December 20, 2024. The Hearing Examiner found that "the last bargained for roster" referred to the last negotiated and agreed upon roster and that the Respondent breached the settlement agreement by implementing the last bargained roster rather than "the last bargained for roster". Thereafter, NMCD timely requested Board review; the Union timely filed a response. After hearing oral arguments at its regular January 2025 meeting, the Board affirmed the Hearing Examiner's findings and recommended decision by Order dated February 15, 2025 (5-PELRB-2025), and the Respondent appealed the matter to District Court on March 5, 2025 (D-202-CV-2025-02137), so this matter will be reported on in 2025.
5. *AFSCME 1529 v. Doña Ana County*, PELRB 105-24 (February 15, 2024). The Union filed the Complaint on February 15, 2024, alleging retaliation and failure to abide by the disciplinary process. An Answer was filed on March 5, 2024. The Complaint was withdrawn on March 22, 2024 and a Voluntary Dismissal issued the same day. The file was closed on May 10, 2024, after the May meeting of the PELRB.

6. *CWA v. Roswell Independent School District*, PELRB 106-24 (March 20, 2024). The Union filed the Complaint on March 20, 2024, alleging a failure to bargain in good faith by refusing to provide relevant information during negotiations. An Answer was filed on April 11, 2024. The Complaint was withdrawn on June 11, 2024 and a Voluntary Dismissal issued the same day. The file was closed on July 11, 2024, after the July meeting of the PELRB.
7. *Committee of Interns and Residents/SEIU v. UNM*, PELRB 107-24 (April 24, 2024). The Union filed the Complaint on April 24, 2024 alleging retaliation for asserting “Weingarten rights” and failing to provide information. The Complaint was withdrawn on July 15, 2024 and a Voluntary Dismissal issued the same day. The file was closed on August 7, 2024, after the August meeting of the PELRB.
8. *UE v. UNM*, PELRB 108-24 (April 25, 2024). The Union filed the Complaint on April 25, 2024, alleging that the University was attempting to assign bargaining unit work outside the bargaining unit. The Complaint was found to be inadequate on April 26, 2024, because the attached exhibit(s) did not support the allegations. The Complaint was dismissed on May 6, 2024, after the period to cure defects had elapsed. The Board affirmed the Dismissal by Order 25-PELRB-2024 and the file was closed on July 11, 2024.
9. *United Health Professionals of NM (UHPNM) v. UNMH-Sandoval Regional Medical Center (UNMH-SRMC or SRMC)*, PELRB 109-24 (May 1, 2024). The Union filed the Complaint on May 1, 2024, alleging various violations of the PEBA related to unilateral changes to the terms and conditions of the employment of bargaining unit members. An Answer was filed on May 22, 2024. The Respondent filed a Motion to stay on May 31, 2024; A Response to the Motion was filed on June 14, 2024. The Motion was denied by letter decision on June 18, 2024, and the Board denied a request for interlocutory appeal of the denial of the Motion to Stay at the July meeting (see Order 30-PELRB-2024). The Complaint was withdrawn on October 15, 2024 and a Voluntary Dismissal issued the same day. The file was closed on November 15, 2024, after the November meeting of the PELRB.
10. *UA-UNM Unit 1 v. UNM*, PELRB 110-24 (May 3, 2024). The Union filed the Complaint on May 3, 2024 alleging a failure to provide information during the disciplinary/grievance process. An Answer was filed on May 29, 2024. The Respondent filed a Motion for Summary Judgement on July 31, 2024. The Complaint was withdrawn on August 7, 2024 and a Voluntary Dismissal issued the same day. The file was closed on September 6, 2024, after the September meeting of the PELRB.
11. *IAFF Local 5441 v. Torrance County*, PELRB 111-24 (May 31, 2024). The Union filed the Complaint on May 31, 2024 alleging retaliation and discrimination against Union members. An Answer was filed untimely on June 27, 2024. A Determination of Default was issued June 28, 2024, pursuant to NMAC 11.21.3.11. On the Employer’s Motion, the Board ordered at its August meeting that the default be set aside (Order 31-PELRB-2024). The Complaint was withdrawn on October 25, 2024 and a Voluntary Dismissal issued the

same day. The file was closed on November 15, 2024, after the November meeting of the PELRB.

12. *Lucero v. North Central Regional Transit District*, PELRB 112-24 (June 10, 2024). An individual Employee filed the Complaint on June 10, 2024, alleging discrimination and retaliation for concerted activity in violation of the PEBA after he submitted proposal regarding scheduling and other terms and conditions of employment to District management. An Answer was filed by the Employer on June 20, 2024, followed by a Motion for Summary Judgment (MSJ) on July 16, 2024. A Response to the MSJ was timely filed by the Complainant on July 29, 2024. A Decision granting the Motion was issued July 30, 2024; no request for review was submitted and the file was closed on September 6, 2024.
13. *NMCPSO v. Otero County*, PELRB 113-24 (June 10, 2024). The Union filed the Complaint on May 31, 2024, alleging numerous violations of the PEBA in relation to the transfer of a bargaining unit employee to a new position. An Answer was filed on July 2, 2024. The Parties informed Staff that settlement negotiation had been fruitful but have yet to withdraw the Complaint. The case was administratively closed pursuant to NMAC 11.21.1.29 effective February 3, 2025 by letter dated January 24, 2025 and will be reported on in the 2025 Annual Report.
14. *UHPNM v. UNMH-SRMC*, PELRB 114-24 (June 14, 2024). The Union filed the Complaint on June 14, 2024, alleging various violations of the PEBA related to the Employer's refusal to provide information requested by the Union, which sought the names, addresses, personal phone numbers, personal e-mail addresses, job titles, salary, work site information, and an employee ID of all bargaining unit employees represented by the Complainant. An Answer was filed on July 5, 2024. The Union filed a Motion for Summary Judgment on August 9, 2024. A Response to the MSJ was timely filed by the Employer on August 20, 2024. A Decision denying the motion was issued August 20, 2024, after which a merits hearing was conducted on September 24, 2024. After dismissing certain statutory claims, the Hearing Examiner sustained others, determining that "all of the information and documents requested are presumptively relevant to the Union's duties to its members under PEBA and to enforce their rights", that "UNM SRMC's actions have the potential effect of undermining the authority of the Union and eroding support for the Union as the certified representative", and that "UNM SRMC's refusal to respond to information requests is a *per se* violation of the Employer's duty to bargain in good faith with the duly authorized representative." The Board affirmed the Hearing Examiner's Report and Recommended Decision at its November 12, 2024 meeting (Order 44-PELRB-2024) and the file was closed by letter November 20, 2024.
15. *UHPNM v. UNMH-SRMC*, PELRB 115-24 (June 20, 2024). The Union filed the Complaint on June 20, 2024, alleging discrimination and retaliation against an employee who had previously testified in PELRB proceedings between the Parties. An Answer was filed on July 11, 2024. The Complaint was withdrawn on September 12, 2024 and a Voluntary Dismissal issued the same day. The file was closed on October 15, 2024.

16. *UHPNM v. UNMH-SRMC*, PELRB 116-24 (May 1, 2024). The Union filed the Complaint on June 24, 2024, alleging various violations of the PEBA related to unilateral changes to the terms and conditions of the employment of bargaining unit members. An Answer was filed on July 15, 2024. A Hearing on the Merits was conducted September 10, 2024, and Closing Briefs were filed October 7, 2024. On December 13, 2024, the Hearing Examiner issued his Report and Recommended Decision, which found that some of the alleged changes did not occur, and the Union failed to request bargaining on others. Accordingly, the Hearing Examiner recommended that the PPC be dismissed with prejudice. Thereafter, the Union timely requested Board review; the Respondent timely filed a Response; and after hearing oral arguments at its regular January 2025 meeting, the Board affirmed the Hearing Examiner's findings and recommended decision by Order dated February 15, 2025, and served February 18, 2025 (6-PEBRB-2025). On March 15, 2025, the Union filed its Notice of Appeal (D-202-CV-2025-02461), so this matter will be reported on in the 2025 Annual Report.
17. *IAFF Local 244 v. Bernalillo County*, PELRB 117-24 (June 18, 2024). The Union filed the Complaint on June 24, 2024, alleging various violations of the PEBA related to unilateral changes to the promotion policy. An Answer was filed on July 3, 2024. The Complaint was withdrawn on September 13, 2024 and a Voluntary Dismissal and Closing letter issued the same day. The file was closed on September 13, 2024.
18. *Belen Consolidated Schools v. BFUSE*, PELRB 118-24 (August 8, 2024). The Employer filed the Complaint on August 8, 2024, alleging a failure to bargain in good faith by the Union during recent CBA negotiations. An Answer and Counterclaim was filed August 18, 2024, alleging it was in fact the Employer who had failed to bargain in good faith. An Answer to the Counterclaim was filed on September 6, 2024. The Complaint was withdrawn on October 21, 2024 and a Voluntary Dismissal issued the next day. The file was closed on November 15, 2024, after the November meeting of the PELRB
19. *IAFF Local 5441 v. Torrance County*, PELRB 119-24 (August 9, 2024). The Union filed the Complaint on August 9, 2024, alleging unilateral changes to the terms and conditions of employment by the County by transferring bargaining unit work to non-unit employees. An Answer was filed on August 19, 2024. The Complaint was withdrawn on December 2, 2024 and a Voluntary Dismissal issued the same day. The file was closed after the January 2025 meeting of the PELRB, by letter dated January 13, 2024, and it will be reported in the 2025 Annual Report.
20. *CWA v. NM Environment Dept.*, PELRB 120-24 (August 13, 2024). The Union filed the Complaint on August 13, 2024, alleging a breach of the CBA by the Employer who had failed to comply with a settlement reached in a previous dispute. An Answer was filed on September 4, 2024, and a Status and Scheduling Conference was held on September 12, 2024. On October 15, 2024, a Motion to Extend Deadlines was filed, which was granted the following day. On February 4, 2024, another Status and Scheduling Conference was held by the new Director, and an Amended Scheduling Notice for a merits hearing on March 11, 2024 was issued the same day. On February 26, 2025, the previous Scheduling

Notice was stayed by settlement agreement and Joint Motion although the case remains open for now.

21. *Franklin v. Central New Mexico Employees Union*, PELRB 121-24 (August 13, 2024). The Complainant filed the Complaint on August 13, 2024, alleging violations of Sections 19 and 20 of the PEBA by other members of the Union in relation to her role as Union President. The Complaint was found to be inadequate because it did not meet the requirements of NMAC 1.21.3.8(A). The Complaint was dismissed on August 23, 2024, after the period to cure defects had elapsed.
22. *CWA v. NM Dept. of Health*, PELRB 122-24 (August 15, 2024). The Union filed the Complaint on August 15, 2024, alleging the Employer had failed to bargain in good faith by refusing to provide information the Union had requested. A Motion to Extend the Time to File an Answer was filed on August 19, 2024. The Motion was granted by Letter Decision on August 20, 2024. An Answer and Counterclaim was filed on September 11, 2024. An Answer to the Counterclaim was filed on September 30, 2024. The Respondent filed a Motion to Defer to Arbitration on October 11, 2024, and a Response was filed on October 21, 2024. A letter decision denying the motion was issued October 22, 2024. A Motion to Dismiss was filed on October 23, 2024; the Response was filed on November 18, 2024. A decision denying the motion was issued on November 18, 2024. A Motion to Reconsider was filed on November 25, 2024, and denied by Letter Decision on December 13, 2024. Thereafter the PPC was withdrawn on January 2, 2025; a Voluntary Dismissal was issued on January 24, 2025; and the file was closed on February 14, 2025, so it will also be reported in the 2025 Annual Report.
23. *NUHHCE v. UNM Hospital*, PELRB 123-24 (August 20, 2024). The Union filed the Complaint on August 20, 2024, alleging the Employer had failed to bargain in good faith by refusing to provide information the Union had requested. The Complaint was withdrawn on September 5, 2024, and a Voluntary Dismissal issued the same day. The file was closed on October 2, 2024, after the October meeting of the PELRB.
24. *AFSCME 1188 v. Española*, PELRB 124-24 (August 27, 2024). The Union filed the Complaint on August 27, 2024, alleging the Employer had failed to bargain in good faith by engaging in dilatory tactics. The Complaint was withdrawn on September 27, 2024, and a Voluntary Dismissal issued the same day. The file was closed on November 15, 2024.
25. *UHPNM v. UNMH-SRMC*, PELRB 125-24 (August 30, 2024). The Union filed the Complaint on August 30, 2024, alleging retaliation and discrimination against an employee for her concerted activities. Scheduling was held in abeyance until the Respondent could obtain a protective order from the District Court, and a Stipulated Protective Order issued on 12-5-24. A Status and Scheduling conference was held on February 3, 2025, and a merits Scheduling Notice was issued on February 4, 2025, setting the matter for hearing on March 26-27, 2025. On March 6, 2025, the matter was stayed upon Joint Motion pending the Parties' attempts to settle this and related cases pending between the Parties through mediation.

26. *AFSCME, Council 18 v. Luna County*, PELRB 126-24 (September 16, 2024). The Union filed the Complaint on September 16, 2024, alleging discrimination and retaliation for union affiliation. An Answer was filed on October 7, 2024. A Scheduling and Status Conference was held on September 23, 2024, and the merits hearing was noticed on October 9, 2024 for November 21, 2024. Thereafter Staff were notified that the Parties had reached a settlement agreement on November 5, 2024, after which the PPC was withdrawn and a Voluntary Dismissal was issued on December 4, 2024. The file was closed on January 13, 2025, after the Board's regular January 2025 meeting, so will be reported in the 2025 Annual Report.
27. *UHPNM v. UNMH-SRMC*, PELRB 127-24 (September 20, 2024). The Union filed the Complaint on September 20, 2024, alleging discrimination and retaliation for union activity. The Complaint was withdrawn on October 7, and a Voluntary Dismissal issued the same day. The file was closed on October 7, 2024.
28. *UHPNM v. UNMH-SRMC*, PELRB 128-24 (September 23, 2024). The Union filed the Complaint on September 23, 2024, alleging interference/coercion regarding union activity. An Amended PPC was filed on October 1, 2024. An Answer to the Amended PPC was filed on October 22, 2024. Respondent filed a Motion to Dismiss on November 22, 2024, and a Response was timely filed. A letter decision denying the motion was issued on December 4, 2024. Thereafter, a hearing on the merits commenced on January 29, 2025, and continued until February 19, 2025. The February 19, 2025 setting was unable to proceed because subpoenaed Witnesses for both Parties failed to appear as directed. Presently the matter is stayed as the Parties contemplate mediation for this and the other pending PELRB matters involving these same Parties. If mediation is not successful, the Parties ask the PELRB to write a letter to the Second Judicial District Court in support of an Order compelling the Witnesses' appearance.
29. *AFSCME 2475 v. Valencia County*, PELRB 129-24 (September 30, 2024). The Union filed the Complaint on September 30, 2024, alleging bad faith bargaining. An Answer and Counterclaim (alleging bad faith bargaining on the part of the union) on October 15, 2024. An Answer to the Counterclaim was filed on November 5, 2024. The Complaint and Counterclaim were both withdrawn on November 15, 2024, and a Voluntary Dismissal issued November 18, 2024. The file was closed on January 13, 2025, after the January 2025 meeting.
30. *UHPNM v. UNMH-SRMC*, PELRB 130-24 (October 15, 2024). The Union filed the Complaint on October 15, 2024, alleging retaliation and discrimination against an employee for her concerted activities under the same facts as 127-24. An Answer was filed on November 5, 2024. A Status and Scheduling Conference was held on November 20, 2024, and the matter has been noticed for a hearing on the merits on March 19-20, 2025, by an Amended Scheduling Notice dated Jan. 31, 2025. Thereafter, the matter was stayed upon Joint Motion pending the Parties' attempts to settle this and related cases pending between the Parties through mediation.

31. *IAFF Local 2362 v. Lac Cruces*, PELRB 131-24 (November 14, 2024). The Union filed the Complaint on November 14, 2024, alleging that the City breached an agreement with the Union regarding the promotion of MIH firefighters to Lieutenants. The Complaint was dismissed on November 22, 2024 for failure to include the required declaration and failure to timely file a proof of service.
32. *IAFF Local 2362 v. Lac Cruces*, PELRB 132-24 (November 26, 2024). The Union filed the Complaint on November 26, 2024, alleging that the City breached an agreement with the Union regarding the promotion of MIH firefighters to Lieutenants. An Answer was filed on December 19, 2024. Thereafter, the Status and Scheduling conference was canceled on December 20, 2024; the PPC was withdrawn on February 11, 2025; and a Voluntary Dismissal was issued the same day.
33. *AFSCME Local 477 v. CYFD*, PELRB 133-24 (December 10, 2024). The Union filed the Complaint on December 10, 2024, alleging discrimination/retaliation and a failure to provide information relating to the discipline of a bargaining unit member. A Status and Scheduling Conference was held on January 21, 2025, after which the matter was noticed for a hearing on the merits. On February 12, 2025, the PPC was withdrawn and on February 13, 2025 a Voluntary Dismissal was issued.
34. *CWA v. NMDOH*, PELRB 134-24 (December 10, 2024). The Union filed the Complaint on December 10, 2024 alleging a failure to provide information relating to the discipline of a bargaining unit member. An Answer and Counterclaim were filed on January 27, 2025, and the matter was set for a Status and Scheduling Conference on February 14, 2025. On February 14, 2025, the matter was deferred by letter decision to arbitration because the PPC and Grievance involve overlapping facts, and the Grievance has been set by that Arbitrator for a motion hearing in March 2025 and a hearing on the merits in May 2025.
35. *United Electrical Workers, Local 1466 v. UNM*, PELRB 135-24 (December 19, 2024). The Union filed the Complaint on December 10, 2024, alleging a failure by UNM to provide information relating to the employees in the petitioned-for unit in PELRB 324-24. An Answer was filed on January 13, 2025, and a Status and Scheduling Conference was held on January 30, 2025. The resulting Amended Scheduling Order and Notice of Hearing was issued on January 31, 2025, pursuant to which the Union filed a Motion to Amend the PPC, and the proposed Amended PPC, on February 13, 2025. On February 14, 2025, the Hearing Examiner determined to accept the Amended PPC without requiring a Response; about which another Status Conference was held on February 17, 2025, to hear UNM's objections to the Amended PPC being accepted without a Response. After reaffirming her earlier determination that neither a Motion nor a Response were required to accept the Amended Complaint, the Hearing Examiner set the matter for dispositive briefing (Motions by April 4, 2025 and Responses by April 18), and a merits hearing on April 23, 2025.

## (2) 2023 PPCs Processed and/or Resolved in 2024

The following thirteen (13) PPCs were resolved or continue to be processed in 2024, although filed in the 2023 reporting period:

1. *UHPNM v. UNMH-SRMC*, PELRB 105-23 (March 9, 2023). The Union filed the Complaint on March 9, 2023, alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. University of New Mexico Sandoval Regional Medical Center filed its Answer on March 31, 2023, generally denying the Union's claims. United Health Professionals of New Mexico, AFT, filed a Motion to Amend the PPC on May 1, 2023 and the Hearing Examiner granted it the same day. An Amended PPC was filed on June 1, 2023, alleging additional discriminatory behavior by the Respondent relating to a work injury. SRMC Answered the Amended PPC on June 16, 2023. After an Offer of Proof filed on July 10, 2023, SRMC filed a Motion for Summary Judgment on July 21, 2023. Complainant's Response was filed on August 5, 2023. The Hearing Examiner denied Summary Judgment as to the Union's claimed violations of Sections 5(A) and (B); Sections 19(A), (B), (D), (E) and (G) but granted summary dismissal of its claims that the employee's *Weingarten* rights were violated and that SRMC breached an obligation to bargain discipline of individual unit employees prior to imposing that discipline. A hearing on the merits of the surviving claims was held on September 12, 2023. Closing briefs in lieu of oral argument were submitted on September 29, 2023, and the Hearing Examiner rendered his Decision on October 10, 2023, concluding that the Union failed to meet its burden of proof and the Complaint was dismissed. The Board affirmed the Director's dismissal by Order dated November 16, 2023 (60-PELRB-2023). The Union appealed the Board's Decision to the District Court on December 18, 2023 (D-202-CV-2023-09603). Statements of Appellate Issues were filed on February 19, 2024, and on June 28, 2024 the Court affirmed the Board's order finding no violation of PEBA and dismissing the Complaint. No further appeal was taken, and the matter is now closed.
2. *UHPNM v. UNMH-SRMC*, PELRB 107-23 (April 10, 2023). The Union filed the Complaint on April 10, 2023, alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on April 28, 2023. A Stipulated Protective Order was sought from and issued by the District Court on June 28, 2023 (202-CV-2023-04175). Thereafter, the Parties filed a Joint Motion with the PELRB for a Stay (granted on August 24, 2023) to allow the PELRB to comply with a District Court Remand in PELRB 304-22. On November 20, 2023, the Board issued an Order in Case 304-22, affirming its prior Orders in that matter (59-PELRB-2023). Thereafter, further scheduling in Case 107-23 was again stayed pending argument on another Writ of Mandate to be argued on February 6, 2024 in case number D-202-CV-2023-01330 (the final order dismissing that District Court action was not issued until 8/21/24). Thereafter, a merits hearings were scheduled for August 24 and November 7, 2024 but postponed by District Court Decision in D-202-CV-2023-09660, reversing the Board and finding PRNs are not "regular employees". On November 12, 2024, the Board ordered Staff to determine in PELRB Case No. 304-22 whether the unit was "appropriate" without PRNs and, if so, whether majority

support without the PRNs existed. Respondent filed a Motion to Dismiss on November 5, 2024, a Response was filed on November 20, 2024, and the Hearing Examiner denied the Motion on November 22, 2024. A hearing on the merits in Case 107-23 was scheduled for December 13, 2024 but was vacated and has yet to be rescheduled. The Parties advise Staff that they are seeking to mediate a global settlement on this and related pending matters between the Parties, now that the Union has been certified without PRNs and the Parties executed a CBA in early 2025.

3. *UHPNM v. UNMH-SRMC*, PELRB 109-23 (May 5, 2023). The Union filed the Complaint on May 5, 2023, alleging violations of Sections 5(A), 5(B), and 19(A), (B), (C), (D), (F), & (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 26, 2023, along with a Motion to Stay the Proceedings in light of the District Court's ruling in D-202-CV-2023-02118 (overturning the Board's Decision in PELRB 304-22 recognizing the Complainant herein as the exclusive representative for a bargaining unit comprising PRN nurses among other positions). A Response was filed on June 12, 2023. The Motion to Stay was denied by letter decision on July 26, 2023. A Status and Scheduling Conference was held on August 4, 2023 to set deadlines for dispositive motions and to schedule a merits hearing to be held on October 30, 2023. At its September 5, 2023 meeting, the Board denied the Respondent's interlocutory appeal of the July 2024 denial of its Motion to Stay (40-PELRB-2023). Before then, SRMC filed a Motion to Dismiss on August 22, 2023, and a separate Motion for Summary Judgment on September 1, 2023. The Union filed separate Responses to both on September 13, 2023. The Executive Director denied both motions on September 14, 2023. A Merits Hearing was held on November 1, 2023, and closing briefs were received November 30, 2023. The Hearing Examiner issued his Report on December 8, 2023, finding and recommending that some of the charges be sustained and some dismissed. The Hearing Examiner's Report was adopted by the Board at its January 2024 meeting, upon a request for review, by order dated February 8, 2024 (8-PELRB-2024). Thereafter SRMC petitioned the District Court for an Alternate Writ of Mandamus, which was denied on February 6, 2024. On March 8, 2024, SRMC filed its Notice of Appeal to District Court, and statements of issues and responses were filed July 11, 2024 and August 19, 2024 (D-202-CV-2024-01995). A Notice of completion of briefing was filed on June 28, 2024; and on November 14, 2024, SRMC filed a Notice of supplemental authority. No further action has been taken since then.
4. *UHPNM v. UNMH-SRMC*, PELRB 110-23 (May 5, 2023) The Union filed the Complaint on May 5, 2023, alleging violations of Sections 5(A), 5(B), and 19(A), (B), (C), (D), (F), and (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 26, 2023, along with a Motion to Stay the Proceedings. The Motion to Stay was denied by letter decision on July 26, 2023. UNMH-SRMC filed a Motion to Dismiss on August 24, 2023, which was denied for the most part. However, the issue of whether and to what extent the Final Memorandum Opinion and Order issued in Cause No. D-202-CV-2023-02118 affected the Union's claim for violation of Section 19(F) of the PEBA was taken under advisement. A merits hearing

was held November 1, 2023, after which the Hearing Examiner issued his Report and Recommendations on December 08, 2023, finding that SRMC breached a statutory duty to bargain with the Union over layoffs announced in April, 2023 and carried out in May of 2023; and by its failure or refusal to provide requested information to the Union (an updated list of bargaining unit employees and bargaining dates). The Hearing Examiner dismissed without prejudice the Union's claims that SRMC breached a statutory duty to bargain by its failure or refusal to provide other requested information. Having found violations of Sections 5(A), 5(B), 19(B), 19(C), 19(F) and 19(G), the Hearing Examiner recommended the following remedies: tolling of the one-year election bar until such time as the Employer begins to bargain collectively with the Union on a first contract (which was executed in January 2025); issuance of a cease and desist order and posting of a notice of the violations; and immediate response to prior requests for information. The Board affirmed the Report and Recommendation at its January 2, 2024 meeting, memorialized by Order dated February 8, 2024 (9-PELRB-2024), and the Respondent appealed the matter to District Court (D-202-CV-2024-01996). On November 4, 2024, the District Court issued a Memorandum Decision and Order affirming the Board's Order, and the PELRB matter was closed by letter dated December 13, 2024 after no further appeal was taken.

5. *UHPNM v. UNMH-SRMC*, PELRB 111-23 (June 3, 2023). The Union filed the Complaint on June 3, 2023, alleging violations of Sections 5(A), 5(B), and 19(A), (B), (D), (E), and (G) for retaliation, interference and discrimination relating to the discipline of a bargaining unit member. An Answer was filed on May 28, 2023, along with a Motion to Stay the Proceedings. The Motion to Stay was denied by letter decision on July 26, 2023. SRMC filed a Motion for Partial Dismissal on August 25, 2023. That Motion was granted as to the Union's claims that SRMC violated the Act when it did not bargain with the Union before taking disciplinary action against the Employee; but denied in all other respects. A merits hearing was held on November 15, 2023, at which time the Hearing Examiner granted SRMC's Motion for a Directed Verdict dismissing all the Union's claims. A more formal Report and Recommended Decision was issued on November 16, 2023, concluding there was a substantial, non-discriminatory reason for taking the disciplinary action at issue apart from her union activities and affiliation. The Union requested Board review, and the Board affirmed the Hearing Examiner's Report and Recommendations at its January 2, 2024 meeting (10-PELRB-24). Thereafter, the Complainant appealed the matter to District Court (D-202-CV-2024-01099), the Court dismissed the administrative appeal on February 8, 2025, and no further appeal was taken.
6. *New Mexico Coalition of Public Safety Officers v. County of Santa Fe*, PELRB 116-23 (October 4, 2023). The Union filed the Complaint on October 4, 2023, alleging that violations of Sections 5(B), and 19 (B), (E), (F), and (G) occurred during an Employee's disciplinary process. An Amended PPC was filed on October 13, 2023 to cure some facial inadequacies and an Answer was filed on November 3, 2023. A Status & Scheduling Conference was held November 11, 2023, and deadlines for dispositive motions/responses set. On December 21, 2023, the Hearing Examiner issued his letter decision granting the County's Motion for Summary Judgment dismissing the PPC. No request for Board review was filed, and the matter was closed by letter dated March 7, 2024.

7. *UHPNM v. UNMH-SRMC*, PELRB 117-23 (October 10, 2023). The Union filed the Complaint and Petition for a TRO and Preliminary Injunctive Relief on October 10, 2023, alleging violations of Sections 17(A)(1), and 19 (F), for failure to bargain in good faith and direct dealing. An Answer was filed on October 31, 2023, along with a Motion to Dismiss the PPC. A Hearing on the TRO was held November 7, 2023. The TRO was denied by letter decision on November 9, 2023, and the Union responded to the Motion to Dismiss on November 14, 2023. The Motion to Dismiss was denied by letter decision on November 22, 2023. Thereafter, Respondent filed a Motion to Stay on February 16, 2024. A Status and Scheduling Conference was held on February 20, 2024; a Response to the Motion to Stay was filed on February 29, 2024; and the Motion to Stay was denied March 1, 2024. Respondent requested interlocutory Board review of the denial of a stay on March 15, 2024, which the Board denied on April 3, 2024 (22-PELRB-2024). On March 22, 2024, Respondent filed a Motion to Dismiss or in the alternative for a more definite statement of fact. The Hearing Examiner denied that Motion by letter decision dated April 17, 2024. A hearing on the merits was held June 12, 2024, and the Parties filed post-hearing briefs on July 12, 2024. Thereafter, the Hearing Examiner issued his decision finding that Respondent, as a successor employer, had no obligation to bargain or provide any information to Complainant regarding the terms and conditions of employment at UNMH, and that the challenged dissemination of information from Respondent to SRMC employee did not constitute a unilateral change to the employees' status quo. Accordingly, the Hearing Examiner recommended dismissal of the Complaint. The Complainant filed a request for Board review on July 31, 2024; a Response was filed August 19, 2024; and the Board upheld the Hearing Examiner's decision at its September 3, 2024 meeting (36-PELRB-2024). The Complaint appealed the Board's Order to District Court on October 10, 2024, where briefing is complete, and the matter is awaiting a setting (D-202-CV-2024-07978).
8. *Bernalillo County Firefighters v. Bernalillo County*, PELRB 118-23 (November 3, 2023). The Union filed the Complaint on November 3, 2023, alleging that the County's demotion of a Paramedic did not comply with their CBA's disciplinary process. An Answer was filed on November 22, 2023, and an Amended Answer on December 8, 2023. The case was deferred to arbitration on December 12, 2023. On August 14, 2024, the Complainant moved without objection to dismiss the PPC with prejudice; an Order of dismissal was issued August 15, 2024; and the matter was closed by letter dated September 6, 2024.
9. *UHPNM v. UNMH-SRMC*, PELRB 121-23 (November 14, 2023). The Union filed the Complaint on November 14, 2023, alleged violations of Sections 5(A), 5(B), and 19(A), (B), (C), & (G) and that UNMH-SRMC denied union organizers access to bargaining unit employees. An Answer was filed on December 13, 2023, after which the matter was stayed pending a February 6, 2024 hearing on an Alternative Writ of Mandate in District Court case D-202-CV-2023-01330, to order bargaining on an emergency basis (that matter was dismissed on August 21, 2024). On February 14, 2024, the Complainant filed an Amended PPC. On February 16, 2024, Respondent filed a Motion to Dismiss, and the Complainant filed its Response on February 29, 2024. The Motion to Dismiss was denied on March 1, 2024, and an Answer to the Amended PPC was filed the same day. A Status and Scheduling

Conference was held on March 12, 2024 and, pursuant to the resulting scheduling Order, a hearing on the merits was held on June 16, 2024. Thereafter, closing briefs were filed on June 28, 2024; and the Hearing Examiner's decision was issued July 18, 2024. The Hearing Examiner dismissed some statutory claims but found a violation of 15(C) and 19(C)(2) for Respondent's actions denying the Petitioner's non-employee Union representatives reasonable access to its UNM Sandoval Regional Medical Center campus. A request for Board review was filed on July 29, 2024, and the Board affirmed the Hearing Examiner by Order dated September 10, 2024 (37-PELRB-2024). No appeal was sought, and the case was closed by letter dated October 11, 2024.

10. *United Electrical, Radio and Machine Workers of America, Local 1498 v. New Mexico State University*, PELRB 122-23 (November 30, 2023) The Union filed the Complaint on November 30, 2023, alleging violations of Section 19(F) for refusal to bargain in good faith by failing to respond to requests for relevant information. An Amended PPC was filed December 5, 2023. A default determination was issued on January 24, 2024; and the Board reviewed and affirmed the default determination at its February 6, 2024 meeting (11-PELRB-2024). The matter was closed by letter dated March 13, 2024.
11. *AFSCME, Council 18 v. Doña Ana County*, PELRB 123-23 (December 14, 2023). This Complaint was not filed initially with or remanded to the NM PELRB but rather arises from a matter first filed with the Dona Ana County's Labor Management Relations Board. On August 15, 2023, the New Mexico 422 issued an Order to AFSCME, Council 18, Doña Ana County and Doña Ana County's Labor Management Relations Board, quashing a writ of certiorari seeking review of a District Court's order reversing a decision of the local Labor Board that Employer had not committed a prohibited labor practice. The Court of Appeals also affirmed the District Court's decision. The District Court reversed the Doña Ana County Labor Management Relations Board's dismissal of the Union's PPC, found that disciplinary action taken against the Union President was retaliatory and ordered that the relief requested by the Union shall be granted. On December 14, 2023, the matter was remanded to the Local Board for further proceedings consistent with that Order. However, the Doña Ana County Labor Management Relations Board did not submit the necessary affirmations under the PEBA Section 10-7E-10 in 2021 so it ceased to exist effective January 1, 2022, and jurisdiction over any of its pending matters therefore transferred to this Board by operation of law. After taking up the matter at its February 6, 2024 meeting, the Board directed the make whole relief requested by the Complainant and ordered by the District Court Order (18-PELRB-2024, dated 3/7/24). The matter was closed by letter dated March 7, 2024.
12. *Committee of Interns and Residents, Service Employees International Union v. University of New Mexico*, PELRB 124-23 (December 14, 2023). The Union filed the Complaint on December 14, 2023, alleging violations of Section 19(F) for refusal to bargain in good faith by taking an unreasonable amount of time to respond to offers during negotiations. As noted in the 2023 Annual Report, the Union withdrew its PPC on January, 17 2024. Thereafter a Voluntary Dismissal was entered on January 18, 2024, and the matter was closed by letter dated February 2, 2024.

13. *AFSCME, Local 3022 v. Albuquerque Bernalillo County Water Utility Authority*, PELRB 125-23 (December 21, 2023). The Union filed the Complaint on December 21, 2023, alleging violations of Sections 19(D), (E), (G), and (H) for failure to complete the terms of a settlement reached in a previous PPC. A Motion for Partial Summary Judgment was filed on February 6 2024, and a decision was rendered on February 21, 2024. The Hearing Examiner dismissed a number of claims related to violation of ABCWUA policies and for lost overtime opportunities, but preserved the claim that Respondent failed to abide by the MOU executed on May 25, 2023. Thereafter, a merits hearing was held on March 27 and 28, 2024; and closing briefs were filed on April 24, 2024. The Hearing Examiner dismissed the Complaint on April 26, 2024, and Board review was not requested. The matter was closed by letter dated May 15, 2024.

### C. Representation Cases

The process history and status of the 25 Representation Petitions filed in 2024 are summarized below. It is from this data that the Tables in Appendix C are generated, although the Tables only tabulate activity that occurred in 2024.

As previously noted, 2024 saw a return to more ordinary numbers of Representation Petitions filed compared with 2023: 25 versus 45. Nonetheless, Staff does not consider the decrease in Petitions filed in the current reporting period to be particularly significant for planning purposes, since it was somewhat balanced out by a significant increase in PPC filing and our 20-years of case statistics show that such ebb and flow is normal. See Appendix A, All Cases Filed 2004-2024.

In addition to processing the 25 2024 Representation Petitions, the PELRB also processed and/or resolved the ten (10) 2023 and two (2) 2022 hold-over Petitions pending at the end of the 2023 reporting period, *all but one (1) of which were successfully closed in 2024*. As will be seen, *12 Petitioned for units were certified without objection; nine (9) were certified after objections or issues were resolved, but without a hearing; and seven (7) were certified after a hearing. Additionally, five (5) Petitions were summarily dismissed for facial inadequacy or upon motion to dismiss or deferral to arbitration; two Petitions were dismissed after election; and 1 was voluntarily withdrawn prior to a hearing on the merits. Only two (2) Petitions involved motion practice.* See Appendix C, Tables 2 and 7.

#### (1) New Representation Petitions Filed in 2024

1. *Rio Rancho School Employees Union & NEA-New Mexico*, PELRB 301-24 (January 16, 2024). The Union filed the Petition on January 16, 2024, seeking to change its national affiliation. The Petition was deemed invalid because the original certification did not mention any national affiliation. No Amended Petition was filed curing the defects and the Petition was dismissed on January 25, 2024. The file was closed on February 8, 2024, after the February meeting.

2. *AFSCME Local 1782 & Santa Fe County*, PELRB 302-24 (January 23, 2024). The Parties filed a Joint Petition on January 23, 2024, seeking to accrete 11 positions into an existing bargaining unit. After determining that the accretion would not result in an inappropriate unit, an Amended Certification was issued on January 29, 2024. The Amended Certification was approved by the Board at the February meeting (13-PELRB-2024) and the file was closed on February 8, 2024.
3. *IAFF Local 4384 & City of Hobbs*, PELRB 303-24 (January 30, 2024). The Union filed the Petition on January 30, 2024, seeking to accrete the positions of EMT Specialists (including Paramedic and Intermediate EMT Specialists), and Fire Captain (including Fire Prevention) into an existing unit of firefighters employed by the City of Hobbs (Employer). A Response was filed on February 15, 2024, challenging the inclusion of Captains in the unit, alleging they were management employees excluded by the PEBA. A Unit Composition Hearing was held on June 5, 2024. The Executive Director issued a Report and Recommended Decision on July 10, 2024, excluding Captains from the bargaining unit as management employees. A request for Board Review was filed by the Petitioner and a Response was timely filed. The Board upheld the Hearing Examiner's decision at its August meeting (32-PELRB-2024). An Amended Certification was issued on August 16, 2024, and a Closing Letter was sent August 20, 2024. The Union filed a Notice of Appeal with the District Court on September 9, 2024, and the appeal remains pending.
4. *IAFF Local 5399 & Valencia County*, PELRB 304-24 (January 30, 2024). The Union filed the Petition on January 30, 2024, seeking to accrete Battalion Commanders into an existing unit of employees of the Valencia County Fire Department. After determining that the accretion would not result in an inappropriate unit, an Amended Certification was issued on March 20, 2024. The Amended Certification was approved by the Board at the February meeting (20-PELRB-2024) and the file was closed on April 3, 2024.
5. *AFSCME & Middle Rio Grande Conservancy District*, PELRB 305-24 (January 31, 2024). The Union filed the Petition on January 30, 2024, seeking certification as the exclusive representative for a unit of employees at the MRGCD consisting of Irrigation System Operators. After resolving all issues of unit inclusion, a card check was conducted on April 30, 2024, and a Certification issued the same day. The Certification was approved by the Board at the May meeting (24-PELRB-2024) and the file was closed on May 10, 2024.
6. *SFCC-AAUP & Santa Fe Community College*, PELRB 306-24 (February 6, 2024). The Union filed the Petition on February 6, 2024, seeking to change its national affiliation. A Response was filed on February 14, 2024, which raised no objections to the change. An Amended Certification was issued on February 15, 2024. The Certification was approved by the Board at the March meeting (15-PELRB-2024) and the file was closed on March 7, 2024.
7. *NMSDFSA AFT-NM & New Mexico School for the Deaf*, PELRB 307-24 (March 1, 2024). The Union filed the Petition on March 1, 2024, seeking certification as the exclusive representative for a unit of employees at the New Mexico School for the Deaf Santa Fe

Campus. The Petition was deemed inadequate because the interest cards submitted with the Petition were not dated as required by NMAC 11.21.2.11. The Petition was withdrawn on March 7, 2024, and the file was closed the same day.

8. *PFUSE & Peñasco ISD*, PELRB 308-24 (March 5, 2024). The Union filed the Petition on March 5, 2024, seeking to amend the certification of representation to include probationary employees. A Response was filed on March 20, 2024, objecting to the amendment as an improper accretion. There were no issues of fact to be determined, and the matter was determined based on written arguments. A Report and Recommended Decision was issued on May 29, 2024, dismissing the Petition, which was affirmed by the Board at the July meeting (26-PELRB-2024) and the file was closed on July 11, 2024.
9. *NMSDFS AFT-NM & New Mexico School for the Deaf*, PELRB 307-24 (March 7, 2024). The Union filed the Petition on March 7, 2024, seeking certification as the exclusive representative for a unit of employees at the New Mexico School for the Deaf Santa Fe Campus. A Response was filed on March 25, 2024, alleging that the unit as proposed was inappropriate because it did not include employees at all campuses. A Unit Composition Hearing was held on June 17, 2024. The Executive Director issued a Report and Recommended Decision on July 3, 2024, finding the unit as proposed was appropriate. A Card Check was conducted on July 25, 2023, which indicated the Petitioner held majority support. The Board ratified the Hearing Examiner's Decision at its August meeting (33-PELRB-2024) and a Certification of Representation was issued on August 7, 2024. The file was closed on August 12, 2024.
10. *NMSU-NEA & NMSU*, PELRB 310-24 (March 8, 2024). The Union filed the Petition on January 30, 2024, seeking certification as the exclusive representative for a unit of employees at New Mexico State University. A Response was filed on April 18, 2024, alleging the unit as proposed was inappropriate because it did not include Cooperative Extension Service instructors. A Unit Composition Hearing was held on June 21, 2024. The Executive Director issued a Report and Recommended Decision on June 28, 2024, finding the unit as proposed to be appropriate. After the time allotted to provide an updated employee list for petitioned-for bargaining unit elapsed without a list having been provided, a Bargaining Order was issued on July 25, 2024, and a Certification of Representation was issued July 26, 2024. The Board Ratified the Bargaining Order and Certification at its August meeting (34-PELRB-2024) and the file was closed on September 18, 2024.
11. *AFSCME 2260 & Bernalillo County*, PELRB 311-24 (May 17, 2024). The Union filed the Petition on May 17, 2024, seeking to accrete Security Aides into an existing Bargaining unit. A Response was filed on June 4, 2024, alleging that the accretion would result in over-fragmentation. The Parties resolved the dispute, and an Amended Certification was issued August 7, 2024, after a card check. The card check results and Amended Certification were affirmed by the Board at the October meeting of the PELRB (38-PELRB-2024) and the file was closed October 11, 2024.

12. *AFSCME 1461 & Bernalillo County*, PELRB 312-24 (May 20, 2024). The Parties filed a Joint Petition on May 20, 2024, seeking to clarify certain positions within the bargaining that had undergone a name change, and to accrete two new positions. After determining that accretion would not result in an inappropriate unit, an Amended Certification was issued on July 25, 2024. The Amended Certification was approved by the Board at the August meeting (35-PELRB-2024) and the file was closed on August 30, 2024.
13. *CSEC-LC & Las Cruces Public Schools*, PELRB 313-24 (June 6, 2024). The Union filed the Petition on June 6, 2024, seeking to accrete several clerical positions into an existing unit of employees of the Las Cruces Public Schools. A response was filed by the Employer on July 16, 2024, objecting to the accretion of some positions as confidential employees excluded by the PEBA. The Executive Director issued a Pre-Hearing Order concerning a Hearing on Unit Composition scheduled for August 15, 2024. Prior to convening that hearing, the parties reached an agreement on composition of the unit. An Amended Certification was issued October 15, 2024. The Amended Certification was affirmed (40-PELRB-2024) and the file was closed November 20, 2024.
14. *AFSCME & NM Dept. of Transportation*, PELRB 314-24 (June 14, 2024). The Union filed the Petition on June 14, 2024, seeking clarification for a unit of employees at the NM DOT, to accrete some positions transferred from the NMPRC due to recent amendments to the NMSA. After determining that the accretion would not result in an inappropriate unit, an Amended Certification was issued on June 20, 2024. The Amended Certification was approved by the Board at the July meeting (27-PELRB-2024) and the file was closed on July 11, 2024.
15. *AFSCME & NM Public Regulation Commission*, PELRB 315-24 (June 20, 2024). This is the companion case to PELRB 314-24. The Union filed this Petition on June 20, 2024, seeking clarification for a unit of employees at the NMPRC, to remove some positions transferred to the NM DOT due to recent amendments to the NMSA. After determining that the clarification would not result in an inappropriate unit, an Amended Certification was issued on June 20, 2024. The Amended Certification was approved by the Board at the July meeting (28-PELRB-2024) and the file was closed on July 11, 2024.
16. *AFSCME & Sandoval County*, PELRB 3126-24 (June 20, 2024). The Parties filed a Joint Petition on June 20, 2024 seeking to accrete two new positions into an existing bargaining unit. After determining that the accretion would not result in an inappropriate unit, an Amended Certification was issued on June 25, 2024. The Amended Certification was approved by the Board at the July meeting (29-PELRB-2024) and the file was closed on July 11, 2024.
17. *NEA-Belen & Belen Consolidated Schools*, PELRB 317-24 (July 29, 2024). The Parties filed a Joint Petition on July 29, 2024, seeking to accrete several new positions into an existing bargaining unit. The Petition was deemed inadequate because it was not accompanied by a showing of interest. No showing of interest was provided in the time allotted and the Petition was dismissed, and the file was closed on August 30, 2024.

18. *Torrance County & IAFF Local 5441*, PELRB 318-24 (August 7, 2024). The County filed the Petition on August 7, 2024, seeking to clarify the Certification of Representation by removing the position of Captain from the description of the Bargaining unit because the position did not exist and had never existed. The Union filed an Objection to the clarification alleging that no changed circumstances existed that would justify an amendment to the Certification. A hearing was held on September 4, 2024. A Letter decision dismissing the objections and an Amended Certification were issued on September 9, 2024. The Amended Certification was affirmed (43-PELRB-2024) and the file was closed December 24, 2024.
19. *AFSCME & Luna County*, PELRB 319-24 (August 29, 2024). The Parties filed a Joint Petition on January 23, 2024, seeking to accrete two new positions into an existing bargaining unit. An Amended Certification was issued October 21, 2024 after a Card Check. The Card Check Results and Amended Certification were affirmed by the Board at the November meeting of the PELRB (see Order 41-PELRB-2024) and the file was closed November 20, 2024.
20. *AFSCME & Bernalillo County*, PELRB 320-24 (September 10, 2024). The Union filed the Petition on September 10, 2024, seeking certification as the exclusive representative of a bargaining unit of behavioral health workers employed by Bernalillo County. There were no issues of unit inclusion, and a Certification of Representation was issued October 15, 2024 after a card check. The Card Check Results and Certification were affirmed by the Board at the November meeting of the PELRB (42-PELRB-2024) and the file was closed November 20, 2024.
21. *Montanez & UHPNM*, PELRB 321-24 (September 26, 2024). A bargaining unit member filed the Petition on September 26, 2024, seeking decertification of the Respondent. The Petition was dismissed because the period of limitations for filing a Decertification of a newly certified representative had not yet run. The Board affirmed the Dismissal (45-PELRB-2024). The file was closed on November 22, 2024.
22. *United Steelworkers, Local & South Central Solid Waste Authority*, PELRB 322-24 (November 7, 2024). The Union filed the Petition on November 7, 2024, seeking certification as the exclusive representative of a bargaining unit of solid waste workers. A response and Employee list were filed on November 22, 2024, after which the Union agreed to drop the positions of Cashiers and Lead Cashiers, to which Respondent objected. After the Notice Period had passed with no Intervention filed, a Card Check was conducted on December 16, 2024, and a Certification of Representation was issued the same day. The Board reviewed the certification at its January 2025 meeting (2-PERLB-2025) and the matter was closed by letter dated January 22, 2025, so it will be reported in the 2025 Annual Report.
23. *NMHU Faculty and Staff Association & NMHU*, PELRB 323-24 (November 13, 2024). The Union filed the Petition on November 13, 2024, seeking to accrete the Program Coordinator for the NMHU Center for Teaching Excellence into the existing Bargaining unit. An Amended petition was filed on November 18, 2024, revising the estimated number of

employees in the existing unit. A Second Amended Petition was filed on December 2, 2024, changing the caption. A Notice of Filing was issued and posted on December 22, 2024; and a card check was conducted on December 30, 2024, which resulted in certification. The Board reviewed the certification at its January 2025 meeting (3-PELRB-2025), and the matter was closed by letter dated January 22, 2025, so will be reported in the 2025 Annual Report.

24. *United Electrical Workers, Local 1466 & UNM*, PELRB 324-24 (November 26, 2024). The Union filed the Petition on November 26, 2024, seeking to accrete Faculty Assistants working at UNM Law School into the existing unit of Graduate Student Employees. A Response was filed on December 13, 2024. The Petition was withdrawn on December 23, 2024, and a Voluntary Dismissal issued the same day. The file was closed after the January 2025 meeting of the PELRB, so it will be reported in the 2025 Annual Report.
25. *FOP Lea County Lodge 9 & City of Hobbs*; PELRB 325-24 (December 16, 2024). The Union filed the Petition on December 19, 2024, seeking Certification as the exclusive bargaining representative for employees of the Hobbs Police Department. The Petition was found to be invalid due to a lack of a Certificate of Service and the fact that a bargaining unit already exists. Notice of the defect was sent on December 17, 2024; and the matter was dismissed by letter dated December 31, 2024, when the Petitioner failed to cure the defect.

## **(2) 2023 and 2022 Petitions Processed and/or Resolved in 2024**

The following Representation cases, begun in a prior reporting period, were either resolved or continue as open cases during this reporting period, 2024:

1. *International Association of Machinists and Aerospace Workers (IAMAW), AFL-CIO & University of New Mexico Hospital – Sandoval Regional Medical Center (UNMH-SRMC or SRMC)*, PELRB 303-22 (May 18, 2022). The Union filed a Petition on May 18, 2022, seeking to be certified as the exclusive collective bargaining representative for full-time, regular part-time, and per diem, non-probationary Security Guards, Security Guard Leads, Cooks, Food Service Workers, Food Service Leads, Kitchen Staff Workers, Registration Representatives, Prior Authorization Clerks, Patient Access Representatives, Central Registration Representatives, Charge Entry Specialists, Clerks, Facilities Services Maintenance Technicians, Facilities Services Maintenance Technicians Leads, Maintenance Technicians, Materials Technicians, Materials Coordinators, Housekeepers, Housekeeper Leads, Environmental Services Workers (EVS) employed by the University of New Mexico Sandoval Regional Medical Center. A Response was filed on June 13, 2022, and an amended employee list was filed on June 16, 2022. The Medical Center objected on the basis that per diem positions are not being “regular” employees subject to the Public Employee Bargaining Act as defined in NMSA 1978, § 10-7E-4(Q) (2020) and because some of the employees the Union petitioned to represent are excluded from coverage of the Act as probationary, supervisory, managerial, or confidential employees. A unit composition hearing was held on July 27, 2022, and the Hearing Examiner issued his Report on August 11, 2022, finding that the Lead Maintenance Mechanic and the Lead

Housekeeper positions were not supervisors as contemplated by the Act, so were appropriately included; that the UNM SRMC employees in probationary status were not properly included in the employee lists. SRMC filed a request for Board review was filed on August 25, 2022; and a Response was filed on September 1, 2022. By Order dated September 14, 2022, the Board adopted and affirmed the Report (21-PELRB-2022). Thereafter a card check was conducted and majority support certified on September 15, 2022. SRMC filed objections to the card check on September 22, 2022; a Response was filed on September 26, 2022; and the Hearing Examiner issued his Report on October 18, 2022. The Board affirmed the Report at a special meeting convened on November 19, 2022 (24-PELRB-2022, dated 12/9/22). Thereafter, SRMC filed a Motion to Stay implementation of Board Order 24-PELRB-2022 (dated 12/9/22), which was denied by Board Order dated February 13, 2023 (7-PELRB-2023). Before the Motion to Stay, SRMC filed a Notice of Appeal with the District Court on January 9, 2023 (D-202-CV-2023-00132), objecting that the cards were dated before the filing of the Petition, and that the card check procedures were arbitrary and capricious and/or unconstitutional. After completion of briefing, the Court issued a Memorandum Opinion and Order affirming Board Order 24-PELRB-2024, on July 9, 2024. The PELRB matter was closed by letter dated August 23, 2024.

2. *United Health Professionals of New Mexico, AFT (UHPNM) & UNMH-Sandoval Regional Medical Center (UNMH-SRMC or SRMC)*, PELRB 304-22 (December 1, 2022). United Health Professionals of New Mexico (UHP), an affiliate of the American Federation of Teachers (AFT), filed a Petition seeking to represent the following full-time, regular part-time, and per diem, non-probationary employees of the University of New Mexico Sandoval Regional Medical Center (SRMC or Hospital). See the 2023 Annual Report for a fuller case history. On June 3, 2022, the Hospital contested the Petition’s inclusion of per diem positions as not being “regular” employees subject to the Public Employee Bargaining Act as defined in NMSA 1978, § 10-7E-4(Q) (2020) and contested inclusion of House Supervisors, Charge Nurses and Lead positions, included within the general job titles Petitioner seeks to represent, on the ground that they are excluded from coverage of the Act as supervisory or managerial employees. The Hospital also objected that there is an insufficient community of interest between licensed and unlicensed staff to constitute a single appropriate bargaining unit. A hearing on the merits was held on August 03, 2022, after which the Parties submitted post-hearing briefs on August 17, 2022. On August 23, 2022, The Hearing Examiner issued his Report finding and determining that the PELRB has both personal jurisdiction and subject matter jurisdiction to decide the case, and that SRMC employees employed on a per diem basis (PRN) are not “regular” employees because of their irregular, occasional employment status, which distinguishes them from others in the putative unit so that their inclusion in the bargaining unit would render it inappropriate. The decision further concluded that House Supervisors are not “Management” employees as defined by Section 4(N) of PEBA and, as such, are not excluded from coverage under the Act and Charge Nurses at UNM SRMC do not devote a majority of their work time performing supervisory duties so that they are not supervisors as defined by § 4(T) of the Act. On September 7, 2022, SRMC requested Board review, and a Special Meeting was convened on November 17, 2022 for that purpose. On December 1, 2022, the PELRB reversed the Hearing Examiner’s report in part, but only

with respect to its conclusion that SRMC employees employed on a per diem or PRN basis are not “regular” employees for the purposes of the PEBA. The Board adopted its remaining conclusions and remanded the matter to the Hearing Examiner for the purpose of determining whether the PRNs share a community of interest with others in the petitioned-for unit. UNMH-SRMC’s request that this matter be certified for an interlocutory appeal was denied. The Parties agreed to submit additional briefs on that issue which was done on January 6, 2023. On January 13, 2023, the Hearing Examiner issued his Letter Decision finding sufficient community of interest among PRNs and others in the petitioned-for unit on January 13, 2023. That decision was reviewed by the PELRB on February 7, 2023, which affirmed the Hearing Examiner’s Decision (8-PELRB-2023 and 9-PELRB-2023). SRMC appealed the Board Order to the District Court on March 17, 2023 (D-202-CV-2023-02118). Judge Victor Lopez issued a Memorandum Opinion and Order Remanding the matter to the PELRB for further findings of fact relating to its decision reversing its Hearing Examiner on the question of whether the PRNs were or were not “regular employees” on August 14, 2023. On November 20, 2023, by Order on Remand 59-PELRB-2023, the PELRB reversed the Hearing Examiner, concluding that the determination whether an employee is “regular” depends on the contractual status of the employee, not on variables such as duties, tenure or schedule (although such variables may determine community of interest). The Board further concluded that the Hearing Examiner’s findings of fact establish that the PRNs are employees with whom the Respondent could set terms and conditions of employment; and that, as such, PRN employees, are directly employed and therefore are regular employees of Respondent. The Board also reaffirmed Orders 8-PELRB-2023 and 9-PELRB-2023, stating they were to be given full force and effect. SRMC appealed the Board to the District Court a second time on December 20, 2023 (D-202-CV-2024-09660). Additionally, in another District Court case it sought and obtained an Order on January 16, 2024 for the PELRB to “cease all proceedings predicated upon certification of the Union as the exclusive bargaining representative” (D-202-CV-2023-09345, Petition for Writ of Mandate). Thereafter, the Court in D-202-CV-2024-09660 reversed the Board Order 59-PELRB-2023, concluding that PRNs are not “regular employees”. On November 12, 2024, the Board ordered Staff to determine in PELRB Case No. 304-22 whether the unit was “appropriate” without PRNs and, if so, whether majority support without the PRNs existed. Finding the unit was appropriate without PRNs and determining by card check that there was majority support, the Hearing Examiner certified the Union and bargaining unit on November 19, 2024. Thereafter, the Board reviewed and affirmed that determination (5-PELRB-2025, dated 2/15/24), and the PELRB matter was closed by letter dated March 11, 2024 although a writ of certiorari was filed and granted, and an appeal of D-202-CV-2024-09660 has been docketed on the Court of Appeal’s General Calendar, in Case No. A-1-CA-42271.

3. *IAFF Local 4625 and City of Las Vegas*, PELRB 328-23 (August 24, 2023). The Union filed a Petition seeking to accrete Fire Department Lieutenants into an existing unit of Fire Fighters and Engineers. The City objected to including the Lieutenants on the grounds that the accretion raises a question concerning representation and can only proceed by “filing a petition for election” (see NMAC 11.1.2.38(C)) and because position is the position of Lieutenant is excluded from the bargaining unit as a supervisory, managerial, and/or confidential position. An evidentiary hearing on the objections was scheduled for

November 3, 2023, but the City withdrew its objections on October 27, 2023 and the hearing was vacated. Accordingly, the Hearing Examiner conducted a card check and issued his Report and Amended Certification on December 5, 2023. The Board reviewed and approved the Amended Certification by Order dated January 20, 2024 (2-PELRB-2024). The matter was closed by letter dated January 24, 2024.

4. *Classified School Employees Council-Las Cruces, NEA & AFT Local 4994 & Las Cruces Public Schools*, PELRB 331-23 (September 26, 2023). The Union filed a Petition seeking to accrete the positions of “Accounting (Acct) Tech, Benefits Specialist, Campus Media Production Support Specialist, CRSSAA Funded Benefits Specialist, Junior Systems Administrator, Nutrition Services Purchasing Specialist, Nutrition Services Specialist (Commodity), Operations Specialist and Payroll Specialist” into the existing bargaining unit. After resolving issues of unit scope and inclusion, and the PELRB issued an Amended Certification of Representation on December 14, 2023. The Amended Certification approved by the Board at its January 2024 meeting (3-PELRB-2024, dated 1/20/24). The matter was closed by letter dated January 24, 2024.
5. *Urbaniak & AFSCME, Council 18*, PELRB 335-23 (October 12, 2023). A member of the Union filed a Petition on October 12, 2023 seeking to decertify AFSCME Council 18 as the exclusive representative of a bargaining unit in Grant County. At its December meeting the PELRB approved a Consent Election Agreement calling for an election to be conducted by mail-in and electronic ballots, ending January 11, 2024. The ballots were counted on January 12, 2024, and they demonstrated that a majority of the bargaining unit members wished to continue with AFSCME as their exclusive representative. Objections to the decertification election were filed by the Petitioner on January 22, 2024; and a Report on the objections was issued February 16, 2024. By order dated March 7, 2024 (17-PELRB-2024), the Board adopted the Report’s findings and dismissed the Petition because only 33% of eligible employees voted to decertify AFSCME. There being no rights to further appeal on this issue, the matter was closed by letter dated March 7, 2024.
6. *Utility Workers Union of America, AFL-CIO & Village of Bosque Farms*, PELRB 339-23 (October 25, 2023). The Union sought recognition as the exclusive representative of a unit of Utility Operators and the Village’s Administrative Assistant. The Village objected to including the Administrative Assistant, claiming that they did not share a community of interest, and their inclusion would render the unit “inappropriate.” The Executive Director conducted a unit composition hearing on December 20, 2023, and issued his Report on December 22, 2023, concluding that the Utility Operators and the Administrative Assistant share a community of interest so that a single unit was appropriate. On December 22, 2023, he issued a Certification of Representation, which were reviewed and approved by the Board at its January 2024 meeting (1-PELRB-2024, dated 1/20/24). The matter was closed by letter dated January 24, 2024.
7. *AFSCME, Local 1782 & Santa Fe County*, PELRB 340-23 (November 7, 2023). The Parties filed a Joint Petition seeking to clarify the positions in an existing bargaining unit

that had changed since the last certification issued in 2010. After resolving issues of unit scope and inclusion, an Amended Certification of Representation was issued on December 29, 2023, which was affirmed by the Board at its January 2024 meeting (4-PELRB-2024). The matter was closed by letter dated January 24, 2024.

8. *AFSCME, Council 18 & New Mexico Children, Youth and Families Department*, PELRB 341-23 (November 14, 2023). The Parties filed a Joint Petition seeking to remove certain obsolete job titles from the certification, to modify certain job titles to be accurate, to add into the certification new positions which evolved from existing positions, and to accrete various job titles that have been treated as part of the bargaining unit by both parties despite not appearing on the prior existing certification. No unit composition or Questions Concerning Representation were at issue, and the PELRB issued an Amended Certification on December 29, 2023, which was reviewed and affirmed by the Board at its January 2024 meeting (5-PELRB-2024). The matter was closed by letter dated January 24, 2024.
9. *AFSCME, Council 18 & New Mexico State Personnel Office (Department of Vocational Rehabilitation)*, PELRB 342-23 (December 1, 2023). The Parties filed a Joint Petition seeking to remove certain obsolete job titles from the certification, to modify certain job titles to be accurate, to add into the certification new positions which evolved from existing positions, and to accrete various job titles that have been treated as part of the bargaining unit by both parties despite not appearing on the prior existing certification. No unit composition or Questions Concerning Representation were at issue, and the PELRB issued an Amended Certification on December 12, 2023. The Amended Certification was reviewed and approved by the Board at its February 2024 meeting (12-PELRB-2024), and the matter was closed by letter dated February 8, 2024.
10. *Chaves County Sheriff's Office & International Union of Police Associations*, PELRB 343-23 (December 6, 2023). A Decertification Petition was filed seeking to decertify the International Union of Police Associations as the exclusive representative. Although the Petition was defective on its face, IUPA immediately disclaimed its representational interest on December 12, 2023. Notice was posted and no intervention or objections were filed. The Hearing Examiner dismissed the Petition and closed the file on January 17, 2024. At its next meeting, the Board reviewed and affirmed the dismissal, while also concluding that both IUPA and the employer were relieved of their bargaining obligations under PEBA due to the Union's disclaimer of interest (19-PELRB-2024, dated 3/7/24).
11. *District 1199NM, National Union of Hospital and Health Care Employees & University of New Mexico Hospitals*, PELRB 344-23 (December 12, 2023). The Union filed a Petition on December 12, 2023, seeking to accrete Chaplains into the existing Licensed and Technical bargaining unit. After correction of the unit description by the Parties, a draft Amended Certification was circulated for their review on January 26, 2024, and approved by the Parties. Thereafter, the Board reviewed and approved the Amended Certification at its February 1, 2024 meeting (16-PELRB-2024, dated 3/7/24). The matter was closed by letter dated March 7, 2024.

12. *CSEC-LC & Las Cruces Public Schools*, PELRB 345-23 (December 24, 2023). The Union filed a Petition seeking to accrete the positions of Human Resources Specialists and Public Safety Security Specialists into the existing bargaining unit. There being no objection to the accretion, the PELRB sent a draft Amended Certification to the Parties for their review on January 29, 2024, after which the Board reviewed and approved the Amended Certification at its February 2024 meeting (14-PELRB-2024, dated 2/8/24). The matter was closed by letter dated February 8, 2024.

#### **IV. JUDICIAL REVIEW OF PELRB CASES AND OF PELRB-RELATED MATTERS**

##### **A. Court Decisions Issued in 2024**

There were nine (9) Court Decisions rendered during the 2024 reporting period that concerned PELRB cases or were otherwise of significance to the Board. Of the following, six (6) involved direct appeals of a PELRB Oder.<sup>40</sup> Three (3) did not concern PELRB cases but were notable for Agency operations nonetheless because they impacted one or more UHPNM/SRMC cases filed with the PELRB. Relevant 2024 judicial decisions include the following:

1. *University of New Mexico Hospital – Sandoval Regional Medical Center (UNMH-SRMC or SRMC) v. United Health Professionals of NM, AFT, AFL-CIO (UHPNM)*, D-202-CV-2024-01996 (In re PELRB 110-23). On November 4, 2024, the District Court issued its Final Memorandum Opinion and Order affirming Board Order 9-PELRB-24, which adopted the Hearing Examiner’s findings and recommended decision that SRMC violated PEBA and the statutory duty to bargain by failing to respond to the several requests for an updated list of bargaining employees and failure to provide information for bargaining dates. On November 18, 2024, SRMC filed a motion for rehearing and the docket reflects no further action since then.
2. *UHPNM v. UNMH-SRMC*, D-202-CV-2024-07978 (In re PELRB 117-23). On October 10, 2024, the Union appealed Board Order 36-PELRB-2024, naming SRMC and the PELRB as the Respondents. On January 27, 2025, the PELRB was dismissed as a party in interest. On January 25, 2025, a notice of completion of briefing was filed.
3. *UNMH-SRMC v. UHPNM*, D-202-CV-2023-00132 (In re PELRB 303-22). On July 9, 2024, the District Court issued its Final Memorandum Opinion and Order, which affirmed

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<sup>40</sup> One concerned a 2021 case that Staff administratively closed pending any remand.

the Board's order in 24-PELRB-22 rejecting SRMC's objections to the card count upon the Hearing Examiner's Recommendation. No further appeal followed.

4. *UNMH-SRMC v. UHPNM*, D-202-CV-2021-06067 (In re 306-21). On January 16, 2024, the District Court dismissed this matter with prejudice upon stipulated Order. As described in more detail in the 2023 Annual Report, this case was appealed to the Court of Appeals but was ultimately made moot by the Legislature's amendment of URPEDA, effective May 18, 2022, which provided that a research park corporation that operates a healthcare facility is deemed a public employer for purposes of PEBA.
5. *UHPNM v. UNMH-SRMC*, D-202-CV-2023-09630 (In re 105-23). On December 18, 2023, the Union appealed Board Order 60-PELRB-2023, in PELRB 105-23, which affirmed the Hearing Examiner's dismissal as unproven a PPC alleging retaliation, interference and discrimination related to the discipline of a bargaining unit member. After briefing, the Court affirmed the Board Order finding no violation of PEBA and dismissing the PPC. No further appeal followed.
6. *UNMH-SRMC v. UHPNM*, D-202-CV-2023-09345. On December 7, 2023, SRMC filed a Writ of Mandate Petition with the District Court, seeking vacation of 59-PELRB-2023, and an order that the PELRB "cease all proceedings predicated upon certification of the Union as the exclusive bargaining representative". Thereafter, a hearing was held on February 6, 2024, and on April 19, 2024 the matter was dismissed and closed. (This was not filed as in response to a PELRB Order.)
7. *UNMH-SRMC v. NM-PELRB*, D-202-CV-2023-06037. On July 29, 2023, SRMC filed a Petition for Declaratory Judgment regarding alleged violations of the New Mexico and U.S. constitutions. On March 1, 2024, the District Court dismissed UNM SRMC's Petition For Declaratory Judgment, for lack of prosecution. SRMC had claimed that the New Mexico Legislature violated both the New Mexico and United States Constitutions when it passed Senate Bill 41, by which it amended the University Research Park Economic Development Act (URPEDA) to deem SRMC to be a "public employer" for purposes of the PEBA. The Board had answered the Petition, but UNM SRMC subsequently abandoned its URPEDA status as a result of UNM Hospitals acquiring its assets and liabilities effective January 1, 2024. (This was also not filed as in response to a PELRB Order.)
8. *UHPNM v. UNMH-SRMC*, D-202-CV-2023-01330. On February 24, 2023, the Union filed an Emergency Petition for Declaration of Obligation to Meet and Bargain, and an Amended Petition was filed on December 6, 2023. On December 8, 2023, SRMC filed an Emergency Motion to Stay Proceedings, which was briefed but not decided. Thereafter, on August 21,

2024, the District Court granted SRMC’s motion to dismiss the Union’s emergency Petition for a Declaration of Obligation to Bargain with the District Court and the Union did not appeal the dismissal. (This was also not filed as in response to a PELRB Order.)

9. *UNMH-SRMC v. UHPNM*, D-202-CV-2022-07805 (12-29-22, In re: PELRB No. 111-22; 28-PELRB-2022). In this appeal, the Union challenged the District Court’s reversal of the Board’s determination that SRMC violated PEBA. On January 26, 2024, the Union petitioned the NM Supreme Court for review pursuant to Rule 12-505 NMR, after the Court of Appeals denied the Union’s Petition for Writ of Certiorari without comment (Appeals No. A-1-CA-41371). The Supreme Court denied that application on April 19, 2024 and the related PELRB matter is now closed.

## **B. Pending PELRB-Related Appeals**

The following three (3) Court cases related to PELRB cases were still pending before the District or Appellate Courts by end of the 2024 reporting period:<sup>41</sup>

1. *United Health Professionals of New Mexico, AFT, AFL-CIO v. University of New Mexico Sandoval Regional Medical Center*, D-202-CV-2024-01995 (In re Board Order 10-PERLB-24, PELRB 109-23). On March 8, 2024, SRMC filed its Notice of Appeal to District Court, and statements of issues and responses were filed on July 11, 2024 and August 19, 2024, respectively. A Notice of completion of briefing was filed on June 28, 2024; and on November 14, 2024, SRMC filed a Notice of supplemental authority. No further action has been taken since then.
2. *UHPNM v. UNMH-SRMC*, D-202-CV-2024-01099 (In re PELRB 111-23). On February 8, 2024, the Union appealed Board Order 30-PELRB-2023. On February 7, 2025, the administrative appeal was dismissed by Memorandum Opinion and Order. Because it was closed in 2025, it will be reported again in the 2025 Annual Report.
3. *UNMH-SRMC v. UHPNM*, D-202-CV-2023-09660 (In re PELRB 304-22). On December 20, 2023, SRMC appealed Board Order 59-PELRB-2023, concerning the status of PRNs

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<sup>41</sup> Additionally, two (2) new appeals have been filed so far in 2025, and will be reported on in next year’s 2025 Annual Report: *AFSCME Local 3422 and NM Corrections Dept.*, D-202-CV-2025-02137 (In re: 5-PELRB-2024, PELRB No. 104-24) (on March 5, 2025, the Department appealed the Board’s affirmation of the Hearing Examiner’s Report finding and determining that “the last bargained for” roster was the last roster negotiated and agreed to); and *UHPNM v. UNMH-SRMC*, D-202-CV-2025-02461 (In re: 6-PELRB-2025, PELRB No. 116-24) (on March 14, 2025 the Union appeals the Board’s affirmation of the Hearing Examiner’s dismissal of a PPC alleging unilateral changes to terms and conditions of employment).

as “regular employees” under PEBA. Thereafter, SRMC filed a motion to stay, and the Union filed an emergency petition regarding bargaining. On November 1, 2024, the District Court reversed the Board’s determination that PRNs were regular employees and denied the Union’s emergency petition regarding bargaining (D-202-CV-2024-09660). On February 25, 2025, the Court of Appeals granted a writ of certiorari and placed the matter on their general calendar for further appeal (Case No. A-1-CA-42271). Accordingly, this appeal will be reported on again, in the 2025 Annual Report.

**APPENDIX A**

**ALL CASES FILED 2004-2024** <sup>42 43</sup>

<b>YEAR</b>	<b>Type of Cases</b>				<b>TOTAL</b>
	<b>PPCs</b>	<b>Petitions for Representation<sup>44</sup></b>	<b>Petitions for Decertification</b>	<b>Filings Related to a Local Board</b>	
<b>2004</b>	39	61	0	31	<b>131</b>
<b>2005</b>	55	16	5	9	<b>85</b>
<b>2006</b>	68	23	2	3	<b>96</b>
<b>2007</b>	71	18	0	6	<b>95</b>
<b>2008</b>	48	23	0	5	<b>76</b>
<b>2009</b>	47	16	1	6	<b>70</b>
<b>2010</b>	28	15	1	3	<b>47</b>
<b>2011</b>	55	13	2	0	<b>70</b>
<b>2012</b>	24	9	1	0	<b>34</b>
<b>2013</b>	14	18	1	3	<b>36</b>
<b>2014</b>	33	8	1	4	<b>46</b>
<b>2015</b>	30	9	1	0	<b>40</b>
<b>2016</b>	23	10	1	1	<b>35</b>
<b>2017</b>	25	9	1	0	<b>35</b>
<b>2018</b>	17	10	1	0	<b>28</b>
<b>2019</b>	7	5	1	3	<b>16</b>
<b>2020</b>	23	6	1	19	<b>49</b>
<b>2021</b>	33	16	1	3	<b>53</b>
<b>2022</b>	25	26	2	0	<b>53</b>
<b>2023</b>	25	42	3	0	<b>70</b>
<b>2024</b>	35	24	1	0	<b>60</b>
<b>TOTAL</b>	<b>725</b>	<b>377</b>	<b>27</b>	<b>96</b>	<b>1225</b>
<b>AVG</b>	<b>34.5</b>	<b>18</b>	<b>1.3</b>	<b>4.6</b>	<b>58.3</b>

<sup>42</sup> This data reflects a breakdown by date the case was filed.

<sup>43</sup> In the March 2025 edition, it was noted that certain 2015 and 2019 data was stated incorrectly in the 2019 Annual Report and so was corrected therein. In December 2025, all data was reviewed, discrepancies reconciled, and their accuracy was verified against physical and electronic files.

<sup>44</sup> This category includes Petitions for Clarification, Accretion, Severance and Intervention.

## APPENDIX B

### PEBA II Board Members By Appointment Dates

Edmund “Joe” Lang, 2003-2005 (Chair)

Linda Vanzi, 2003 (now the Hon. (Ret.) Vanzi)

Lew Harris, 2004

Pilar Vaile, 2004-2005

Duff Westbrook, 2005-2019 (Chair 2010-2019)

Martin Dominguez, 2005-2009 (Chair)<sup>45</sup>

John Boyd, 2005-2010

Wayne Bingham, 2010-2013

Roger E. “Bart” Bartosiewicz, 2011-2019

James Shaffer, pre-2013-2016

Jay Bledsoe, 2016-2019

Maryanne Bowers, 2020-2023

The Hon. (Ret.) Nan Nash, 2020-PRESENT – CURRENT VICE-CHAIR<sup>46</sup>

Mark Myers, 2020-PRESENT – CURRENT CHAIR

The Hon. (Ret.) Peggy Nelson, 2023-PRESENT – CURRENT MEMBER

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<sup>45</sup> Chair Dominguez was also notable for serving on the Board under PEBA I, 1995-1996.

<sup>46</sup> Pursuant to NMAC 11.21.1.33 (Am. 2/11/20), the Chair function now rotates annually among the three Members.

**APPENDIX C**  
**2024 CASE STATISTICS<sup>47</sup>**

**Table 1**  
**ALL CASES FILED IN 2024 BY CATEGORY OF WORKPLACE**

Type of Employer or Respondent	Types of Cases				TOTAL
	PPCs	Certification, Accretion, Amendment, and Clarification Petitions	Decertification Petitions	Related to Approval of Local Board	
<b>State<sup>48</sup></b>	5	4	0	0	<b>9</b>
<b>County</b>	7	8	0	0	<b>15</b>
<b>Municipality</b>	3	2	0	0	<b>5</b>
<b>Public School</b>	1	5	0	0	<b>6</b>
<b>Higher Education</b>	6	4	0	0	<b>10</b>
<b>Medical Facility<sup>49</sup></b>	9	0	1	0	<b>10</b>
<b>Other<sup>50</sup></b>	1	1	0	0	<b>2</b>
<b>Union</b>	3	0	0	0	<b>3</b>
<b>TOTAL</b>	<b>35</b>	<b>24</b>	<b>1</b>	<b>0</b>	<b>60</b>

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<sup>47</sup> The regular reader will observe throughout these Tables that PELRB Staff are discontinuing augmenting certain tables, data collection, and/or calculations used in prior years. These changes are made because some tables, data points, or calculations are unduly burdensome, redundant, and/or of limited utility or statistical insight.

<sup>48</sup> This category includes cases filed against individual State Agencies, as well as against the State or State Personnel Office (SPO), but in practice the vast majority are filed against an individual Agency as the relevant public employer.

<sup>49</sup> This category includes medical facilities run by institutions of higher education, such as New Mexico Hospital, a.k.a. UNM Health Sciences Center.

<sup>50</sup> This category includes other political subdivisions or entities such as water, irrigation, or sanitation districts.

**Table 2**  
**2024 CASE MANAGEMENT ACTIVITY<sup>51</sup>**

Case Management Activity Requirement		PPCs		Petitions		Total	
Settlement and/or Voluntary Dismissal		11		1		12	
Staff Dismissal, Deferral or Default Judgement (without Motion Practice or Hearing)		5		6		11	
Staff Approval of Petition without Motion Practice or a Hearing		N/A		23		23	
Motion Practice or Objections to Petitions Decided on the Pleadings		14		2		16	
Hearings		8		5		13	
	- Grievance Sustained or Petition Approved in whole or part		5		5		10
Board Review		8		8		16	
	- Hearing Examiner sustained in whole or part		8		8		16
At District Court of Appeal		4		3		7	
	- Board sustained in whole or part		2		2		4
	- Pending		2		1		3
At the Court of Appeals (pending)		0		1		1	

**Table 3**  
**2024 PROCESSING TIME FRAMES, MOTION PRACTICE, AND HEARINGS<sup>52</sup>**

Case Series	Number of Cases Processed in 2024	% of Cases Processed Within 6 Months	# and % of Cases w/Motion Practice or Objection	# and % of Cases w/Hearings <sup>53</sup>
PPCs	48	66%	14 cases, 29%	8 cases, 12.5%
Local Boards	0	0	0	0
Representation Petitions	37	92%	2 cases, 5%	7 cases, 19%
<b>Total</b>	<b>85</b>	<b>79%</b>	<b>16 cases, 18.8%</b>	<b>13 cases, 15%</b>

<sup>51</sup> These totals will not match the total number of cases processed because many cases involve multiple types of case management activity.

<sup>52</sup> This Table includes all matters processed in 2024, including those PPCs and Representation Petitions filed in prior years.

<sup>53</sup> Hearings refer to evidentiary hearings, which may or may not be on the merits, but it does not include the standard, mandatory Status and Scheduling Conference discussed above. Note that sometimes the same case will involve both motion practice and a hearing on the merits.

**Table 4**

**2024 PPC PROCESSING TIME FRAMES<sup>54</sup>**

<i>Time in Calendar Months</i>	<i>Number and Percentage of PPCs Resolved within that Time in 2024</i>
1 month or less	4 cases, 8.3%
> 1 to < 2	2 cases, 4.1%
> 2 to < 3	8 cases, 16.7%
> 3 to < 4	9 cases, 18.8%
> 4 to < 5	2 cases, 4.1%
> 5 to < 6	7 cases, 14.6%
> 6 to < 7	2 cases, 4.1%
> 7 to < 8	2 cases, 4.1%
> 8 to < 9	1 case, 2.1%
> 9 to < 10	1 case, 2.1%
> 10 to < 11	3 cases, 6.3%
> 11 to < 12	1 case, 2.1%
> 12 to 15	1 case, 2.1%
> 15 to 18	2 cases, 4.1%
> 18 to 21	2 cases, 4.1%
> 21 to 24	1 case, 2.1%

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<sup>54</sup> This Table includes all PPCs processed in 2024, whether one of the 35 filed that year or whether one of the thirteen (13) holdover PPCs from 2023.

**Table 5**  
**2024 PPC PROCESSING & OUTCOMES<sup>55</sup>**

<b>Total PPCs Processed in 2024</b>		<b>48</b>
Filed in 2024	35	
Filed in 2023	13	
<b>Total PPCs Resolved in 2024</b>		<b>30</b>
Filed in 2024	20	
Filed in 2023	10	
<b>Total PPCs Remaining Open at the end of 2024</b>		<b>18</b>
Filed in 2024	15	
Filed in 2023	3	
<b>Breakdown By Ultimate Disposition for the 30 Resolved PPCs<sup>56</sup>:</b>		
<b>Sustained (In whole or in part)</b>		<b>5</b>
After Board Review (w/o Judicial appeal) <sup>57</sup>	3	
After Review by Court	2	
<b>Dismissed – no violation found</b>		<b>3</b>
After Board Review (w/o Judicial appeal)	1	
After Review by Court <sup>58</sup>	2	
<b>Summarily Dismissed</b>		<b>7</b>
Dismissed after preliminary review (NMAC 11.21.3.12)	4	
Dismissed for non-action (NMAC 11.21.1.29)	0	
Dismissed after Motion	2	
Deferred to Agency	0	
Deferred to Arbitration	1	
Dismissed on collateral estoppel grounds	0	
Deferred to local board	0	
<b>Withdrawn and/or Settled</b>		<b>15</b>
Withdrawn upon receipt of notice of facial inadequacy		
Withdrawn in favor of alternate venue	0	
Withdrawn as moot	0	
Settled prior to hearing	15	

<sup>55</sup> This Table includes all PPCs handled within the year 2024, including the 13 holdover PPCs from 2023.

<sup>56</sup> Previous year’s PPC Outcomes Tables included a separate line for Hearing Examiner action without Board review. That has now been deleted because under PELRB Rules most final PPC determinations are reviewed with or without a request for review. See NMAC 11.21.3.19.

<sup>57</sup> This includes one matter that originated before a Local Board, and the PELRB implemented the Court’s order upon remand because the Local Board was dissolved by that time (PELRB 123-23).

<sup>58</sup> This includes a dismissal upon default determination (PERLB 122-23).

**Table 6**  
**2024 REPRESENTATION PETITION**  
**PROCESSING TIME FRAMES<sup>59</sup>**

<i>Time in Calendar Months</i>	<i>Number and Percentage of Petitions processed in that Time in 2024</i>
1 month or less	7 cases, 25%
> 1 to < 2	5 cases, 13.5%
> 2 to < 3	10 cases, 27%
> 3 to < 4	4 cases, 10.8%
> 4 to < 5	6 cases, 16.2%
> 5 to < 6	2 cases, 5.4%
> 6 to < 7	0
> 7 to < 8	0
> 8 to < 9	0
> 9 to < 10	0
> 10 to < 11	0
> 11 to < 12	0
> 12 to 15	1 case, 2.7%
> 15 to 18	0
> 18 to 21	0
> 21 to 24 months	0
> 24 months	2 cases, 5.4%

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<sup>59</sup> This Table includes all Representation Petitions handled within the year 2024, whether one of the 25 Petitions filed that year or whether one of the twelve (12) holdover Petitions from 2022 or 2023.

**Table 7**

**2024 REPRESENTATION PETITION PROCESSING & OUTCOMES<sup>60</sup>**

<b>Total Representation Petitions Processed in 2024</b>		<b>37</b>
Filed in 2024	25	
Filed in 2023	12	
<b>Total Representation Petitions Resolved in 2024</b>		<b>36</b>
Filed in 2024	26	
Filed in 2023	10	
<b>Total Representation Petitions Remaining Open at the end of 2024</b>		<b>1</b>
Filed in 2024	0	
Filed in 2023	1	
<b>Breakdown By Type of Representation Petition:</b>		
<b>Decertification Petitions</b>		<b>2</b>
Filed in 2024	1	
Filed in 2023	1	
<b>Petitions for Certification (New, Accretion, Clarification, etc.)<sup>61</sup></b>		<b>35</b>
Filed in 2024	24	
Filed in 2023	11	
<b>Breakdown By Ultimate Disposition of the Petition</b>		<b>37</b>
Withdrawn (upon receipt of notice of facial inadequacy or on own motion)	1	
Dismissed after preliminary review (NMAC 11.21.3.12)	5	
Dismissed after an election	2	
Certified without objection	12	
Certified after objections or issues were resolved without a hearing	9	
Certified after a hearing on objections or unit inclusion issues & not appealed to District Court <sup>62</sup>	7	
Pending Appeal <sup>63</sup>	1	

<sup>60</sup> This Table includes all Representation Petitions handled within the year 2024, including 12 holdover Petitions from 2023.

<sup>61</sup> Only four (4) card checks, and one (1) election were conducted in 2024, and they are subsumed in one of the disposition categories identified above. The election was in the 2023 Decertification Petition, which was dismissed because only 33% of eligible employees voted. See PELRb 353-23. Of the four card check matters, one had no objections or issues raised, and three had objections or issues but they were ultimately resolved without a hearing.

<sup>62</sup> In Representation Cases, all Hearing Examiner Reports and Certifications are reviewed by the Board, whether or not appealed so this Table omits reference to an appeal to the Board.

<sup>63</sup> See PELRB 304-22.

**Table 8**  
**2024 JUDICIAL APPEALS**

<b>TOTAL JUDICIAL APPEAL DECISIONS FILED OR PENDING IN 2024</b>		<b>9</b>
Appeals Pending	3	
Appeals withdrawn	0	
Appeals dismissed for lack of prosecution	0	
Appeals dismissed on jurisdictional or venue grounds	0	
Decisions affirmed	5	
Decisions reversed	1	
Split decisions, affirming in part, reversing in part	0	

## APPENDIX D

### Regulatory Case Processing Timelines

#### I. General Rules Affecting Timelines

- Rule 1.8 – Computation: the computation of any deadline to take action begins the day after the given event being responded to, and it **excludes weekends and State holidays unless otherwise stated**. As such, all time is calculated in terms of *business days* unless the statute or rules indicate otherwise (such as by reference to calendar months, in Rule 1.29; or by reference to calendar days for run-off elections, in NMA 10-7E-14D and rule 2.32).
- Rule 1.9 – Extensions of Time: an extension of time for filing any required or permissive pleading **may be granted for good cause, if the request for extension is filed three business days before** the deadline.
- Rule 1.15 – Record of Proceedings: all meetings and hearings “shall be audio-recorded” if not transcribed upon the order of the Board, and the recordings “shall” be maintained for **one year** after either the close of the case or the close of the last judicial or board proceedings, whichever is later...”
- Rule 1.16(C) – Notice of Hearing:
  - (A) a **Status and Scheduling Conference “shall” be set in every case** not settled before then, to identify the issues and set a schedule for any discovery or motion practice, and to set the date of the hearing on the merits.
  - (C) a **20-day extension of time for conducting hearings may be granted for good cause if requested five (5) business days before** commencement; **and more time may be granted in “extraordinary circumstances**.
- Rule 1.23 – Motions and Responses to Motions: any party can file a motion and if they do the other Party shall have **ten (10) business days** to file a Response, unless a different deadline has been established by scheduling order.
- Rule 1.29 – Closing of Cases: the Executive Director or her designee may dismiss cases if there has been no activity in the last **six (6) months**, and that dismissal is not subject to Board Review.
- Rule 1.31 – Time Limits for Board Actions: any time periods stated in the Rules by which the Director, a Hearing Examiner, or the Board must take action “may, **for good cause**” be “extended[ed] for a reasonable time, **not to exceed 20 workdays for each extension....**”

## II. Representation Petition Rules Affecting Timelines

- Rule 2.12(A) – Information Requested of Parties: within **ten (10) business days** of receipt of a Representation Petition, the Director or her designee shall request the position of any known, interested Party.
- Rule 2.13(A) – Initial Investigation of Petition: within **thirty (30) business days**, the Director or her designee shall complete the investigation and determine facial validity, as well as if there are “significant issues of unit scope, unit inclusion or exclusion, labor organization or public employer status, bar to processing, or other matters that could affect processing”. The Petition “shall” be dismissed if not supported by an adequate (30%) showing of interest, and this dismissal is also not subject to Board review.
- Rule 2.15 – Notice of Filing of Petition: within **thirty (30) business days** of the Petition’s filing, the Director or her designee shall also determine if a hearing is needed and, if so, issue a Notice of Filing of Petition, which must be **posted** at the work site for **at least five (5) business days**.
- Rule 2.16 – Intervention: within **ten (10) business days** after the employer’s posting of the Notice of Filing of Petition, any interested, non-grandfathered Union may file a Petition to Intervene; and they shall be placed on the ballot and considered a Party to the proceedings if they present a 30% showing of interest along with their Petition. (Note, “[a]n incumbent labor organization shall have automatic intervenor status if it is not the petitioner...”)
- Rule 2.18(A) – Investigation, Report, Notice of Hearing: The Director or her designee will take one of three potential actions within **forty-five (45) business days** of posting of the Notice of Petition, if the Parties are not proceeding by the consent election process (see Rule 2.17): (a) serve a Report with a direction of election, (a) serve a Report with a dismissal of the Petition, OR (c) notice the matter for further hearing.
  - In the latter case, the Hearing shall be set for no later than **thirty (30) business days** following the Notice of Hearing OR 30 days following PELRB “notice of the dispute, whichever is sooner”.
- Rule 2.20 – Briefs: Parties may file post-hearing briefs within **ten (10) business days** of close of the hearing.
- Rule 2.21 – Hearing Examiner Reports: Reports shall be issued within **fifteen (15) business days** of the close of the record (including receipt of any post-hearing briefs).

- Rule 2.22 – Board Review of Reports:
  - (A) Parties can request Board review of any Director or Hearing Examiner Report or Decision within **ten (10) business days** of the Report’s issuance.
  - (B) Rule 2.22(B) – within **ten (10) business days** after service of a Request for Board Review, the opposing Party may file a Response.
  
- Rule 2.24(C) – Eligibility to Vote: at least **ten (10) business days** before the start of the election (or card count), the Employer shall provide a list of all employees who are eligible to vote.
  
- Rule 2.25 – Pre-Election Conference:<sup>64</sup> A pre-election conference shall be held at least **fifteen (15) business days before the election, with at least five (5) business days’ notice.**
  
- Rule 2.26 – Notice of Election: A Notice of Election shall be issued by the PELRB and shall be posted by the Employer at least **ten (10) business days** before the election.
  
- Rule 2.30(E) – Challenged Ballots: if there are any challenges to voter eligibility, the PELRB shall try to resolve them “following the voting and before the votes are counted”. If the challenges are not resolved, and the vote could be determinative, the PELRB shall investigate the challenges “as soon as possible...and shall issue a report thereon or a notice of hearing within **15 [business] days** of the election.”
  
- Rule 2.32 – Run-Off Elections: Run-off elections “must be conducted within **the 15-day statutory period** following completion of the initial election”. As such, it must be conducted within 15 calendar days, rather than within 15 business days. See NMSA 10-7E-14(D).
  
- Rule 2.35 – Amendment of Certification: Such a Petition “shall” be dismissed within **thirty (30) business days** “if...it raises a question concerning representation”. After notice to relevant parties, an Amended Certification shall be issued within **thirty (30) business days** of the filing, if the amendment is determined to be appropriate.
  
- Rule 2.37(C) – Unit Clarification: If no question concerning representation (QCR) exists the Hearing Examiner “shall issue a report clarifying the unit within **30 days of the filing** of the petition if no hearing is determined necessary, **or** within 30 days **of the hearing** if a hearing is determined necessary....”
  
- Rule 2.39(C) – Voluntary Recognition: If no Petition for Intervention is filed within **10 business days** of Notice, “then the board shall consider the petition for approval of the voluntary recognition if accompanied by consent of the employer.”

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<sup>64</sup> Note, Representation Petitions are certified by card check today, unless there is an Intervenor or it is a Decertification Petition. See NMAC 11.21.3

- Rule 2.41 – Severance Petition: A Severance Petition “may be filed **no earlier than 90 days and no later than 60 days before the expiration date of a collective bargaining agreement** or may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three years.”<sup>65</sup>

### III. PPC Rules Affecting Timelines

- Rule 3.9 – Limitations Period: A PPC must be filed within **6 months** of the challenged act/omission, or reasonable discovery thereof.<sup>66</sup>
- Rule 3.10 – Filing of Answer: **15 business days** after service of the PPC.
- Rule 3.12(A) – Screening/Investigation: a Complainant shall have **five business days** to cure any defect identified by the Director or her designee or withdraw the PPC, or it shall be dismissed.
- Rule 3.13(A) and (B) – Appeal to the Board of Director’s Dismissal: a Complainant can file a notice of appeal on dismissals within **10 business days**, after which time any Party may file a Response thereto within **10 business days**.
- Rule 3.14 – Notice of Hearing: If there is sufficient evidence to proceed, the Director “shall dismiss the complaint or set a hearing” within **30 business days** of the filing and “[a] hearing shall be scheduled within” **45 business days** of the filing.
- Rule 3.17 – Briefs: PPC post-hearing briefs are handled the same as under Rule 2.20 and shall be filed within **10 business days** of the close of the record.
- Rule 3.18 – Hearing Examiner Reports: PPC Hearing Examiner Reports shall be issued “within the same time limits and following the same requirements provided in 11.21.2.21”, i.e., within **15 business days** of the close of the record.
- Rule 3.19 – Appeal to the Board of Hearing Examiner’s Recommendation: “any party aggrieved” can file a notice of appeal within **10 business days**, after which time any Party may file a Response thereto within **10 business days**. The Board shall issue its decision within **60 days of the notice of appeal**.
- Rule 3.20 – Relief from...Determination: “[a] party may move to set aside a default determination within **30 days**.” If the motion is supported by good cause, the Board or

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<sup>65</sup> As with the rule related to run-off elections, the business day computation of Rule 1.8 should not be applied to the Rule 3.41is timeframe, because it tracks the window established for decertification petitions, which is stated without reference to business days. See NMSA 10-7E-16(B).

<sup>66</sup> This deadline is specifically tied to months, so Rule 1.8 and business day computation would not apply.

Director “shall order further proceedings as it deems appropriate” within **30 days** or it will constitute a denial of the motion.<sup>67</sup>

- Rule 3.22(D) and (E) – Arbitration Deferral: a PPC may be dismissed **one year** after arbitration deferral if no arbitrator award has yet issued by then; and that dismissal can be appealed pursuant to the terms/conditions of Rule 3.13 (e.g., a notice of appeal is to be filed within **10 business days** and any Response is to be filed **10 business days thereafter**).

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<sup>67</sup> Staff observes that 30 calendar days is the more typical timeframe for filing motions to set aside default determinations.

## APPENDIX E

### NOTE ON PERFORMANCE MEASURES, STRATEGIC GOALS, AND PELRB STAFFING AND BUDGETARY CONSTRAINTS

The PELRB's present performance measures are (a) to have no more than 1% of its decisions overturned on appeal; and (b) to timely process 100% of PPCs, Representation Petitions, and Local Board matters within the relevant statutory and regulatory timeframes.

In 2024, the PELRB was reversed on appeal in a single case: UHPNM & UNMH-SRMC, PERLB 304-22, D-202-CV-2024-09660, regarding whether PRN nurses are "regular employees" under PEBA. The Board was affirmed in the other five (5) judicial appeals filed or pending in 2024. Because 1% is an unattainable goal unless we have more than 100 appeals, Staff deems that it has met its performance measure related to appeals.

Regarding the performance measure related to timely processing, some additional discussion or nuance is required. As discussed above, the PELRB has historically and voluntarily applied a "180-day" standard to its processing but PELRB rules may allow for greater time than that and extensions may be required for cause. Additionally, in recent years, an increasing number of matters are appealed to District Court and beyond, requiring further processing time. As such, the PELRB has consistently met all regulatory timelines since matters requiring more processing time than six (6) months were thereby extended for cause.

In addition to addressing performance measures, historically the PELRB has also addressed its "Strategic Goals" in its Budget Requests and Annual Reports. The PELRB's FY25 Strategic Goals are nearly identical to the FY24 and prior Strategic Goals dating back to 2020, and the reader is referred to 2020-2023 Annual Reports for the Agency's historic goals. The goals and accompanying strategies for goal accomplishment are summarized as follows, along with the full text of the PELRB's "vision statement":

- 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 the public employers and public employees.'"
- Program Goal 1: Scheduling hearings; providing timely notice processing the business of the Board", through continued use of a centralized calendar system, tickler systems, routinized calendaring processes; and continuing "to hold hearings as needed upon request of the Board for the purposes of information gathering and inquiry, [and] adopting rules..."
- Program Goal 2: "[I]mprove the Board's website", through weekly updates of the PELRB calendar; regular posting of Board Meeting Notices, Agendas, Minutes and Board Orders;

making posted forms interactive; and posting of judicial decisions reviewing Board Orders, when the Courts or Parties provide the PELRB with that information.

- Program Goal 3: “[M]onitor developing trends as expressed in decisions by local labor boards, the National Labor Relations Board and the Federal Labor Relations Authority”, as well as “ensuring local board compliance with PEBA requirements”, through National Judicial College course attendance by the Director and one or more members of the Board; Agency membership in the two premier and relevant professional associations, the Association of Labor Relations Agencies (ALRA) and the Labor and Employment Relations Association (LERA); and maintaining Agency subscription to The New Mexico Labor Letter and any ALRA and LERA newsletters, and its sharing of relevant information therein with members of the Board by email.
- Program Goal 4: “Conduct interagency training on application of the Public Employee Bargaining Act as needed and as time and budget permits...”, through updating a basic PowerPoint presentation outlining PEBA’s provisions, and presenting to constituents on that and on PELRB case statistics at periodic seminars arranged by the PELRB, or upon speaking invitations from others.
- Program Goal 5: “Improve Staff and Board training”, through training for the Administrative Assistant to develop competence in various relevant office software; and, time and budget permitting, Director and Board attendance at National Judicial College courses related to administrative law judiciary skills and ADR skills training.

See 2020-2023 Annual Reports, Appendices.

Program Goals 1 through 2 are highly relevant and constitute the bulk of our daily operations. Specifically, processing our cases and posting updated case information, and notices of hearings and Board meetings on our website remain our constant and primary preoccupations.

As noted, the PELRB meets or essentially meets its performance measures and its primary strategic goals of timely and accurately processing PPCs and Representation Petitions, since our rate of appellate reversal is relatively low and any delays have been for good cause including extensive judicial appeals. However, there is frequently inadequate staffing or budget to do much more than process our current case load and maintain necessary administrative functions for a State agency, such as annual audits and budget management.

In particular, the Vision Statement and the other Program Goals are laudable but often not attainable with our limited staffing and budget.

From 2004 through the end of 2009, the PELRB had three (3) FTEs. Although the Deputy Director position was excised as not warranted by our declining case load, Staff posits that this was short-sighted in the long run. Having been the Deputy Director at the time, the present Executive Director can attest that the third FTE position enabled the PELRB to develop a Keyword Index, a PELRB Practice Manual, and statistical templates and data, documents in 2009, which the PELRB

continues to still build upon today. Now that the PELRB has only two FTEs, the PELRB's Keyword Index and Practice Manual updates have become more challenging, and this is particularly true in those years when our case load is heavier than average. See Appendix A, All Cases Filed 2004-2024. In 2024, the PELRB contracted with a paralegal professional to update those materials but it was a significant expense that our budget will likely not be able to reliably sustain in the future. According to internal files, the Practice Manual was also updated in 2014, 2018, 2019, 2020, 2021, and 2022; and the Keyword Digest was updated in 2014, 2021, 2022, and 2023.

Similarly, while the PELRB has managed to engage in some training and outreach over the past ten (10) or so years while it was limited to two FTEs, those outreach/training opportunities are few and far between: (1) a presentation to a local Police Officers Association in or about 2012 or 2013; (2) a presentation to the New Mexico State Bar on or about 3/9/18; (3) a Best Practices presentation to the Board on 7/26/18; (4) additional Board trainings on or about 5/9/19, 10/27/20, and 11/23/20; (4) two presentations to the Rocky Mountain Public Employer Labor Relations Association, 10/28/18, 6/14/24; (5) one or more sack lunch presentations over the years at the PELRB, with attendance of 20-25 constituents;<sup>68</sup> and (4) two presentations to the Administrative Hearing Office.<sup>69</sup>

Similarly, unlike in the 2004-2009 period, there has been no budget for significant training of Staff or Board Members since about 2010 or 2012. During the 2004-2009 period, both the Director and the Deputy Director received extensive training from the National Judicial College, resulting in Judicial Skills Development Certificates in both Administrative Law and Alternative Dispute Resolution. NJC provides essential skills training needed to provide a fair hearing that affords the Parties due process, and results in a sound decision that will be sustained on appeal. In contrast to the prior executives, Director Griego was able to attend a good number of NJC cases over his eleven-year tenure with the Board, he was evidently unable to complete any of the NJC Judicial Skills Certificate Programs.

Another example exists in ALRA attendance. ALRA provides Executives, Hearing Examiners and Board Members with critical substantive information about public sector labor law. From 2004 through 2009, the Director, Deputy Director, and one or more Board Members used to regularly attend ALRA conferences, to the benefit of New Mexico public employees and public employers engaged before the PELRB. In contrast, although there has usually been sufficient budget for the Director to attend one labor law related continuing legal education offering a year, there has been little or no money for other Staff or Board ALRA training. For instance, the PELRB's Legal Assistant, who is legally trained and serves higher practical functions than that of a mere "legal

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<sup>68</sup> For at least one of those, I am informed that then-Director Griego was required to pay out of pocket for the lunches due to lack of adequate budget.

<sup>69</sup> The AHO training was conducted with an eye to contracting with AHO to provide contract hearing Examiner services on an as needed basis. To date, their services have only been contracted for in two cases, neither of which went to hearing despite the AHO Hearing Examiner billing for four to ten (4-10) hours on those cases. As such, the current Director has determined to refrain from using AHO Hearing Examiners in the future.

assistance”, has only attended one training related to labor law, in or about 2020 (the annual ALRA conference). Because Mr. Huchmala is legally trained and our office is a small one, he has recently been assigned the additional responsibility of serving as the PELRB’s “Alternate Hearing Examiner”. However, to carry out this responsibility, he needs to be responsibly trained. As noted above, we are working on that for the Fall of 2025, in FY26, but to do it right would take more budget than we currently have available.

Thankfully, the Legislature has gradually increased our budget over the past several years. However, we sometimes struggle with using all our budget on operation costs, because two Staff can only do so much in a business day, and they can only spend and utilize so many resources. Additionally, asking Staff to simply “do more” is problematic from a morale perspective because both Staff positions are compensated below the Gov-Ex salary mid-point, and have been for several years at least.

Despite the difficulty we have had in obtaining DFA approval for Staff raises, we are nearing the point where the PELRB and the Public Employers and Public Employees it serves may be better served by another full- or part-time Staff member than more money in the non-personnel operations category (the 400 category).

I am terribly proud of how much the PELRB does with what it has. However, we could do so much more for our constituents if our staffing and/or budget permitted it. Moreover, I firmly believe that Staff raises, additional funding for Staff/Board training and constituent outreach, and/or additional staffing would ultimately redound to the benefit of the PELRB’s clients, and the State of New Mexico.

In the meantime, I am excited to report the following projects or expenditures that we have implemented in 2024 or 2025, or are working on:

- updated the Keyword Digest and Practice Manuals in 2024;
- registered Mr. Huchmala for two separate course at the National Judicial College in the Fall of 2025, both with partial scholarships;
- in the process of obtaining the IT hardware needed to conduct video and/or hybrid hearings from the PELRB offices; and
- planning to send several Board Members and the Director to the 77<sup>th</sup> Annual Conference of the Labor and Employment Relations Association (LERA), in Seattle, Washington, June 12-14, 2025.