

24-PELRB-2026

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

In re:

**AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL EMPLOYEES
(AFSCME) COUNCIL 18, AFL-CIO,**

Petitioner,

&

PELRB No. 333-25

**VILLAGE OF BOSQUE FARMS POLICE
DEPARTMENT,**

Respondent.

ORDER

THIS MATTER came before the Public Employee Labor Relations Board at its regularly scheduled meeting on July 7, 2026, upon a petition filed by the American Federation of State, County, and Municipal Employees (AFSCME) Council 18, AFL-CIO for certification as the exclusive representative of a bargaining unit of employees of the Village of Bosque Farms consisting of all Officers, Sergeants, Detectives, Lieutenants, Evidence Techs and Clerks, and Animal Control Officers. The Board, having reviewed the file, and being otherwise sufficiently informed, finds and concludes: The Board adopts the Report and Recommended Decision issued by the hearing officer on May 4, 2026; and the Petitioner has demonstrated majority support from the employees in the bargaining unit such that it should be certified as their exclusive representative. Accordingly, the Board affirms and ratifies the card check results and the Certification of Representation issued by the Executive Director on July 2, 2026, including the findings therein.

DocuSigned by:

Nan Nash

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Date: 7/14/2026

Nan Nash, Board Chair



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Certification of Representation

The undersigned hereby certifies that **American Federation of State, County and Municipal Employees, Council 18** (Union) has demonstrated a sufficient basis such that it should be recognized as the exclusive bargaining representative for those employees in the following bargaining unit comprised of employees of the **Village of Bosque Farms**:

All Officers, Sergeants, Detectives, Lieutenants, Evidence Techs and Clerks, and Animal Control Officers.

The undersigned makes this certification based on the following:

1. By a Petition filed **November 10, 2025**, (333-25) the Union informed the Village of Bosque Farms that it was prepared to demonstrate sufficient support among employees in the unit for its recognition as the exclusive collective bargaining representative for those employees.
2. On **November 10, 2025** the Board's Executive Director determined that the Petition was facially valid and that a preliminary review demonstrated a sufficient showing of interest to proceed toward a card count.
3. On **May 4, 2026**, the Hearing Examiner issued a Report and Recommended Decision resolving all issues of unit inclusion or exclusion.
4. On **May 11, 2026**, the Employer provided a copy of a unit employee list. That list shows that there were **10** employees in the unit thereby confirming the preliminary finding of sufficiency.
5. On **July 2, 2026**, Board staff compared the interest cards to the employee list and found the petition was supported by a majority of the employees in the unit. Accordingly, after review by the PELRB at its **July 7, 2026**, meeting, the undersigned hereby certifies that the Union is certified as the exclusive bargaining representative for the unit described above.

ISSUED in Albuquerque, New Mexico on July 2, 2026 by:

PUBLIC EMPLOYEE LABOR RELATIONS BOARD


Pilar Vaile
Executive Director



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

In re:

**AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL EMPLOYEES
(AFSCME) COUNCIL 18, AFL-CIO,**

Petitioner,

&

PELRB No. 333-25

**VILLAGE OF BOSQUE FARMS POLICE
DEPARTMENT,**

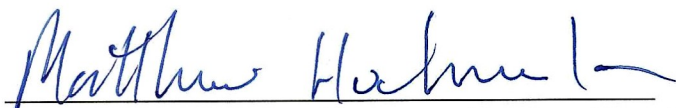
Respondent.

RESULTS OF CARD CHECK

On July 2, 2026, pursuant to NMAC 11.21.2.33, after resolving all unit composition issues and challenges to the validity of interest cards submitted by the union, and after the expiration of the intervention period, there being no intervention filed, I compared the union's showing of interest with the employee list provided by the employer. The following is the result of that comparison:

1.	Total Number of Employees in Bargaining Unit	<u>10</u>
2.	50% of Employees in Bargaining Unit Equals:	<u>5</u>
3.	Total Interest Cards Indicating Support	<u>9</u>
4.	Number of Challenged Cards	<u>3</u>
	Challenged Cards Rejected By Director	<u>3</u>
	Challenged Cards Accepted By Director	<u>0</u>
5.	Percent of Employees in Bargaining Unit indicating support	<u>90%</u>

WHEREFORE, the showing of interest demonstrates majority support for AFSCME Council 18 so that certification of its recognition as the exclusive representative of the unit in question shall issue.



Matthew Huchmala, Alternate Hearing Examiner

Date: July 2, 2026

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

**AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL EMPLOYEES
(AFSCME) COUNCIL 18, AFL-CIO,**

Complainant,

v.

PELRB No. 333-25

**VILLAGE OF BOSQUE FARMS POLICE
DEPARTMENT,**

Respondent.

HEARING EXAMINER’S REPORT ON UNIT COMPOSITION HEARING

This matter comes before the undersigned Hearing Examiner pursuant to a Petition for Representation filed by AFSCME on November 7, 2025 and Amended on November 11, 2025; and the Answer filed by the Village of Bosque Farms Police Department, on January 2, 2026.

The Amended Petition sought to represent “[a]ll Officers, Sergeants, Detectives, Lieutenants, Evidence Techs and Clerks, and Animal Control Officers.” (Am. Pet. at 1.) The Village countered that Lieutenant’s are supervisory employees; and that the Evidence Techs and Clerks, and the Animal Control Officers, do not share a community of interest with the Village Police Officers and Sergeants. (Answer at ¶¶ 5-11.) Subsequently, the Union withdrew its Petition as to Lieutenants and Clerks at the start of the unit composition hearing.

A Status and Scheduling Conference was held on January 15, 2026; a Scheduling Order was issued on January 21, 2026; and a unit composition hearing was held on March 3-4, 2026 pursuant to the Scheduling Order. There, the Parties stipulated to all exhibits, except Union C, which was thereafter withdrawn; the witnesses testified under oath administered by the Hearing Examiner; and the proceedings were audio-recorded.¹ All Parties hereto were afforded a full opportunity to be heard, to examine and cross-examine witnesses, and to introduce and/or object

¹ The H.E. failed to record the testimony of Animal Control Officer Vincent Otero but her notes capturing the gist were read into the record and the witness and Advocates had nothing to add.

to evidence, and both Parties timely filed post hearing briefs on April 1, 2025, after which this Report was timely issued under PELRB Rules.

Based upon the following findings, relevant law, and analysis, the undersigned Hearing Examiner concludes that the Animal Control Officer and Evidence Tech share a clear identifiable community of interest with the Bosque Farms Police Department Officers; and that the Petitioned-for unit as amended by Union is appropriate under Section 13 of the Public Employee Bargaining Act, NMSA 10-7E-1 et seq. Accordingly, the undersigned recommends that the Petition be granted subject to a demonstration of majority support as instructed at the conclusion of this Report.

APPEARANCES AND RECORD

For the Union

Stephen Curtis, Esq.
Quintin Webb
Vincent Otero
Jody Chapman

Youtz & Valdez, P.C.
Local Union President, Officer, and Witness
Animal Control Officer and Witness
Evidence Tech and Witness

For the Village:

Jaimie Dawes, Esq.
Chief Andrew Owen

Stelzner, Winter, Warburton, Flores & Dawes PA
Chief of Bosque Farms PD and Witness

In addition to the sworn testimony of the foregoing four (4) witnesses, the Union entered five (5) exhibits and the Employer admitted eight (8), upon stipulation.²

RELEVANT LEGAL STANDARDS

No Party bears the burden of proof in a representation matter, and it is instead the undersigned Hearing Examiner's duty to fully develop a record sufficient to decide the matter. *See* 11.21.1.22(A) NMAC. In rendering her findings, decision, and recommendations she applies the following language from PEBA:

0-7E-13. Appropriate bargaining units.

- A. The board or local board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining units

² Un. Ex. 1, Village Policy Manual; Un. Ex. 2, 12-9-25 Email and attachments; Un. Ex. 4, 5-29-25 emails; Un. Ex. 5, 10-27-25 email; Un. Ex. 6, Bosque Farms Police Dept. Organizational Chart; BFPD Ex. A, Chief job description; BFPD Ex. B, Captain job descr.; BFPD Ex. C, Lieutenant job descr.; BFPD Ex. D, Detective job descr.; BFPD Ex. E, Officer job descr.; BFPD Ex. F, Police/Court Clerk job descr.; BFPD Ex. G, Animal Control Officer/Maintenance job descr.; BFPD Ex. H, BFPD Policy 200, Organizational Structure and Responsibility; BFPD Ex. I, Village Personnel Policy Manual.

for collective bargaining. Appropriate bargaining units shall be established on the basis of occupational groups or clear and identifiable communities of interest in employment terms and conditions and related personnel matters among the public employees involved. Occupational groups shall generally be identified as blue-collar, secretarial clerical, technical, professional, paraprofessional, police, fire and corrections. The parties, by mutual agreement, may further consolidate occupational groups. Essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.

B. ...

C. The board or local board shall not include in an appropriate bargaining unit supervisors, managers or confidential employees.

...

(*Id.*, emphasis added)

PEBA does not define “community of interest”, but the PELRB has traditionally applied the “*Kalamazoo* factors” derived by the National Labor Relations Board in *Kalamazoo Paper Box Corp.*, 136 NLRB 134 (1962):

- 1) Method of Wages or Compensation: Differences in how employees are paid.
- 2) Hours of Work: Variations in working hours.
- 3) Employment Benefits: Differences in benefits offered.
- 4) Separate Supervision: Whether employees are supervised separately.
- 5) Job Qualifications: The degree of similarity in qualifications, training, and skills.
- 6) Job Functions and Amount of Time Spent Away from Employment Situs: Differences in job roles and time spent away from the primary work location.
- 7) Regularity of Contact with Other Employees: How often employees interact with others in the workplace.
- 8) Level or Lack of Integration: The extent to which work functions are integrated with those of other employees.
- 9) History of Collective Bargaining: The history of any past collective bargaining activities [source](#) [source](#).

See NEA-Belen & Belen Fed. of School Employees & Belen Consol. Schools, 1 PELRB No. 2 (May 13, 1994), citing *Kalamazoo*; *see also United Health Professionals of New Mexico and University of New Mexico Sandoval Regional Med. Ctr.*, 8-PELRB-2023 (2023), and *Santa Fe Community College-AAUP and Santa Fe Community College*, 4-PELRB-2017 (PELRB No. 311-16).

Under the *Kalamazoo* factors, we assess whether employees have sufficient economic and operational relatedness, similarity of working conditions and lines of supervisions, and degree of functional integration in the employer’s operations, as to comprise “a cohesive bargaining unit” that is “relatively free of conflicts of interest”. *See, e.g., Higgins John. E., Jr., Developing Labor*

Law (hereinafter “DLL”) at 11-6 – 11-7, 11-15 (7th ed., 2017); *Chemical Workers v. Pittsburgh Glass*, 404 U.S. 157, 172-73 (1971) (citing *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962) (that “the Board regards as its primary concern in resolving unit issues ‘to group together only employees who have substantial mutual interests in wages, hours, and other conditions of employment’ because “[s]uch a mutuality of interest serves to assure the coherence among employees necessary for efficient collective bargaining and at the same time to prevent a functionally distinct minority group of employees from being submerged in an overly large unit”); and *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 494 (1985) (describing “[a] cohesive unit” as “one relatively free of conflicts of interest”, stating it “serves the Act’s purpose of effective collective bargaining”).

However, there is no absolute rule of law as to what constitutes an appropriate bargaining unit. *Packard Motor Car Co. v. NLRB*, 330 U.S. 485, at 491, (1947). As such, no single factor is conclusive, and the determination requires a balanced analysis of all factors. *See, e.g.*, DLL at 11-7 (that “[c]ommunity of interest is not susceptible to precise definition or to mechanical application” and “the ultimate determination much more often depends on detailed factual analysis on a case-by-case basis than on the application of rules of law”). Additionally, the Board is delegated wide latitude or discretion to determine appropriate bargaining units, “[b]y use of the discretionary term ‘appropriate’ and the inclusion of the broad standard, to assure to employees the fullest freedom in exercising the rights guaranteed by the Act”. *Compare* NLRA, Sec. 9(b) (the language used in DLL) and Sec. 13(A) of PEBA (quoted above).

Notably, “more than one appropriate collective bargaining unit logically can be defined in any particular factual setting.” *Country Ford Trucks, Inc. v. NLRB*, 229 F.3d 1184, 1189 (D.C. Cir. 2000). Accordingly, it is immaterial that a unit with “different contours” might exist, *Id.*, provided the employees do in fact share sufficient community of interest as to form a coherent whole for purposes of bargaining. *See, e.g., Chemical Workers supra*. A corollary to the multiplicity of possibilities (and the Board’s broad discretion), is that determining whether a Petitioned for unit is appropriate does not require the Board to determine “the only appropriate unit, or the ultimate unit, or the most appropriate unit: the [Act] requires only that the unit be ‘appropriate.’” *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950); *see also NEA-Belen*; *American Hosp. Ass’n v. NLRB*, 499 U.S. 606, 610 (1991). Indeed, as the PELRB noted as far back as 1994, in *NEA-Belen*:

Finally, we emphasize that where a labor organization’s petitioned-for unit is

appropriate, an alternative proposal or configuration proffered by an employer will not be substituted. In this regard, the Board’s function in a unit determination is to determine an appropriate unit consistent with the Act’s requirements. Substitution of an alternative unit, which may also be an appropriate one, does not correspond with employees’ expression of their self-determined interests and could place an employer in the tenuous posture of subjecting itself to an allegation of interference in the formation of the labor organization’s petitioned-for unit.

See 1 PELRB No. 2, at 8 (emphasis added); *see also Country Ford Trucks* at 1189 (a reviewing court will not substitute its judgment for that of the Board, and it is limited to striking down only those unit determinations that are “truly inappropriate).

Lastly, in determining whether a petitioned for unit is appropriate, the PELRB has a well-established and well-defined “anti-fragmentation policy”, pursuant to the purpose of PEBA to promote the public interest and government efficiency of operation. That policy was announced by the PELRB in 1994, in *NEA-Belen*, “to avoid unnecessary and needless proliferation of bargaining units.” *Id.* at 3-4.

FINDINGS OF FACT

Overview of the Petitioned for Employees

1. The Bosque Farms Police Department (Department or BFPD) currently employs fourteen certified Police Officers. [Chief Owen, 1:49:20 – 1:49:36]. Four of the certified Officers are still probationary employees. [Chief Owen, 1:49:36-1:49:51]
2. The Department also employs one full-time Records Clerk and one part-time Evidence Technician [Chief Owen, 1:49:51 – 1:50:12], although the Petition has been withdrawn as to the Records Clerk.
3. The Village employs one Animal Control Officer (ACO). The ACO is not technically an employee of the Police Department, and ACO compensation does not come out of the BFPD’s part of the Village budget.³ The Police Chief also does not have authority to hire or terminate the Animal Control Officer, who is listed as a Village Maintenance employee and hired/terminated by the Mayor. [Chief Owen, 1:50:12-1:51:08; *see also* BFPD Ex. 2, Post-

³ The undersigned takes administrative notice of the Village’s 2025-2026 budget, which includes the Police Dept. and all its employees. See [Budget Detail - Bosque Farms \(Village\) - FY2026](#) (last accessed 4-28-26).

Petition emails; and Un. Exs. 4-5, and 2 at 6]

4. However, the ACO is supervised by the Chief of Police, or the Lieutenant in the Chief's absence, and the position is placed in the chain of command of the Police Department. [Chief Owen, 1:49:21-1:50:47, 2:31:11-2:31:51, 2:33:00-2:34:24 (Chief Owen testifying that administratively the Mayor placed the ACO under his supervision); BFPD Ex. G, § 24.1; Un. Ex. 6; ACO Otero, 1:20:15-1:23:38² (ACO Otero supervised by the Chief, but reports to the Lt. if the Chief is unavailable); Union Ex. 5 (email from Chief indicating that "Sgt Duran and Sgt Gutierrez will report to Lt Adams along with ACO Otero and Evid Tech Chpman"); Union Ex. 4 (email showing the Chief overseeing ACO Otero and directing staff with regard to calling ACO Otero when he is on call); Union Ex. 2, at 6 (email from Chief Owen noting that "Vince Otero, Animal Control Officer, falls under supervision of Police Chief and has separate budget")]

Police Officers

5. Police Officers' primary responsibilities include enforcing criminal laws, patrolling the municipality, deterring crimes, assisting citizens, suppressing disturbances, riots, and breaches of the peace, apprehending disorderly persons, making arrests, and apprehending persons violating the laws of the state or ordinances of the municipality. [Exhibit E; Chief Owen, 1:55:50-1:56:40, 2:47:00 – 2:47:35; Officer Webb, 55:20-55:33]
6. They spend the majority of their time patrolling in the field. [Chief Owen, 2:01:20 -2:02:24; Officer Webb, 52:03-52:25]
7. Police Officers must serve a twelve-month probationary period. [Exhibit E, § 30.7]
8. Police Officers must be certified with the New Mexico Law Enforcement Academy. [Exhibit E, § 30.5]
9. Police Officers are held to higher standards than other employees of the Department. [Chief Owen, 2:04:02-2:04:13.]
10. Police Officers are subject to statewide qualifications and conduct standards. [See, e.g., NMSA 1978 §§ 29-7-6, 29-7-13; NMAC §§ 10.29.1.10, 10.29.1.11]
11. Police Officers work on regular shifts ensuring at least two officers are on duty 24 hours per day and 365 days per year. [Chief Owen, 1:57:50-2:00:40]

12. Police Officers typically work twelve-hour shifts from 6:00 a.m. – 6:00 p.m., or 6:00 p.m. to 6:00 a.m. They work one three twelve-hour shifts one week, and four twelve-hour shifts the next week, guaranteeing them overtime. [Chief Owen, 1:57:50-2:00:40; Officer Webb, 38:30-39:00]
13. Police Officers carry a firearm for self-defense and for the defense of others. [Chief Owen, 2:10:20-2:10:56]
14. The Department offers benefits to Police Officers including, health insurance, dental insurance, vision insurance, life insurance, and retirement under the Public Employees Retirement Act (PERA). [Chief Owen, 2:18:50-2:19:53.]
15. Police Officers are under “PERA Municipal Plan Five”, which provides for a twenty-five-year retirement. [Chief Owen, 2:18:50-2:19:53; Officer Webb, 57:40-58:10, 1:00:14]
16. Police Officers have a command structure under which they report up to a sergeant, then to a lieutenant and/or a captain, and finally to the police chief. [Chief Owen, 2:31:52-2:32:20; Exhibit H]
17. Police Officers are exposed to substantial risk in connection with their job duties. [Chief Owen, 2:25:40-2:25:50]
18. Police Officers receive biannual performance reviews, whereas performance reviews for other Department employees are done annually, if at all. [Chief Owen, 2:53:40-2:54]

Animal Control Officer

19. The Animal Control Officer (ACO) is not a certified law enforcement officer (LEOs) [Chief Owen, 2:05:32-2:05:39], and his scope of duties is much narrower than that of the BFPD Police Officers, although many of his duties are similar in nature.
20. All of the Animal Control Officer’s duties concern animals. [Exhibit G, § 24.2] The Animal Control Officer enforces animal control ordinances, which are primarily civil in nature, although they can give rise to fines. [Chief Owen, 2:07:08 -2:07:22, 2:46:24-2:47:33; Otero, 1:20:15-1:23:38] Like the BFPF Police Officers, the ACO does execute search warrants upon issuance by a Judge, but the ACO’s warrants are issued a Magistrate Judge rather than by a Magistrate or District Court Judge like the Officers’ warrants. [Otero, 1:20:15-1:23:38 (that enforcing the animal control ordinances of the Village includes issuing citations that can result

- in fines for the violation of those ordinances, and that he seeks and executes search warrants through the Magistrate Judge as part of the ACO job); Owen, 2:46:24-2:47:33; (that “most” of the ordinances the ACO enforces are civil, but citations can result in fines, and admitting that the ACO can execute search warrants but, like police, must have a judge issue those warrants)]
21. The ACO also wears a uniform similar to that of the BFPD Police Officers. [Webb, 39:35-39:52]
 22. Consistent with their more narrow scope of duty or authority, however, the ACO is exposed to different and more minimal risks on the job than police officers. [Chief Owen, 2:25:40-2:25:50]
 23. Nonetheless, the Animal Control Officer carries a department issued taser and firearm, and receives the same Department training on those weapons as do Police Officers. The ACO’s firearm is issued specifically for safety from animals, however, which is a more narrow purpose than that for which Police Officers carry firearms. [Chief Owen, 2:09:00-2:10:20-2:10:56, 2:25:40-2:25:50, 2:47:46-2:48:10; Otero, 1:20:15-1:23:38, 1:25:00-1:25:24]
 24. There are no specific educational or training requirements or expectations applicable to the Animal Control Officer, except as to Department issued weapons (*see below*). [Exhibit G, § 24.3]
 25. Animal Control Officers serve a six-month probationary period, rather than a 12-month period. [Exhibit G, § 24.4]
 26. The Animal Control Officer receives the same or similar health, dental, and vision insurance as Police Officers, but their retirement differs because the ACO is under a 30-year PERA retirement plan. [Chief Owen, 2:20:47 – 2:21; Otero, 1:20:15-1:23:38; Webb, 37:01-37:50]
 27. The Animal Control Officer works four ten-hour shifts each week, Monday through Thursday, 7:00 a.m.-5:00 p.m., rather than the rotating three- or four-day 12-hour shifts of the BFPD Police Officers [Chief Owen, 2:21:45-2:23:10; Director’s summary of Otero Testimony, 1:20:00-1:23:30]
 28. The Animal Control Officer is paid less than Police Officers and also does not have guaranteed overtime built into his schedule like Police Officers do. [Chief Owen, 2:21:45-2:23:10; *see also* Webb and Otero testimony regarding Officers’ and AOC’s respective rates of pay]
 29. The Animal Control Officer does not report through the chain of command applicable to Police Officers. Instead, he reports directly to the Chief, and the Lieutenant in the Chief’s absence. [Chief Owen, 2:31:11-2:31:51; *see also* Un. Ex. 6 (Org. Chart) and BFPD Ex. H (Org. Policy)]

30. Police Department policies do not apply to the Animal Control Officer because he is not part of the Department. [Chief Owen, 2:45:30 -2:46:04]
31. The Animal Control Officer's office is located in a separate building within the same Village Complex as the BFPD, but the building is located next door to the Police Department. [Officer Webb, 46:15-46:32; ACO Otero, 1:27:40-1:28:24]
32. The Animal Control Officer has regular and even "daily" interaction with the BFPD Police Officers. For instance, the ACO regularly responds to calls of service from Officers involving animal issues, and he calls BFPD Police Officers regularly for cases involving people and/or a disagreement. [Webb, 39:06-39:35; Otero, 1:27:40-1:28:24; Union Ex. 4 (Chief Webb specifying when officers can call the ACO to the scene when he is on call)]⁴
33. The Animal Control Officer's assistant is a code enforcement officer, who is not part of the Police Department. [Dir. summary of Otero Testimony, 1:20:00-1:23:30]
34. The Animal Control Officer has little or no interaction with the Evidence Technician. [Director's summary of Otero Testimony, 1:20:00-1:23:30]

Evidence Technician

35. The Evidence Technician is a part-time employee working nineteen hours per week. [Chief Owen, 2:16:00-2:16:40; Chapman, 1:31:58-1:32:04]
36. The essential job duties of the Evidence Technician are clerical in nature and performed in the BFPD office. The Evidence Tech is responsible for making sure that evidence acquired by the officers is properly logged and maintained. Those officers bring the evidence in, log it into the system, and place it in a temporary locker. The Evidence Tech then processes the evidence and stores it in the evidence room to maintain the chain of custody. She interacts with the officers through this process by making sure they have properly logged the evidence and then checking it out to them if they need it for court. [Chapman, 1:31:00- 1:31:54, 1:36:33-1:37:14, 1:37:50-1:38:15; Chief Owen, 2:27:10-2:29:30]
37. The Evidence Technician does not report through the typical police officer chain of command and instead reports directly to the Lieutenant or Captain, similar to the ACO. [Chief Owen,

⁴ The Village seems to point to Un. Ex. 4, emails, for the proposition that ACO Otero has limited contact with BFPD Officers. In fact, he has regular/daily contact as he and Webb credibly testified.

2:40:14-2:40:25; Exhibit H] The reason is different, however. The Evidence Tech is supervised by a Lieutenant or higher because lower-ranked employees may submit evidence for logging into the system, and it would potentially be an issue if she were supervised by people submitting evidence to her. [Owen, 1:51:39-1:52:27]

38. The Evidence Tech's office is in the same building as the police, and right next to officers' workspaces. [Owen, 2:40:26-2:41:18]
39. The Evidence Technician's interactions with the BFPD Police Officers daily, although her interactions are limited to their joint or shared endeavor of making sure that evidence is properly handled and stored so that it can be admissible at court. [Chapman, 1:36:30-1:37:15; Owen, 2:40:26-2:41:18 (testifying to the very important duty shared); Webb, 45:37-46:39 (also testifying about officers' interactions with Evidence Tech)]
40. The Evidence Technician's training is provided on the job, and she is exposed to minimal risks on the job. [Chief Owen, 2:26:15-2:26:40; Chapman, 1:38:30-1:39:22]
41. As her uniform, the Evidence Technician wears a Polo Shirt with a civilian badge on it. [Chapman, 1:39:42 - 1:40:26; Webb, 39:35-39:52 (testifying about uniforms worn by Officers and the ACO)]
42. The New Mexico Administrative Code ethics provisions do not apply to the Evidence Technician. [Chief Owen, 2:03:40 – 2:04:02]
43. The Evidence Technician does not receive any insurance or retirement benefits, and she has been told by Village and/or BFPD management that she is ineligible for such benefits as a part-time employee. However, she is a "regular part-time" employee under the Personnel Policy Manual, and the Manual states that "part-time regular employee[s]...may participate in the [PERA] consistent with their regulations, but do not receive health or life insurance benefits, except those that are statutorily required."⁵ [Chapman, 1:35:30; 1:35:47; Owen, 2:48:22-2:49:50; *see also* Village Exhibit I, at § 3.2 and 3.3]

⁵ Although the Village and/or Chief suggested the Evidence Tech was excluded from PERA as a casual or temporary employee, she did not meet those policy definitions. *See* Ex. I, Secs. 2.7, 2.19, 2.25, 3.3((C)-(D)).

Other Economic and/or Operational Factors.

44. All of the petitioned-for employees are paid on an hourly basis and submit their timesheets to the Police Department for approval. [Audio, at 35:36-37:00 (Webb); 1:20:15-1:23:38 (Otero); 1:32:01-1:32:23 (Chapman)]
45. All of the petitioned-for employees receive sick and annual leave under the same provisions of the personnel policy. [Audio, at 37:01-37:50 (Webb); 1:20:15-1:23:38 (Otero); 1:34:37-1:35:41 (Chapman); 2:52:41-2:53:03 (Owen admitting that all Village employees are subject to the same leave policies); Village Exhibit I, at § 10.4 and 10.5]
46. All of the petitioned-for employees are subject to the terms of the Personnel Policy Manual, Village Exhibit I, including its discipline provisions.
47. All of the petitioned-for employees are engaged in a shared public service mission and endeavor to enforce Village ordinances, to some degree, scope or extent or another.

PARTIES' POSITIONS

The Union argues that

the proposed unit is an appropriate unit, because they are organized by the Village into a single department under common supervision and with a common overreaching function: the enforcement of the laws applicable to the Village. Although, of course, they have some different terms and conditions of employment (all of which would be subject to bargaining once the unit is certified), those differences are not the sort that would render the unit inappropriate.

(Un. Post Hearing Brief (PHB) at 1, 9.)

It argues that, “[w]here, as here, the employees are all part of the same department, performing the same basic law-enforcement function, and subject to the same supervision, that departmental unit is appropriate.” *Id.* at 8, quoting *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB 2015, 2017 (2011) (finding petitioned-for employees “readily identifiable as a group” because they belonged to the same department and performed a unique function), *enf. denied on other grounds sub nom. NLRB v. Enterprise Leasing Co. Southeast, LLC*, 722 F.3d 609 (4th Cir. 2013). The Union observes that “the NLRB utilizes a slightly different formulation of the *Kalamazoo* factors” “[t]o determine whether a departmental unit such as being proposed by this petition is appropriate”, and that in such a case “[t]hese factors are used to distinguish the

departmental unit from other units the employer may argue must also be included”. (*Id.* at 8 (emphasis in original), citing *United Operations, Inc.*, 338 NLRB 123, 123 (2002).)

It emphasizes, that “[i]n any event, it is clear that the proposed unit is **an** appropriate one” because

[a]ll of the petitioned-for employees are subject to a unified chain of command in a single departmental organizational chart, and subject to common supervision...They regularly interact with one another...They are all involved, in one way or another, in law enforcement related activities...Although compensated at different hourly rates, all are hourly employees who earn sick and annual leave pursuant to the same policy...All are subject to the same Personnel Policy Manual...

(*Id.* at 8.) These things provide adequate unit cohesion, it argues; while “[c]onversely, the employer’s proposal that there be instead two units, one of police, and one including the Evidence Tech and the Animal Control Officer, would violate this Board’s anti-fragmentation policy, and would result in an ‘unnecessary and needless proliferation of bargaining units.’” (*Id.* at 9.)

The Village argues that (a) “Police Officers are a unique occupational group”; (b) the ACO is not even an employee of the BF Police Department; and (c) the AOC and Evidence Tech do not share a community of interest with the Officers and Sergeants, or even amongst themselves. (Vill. PHB at 7.) The Village also criticizes that “Petitioner has artificially excluded the one position (Records Clerk) that might be part of the same occupational group as, or share a community of interest with, the Evidence Technician.” (*Id.* at 2, Note 2.)

As to the Animal Control Officer, the Village argues that Police Chief supervision is an administrative convenience and that the ACO is not subject to Police Department Policies. It also emphasizes the Chief’s lack of hire/fire authority over the ACO, and argues that “temporary supervision of the Animal Control Officer by the Chief of Police is not sufficient to make him a member of the Department and it is not an appropriate basis on which to include the Animal Control position within a Police Department bargaining unit.” (Vill. PHB at 8.)

As to both the ACO and the Evidence Tech, the Village argues that neither are appropriately included in a bargaining unit of Police Officers, because the Officers are too distinct and comprise a separate and distinct occupational group under Section 13(A) of the PEBA. (Vill. PHB at 8-12.) It argues, “the *Kalamazoo* factors demonstrate that the efficient administration of government would not be served by including one clerical and one unrelated blue-collar position in a bargaining unit otherwise composed entirely of sworn officers.” It emphasizes the following differences:

- (a) different hours and shifts, and guarantee and/or availability of overtime;
- (b) availability and/or type of health, vision, dental, or retirement benefits;
- (c) separate lines of supervision, and lack of a formal chain of command for the ACO and Evidence Tech;
- (d) differences in scope of duties as to law enforcement, and consequent differences in certification, training, ethical standards, and risk exposure;
- (e) what the Village describes as “minimal” “contact with and integration”; and
- (f) that there is no lack of history of collective bargaining among these employees.

(Vill. PHB at 9-11.) The Village also argues that “the complete absence of a community of interest outweighs a preference for anti-fragmentation.” (*Id.* at 9, citing *UHPNM*, 8-PELRB-2023, *supra.*)

As to the Evidence Tech, the Village argues that “[t]he part-time...position is a clerical position having virtually no similarities to sworn police officers or the animal control position.” (*Id.* at 11, citing *New Mexico State University Police Officers Ass’n v. New Mexico State University*, 1 PELRB 13 (1995) (administrative secretaries did not share community of interest with police officers and were excluded from the proposed bargaining unit).) As to the ACO, it further argues that “[a]lthough there are some superficial similarities between the animal control position and police officers (like eligibility for basic benefits, and performance of duties outside the office), the Animal Control Officer lacks a true community of interest with Police Officers.” (*Id.*)

From these facts and factors, the Village asserts that “[i]t is simply not appropriate to include these two highly divergent positions in a bargaining unit along with sworn police officers.... under the PEBA. *See* NMSA 1978 § 10-7E-13.” (Vill. PHB at 12.) It asks that the Petition be dismissed or in the alternative that Police Officers be in their own unit. (*Id.*)

ANALYSIS AND CONCLUSIONS OF LAW

The facts are largely undisputed, and the Parties largely disagree only as to how they should be applied under PEBA and what weight should be given to the various the *Kalamazoo* factors.

From the outset, the undersigned is mindful that the PELRB is only required, in the first instance, to determine whether the petitioned for unit is appropriate, and that the Village’s alternative proposal to create two or more bargaining units may only be considered if the

petitioned-for unit is shown under the facts to be inappropriate. In making her appropriateness determination, moreover, the undersigned gives significant weight to the express language and legislative intent of under Section 13(A) of the PEBA.

Section 13(A) expressly provides that “[e]ssential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.” In this case, there is no history of collective bargaining, so the determination shall depend upon a balancing of facts related to “efficient administration of government” and those that address “the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.” See Section 13(A).

The plain text of the PEBA expresses the intent that public employees shall be able maximalize their exercise of rights, such as to form or join a union. The plain text, as interpreted by the PELRB since 1994, also expresses the intent that government operations should not be bogged down by bargaining among small and fragmented units where not necessary or consistent with those employees’ desires. See *NEA-Belen*.

Here, the Officers, ACO, and Evidence Tech desire to collectively bargain together, they share many work conditions and benefits, and they interact with each other regularly within their respective scopes of duty. The undersigned agrees with the Union that the petitioned for unit is “an appropriate one” because

[a]ll of the petitioned-for employees are subject to a unified chain of command in a single departmental organizational chart, and subject to common supervision...They regularly interact with one another...They are all involved, in one way or another, in law enforcement related activities...Although compensated at different hourly rates, all are hourly employees who earn sick and annual leave pursuant to the same policy...All are subject to the same Personnel Policy Manual...

See Un. PHB at 8; see also *Kalamazoo*, *NEA-Belen*. It is also clear that a unit of only two employees (the ACO and Evidence Tech) would violate the anti-fragmentation policy. See *NEA-Belen*. Moreover, it would do so for unclear gain or benefit to efficient government operations, given that those two positions also have dissimilarities between them, as the Village observes.

Moreover, New Mexico Courts have upheld determinations of community of interest even where the employees at issue “worked under different contracts that covered different time periods, operated under different employee handbooks, had different ways of presenting grievances,

received different benefits, and were subject to different lines of supervision” *See San Juan Coll. v. San Juan Coll. Labor Mgmt. Bd.*, 2011-NMCA-117, 267 P.3d 101 (concluding “faculty and instructional professionals whose exclusive job was teaching had the community of interest required to establish a proper bargaining unit and the board’s decision was supported by substantial evidence”, despite these differences). Other courts have also sustained unit determinations in the face of differences. *See, e.g., Country Ford Trucks* at 1189 (denying a petition for review and sustaining the Board’s application for enforcement where the two groups of employees at issue had different supervisors and uniforms, but the Country employed one human resources manager, and all employees are on the same payroll and have the same vacation and benefit policies, as well as use the same break room).

Within this context, the undersigned finds and concludes that the differences the Village points to are not so significant as to render the petitioned for unit inappropriate, or lacking in essential cohesion and mutuality of interest in the overall terms and conditions of employment, including but not limited to such matters as grievance processing, and uniform enforcement of relevant work policies. Specifically, as found above, all of the petitioned-for employees: are paid on an hourly basis, and submit their timesheets to the Police Department for approval; receive sick and annual leave under the same provisions of the personnel policy, which are subject to collective bargaining; are subject to the terms of the Personnel Policy Manual, Village Exhibit I, including its discipline provisions; and interact regularly while engaged in a shared public service mission and endeavor to enforce Village ordinances, to some degree, scope or extent or another.

There is also showing or credible argument of conflict of interest; and the Village also fails to point to any evidence suggesting the acknowledged differences in terms and conditions of employment cannot be adequately addressed in bargaining. As such, any claims to those effects are speculative.

Nor do the cases cited by the Village dictate a different result. The *UHPNM* case, 8-PELRB-2023, is distinguishable but also does not stand for the proposition offered. That case dealt with PRN or “as needed” employees. Both the Animal Control Officer and Evidence Tech here are regular employees, and are not temporary, occasional, or “as needed” employees, so that cases’ analysis or conclusions are not relevant or dispositive here. Additionally, in *UHPNM* the Board adopted the H.E.’s determination upon remand that PRN or “as needed” nurses could be appropriately included in a bargaining unit with regular nurses, and anti-fragmentation was not a

significant factor. At the same time, while the H.E. noted that “[s]eparating out the PRN and non-PRN staff into different bargaining units is completely within the Board’s discretion as long as there is a rational basis for that exercise of discretion”, in that case he concluded “assuring public employees of the fullest freedom in exercising rights guaranteed by PEBA” instead supported a single unit. *Id.* at 15. Thus, this case does not support a claim that clear lack of community interest overrides the anti-fragmentation policy, as the Village argues.

The *NMSU Police Officer Ass’n* case, 1-PELRB-13, also does not support the Village’s case, because it is distinguishable in several respects. *Id.*, pp. 14-16. The NMSU case concerned the inclusion of 152 administrative secretaries. In contrast, here the few employees at issue cannot make up a bargaining unit of their own without violating the anti-fragmentation policy. Additionally, the ALJ in *NMSU* relied upon well-established NLRA precedent that normally “treat[ed] office clerical employees as separate from other employee bargaining units.”, *Id.* at 16, citing *Shattuck School and Local No. 34, International Union of Operating Engineers*, 18-RM-727, (1971) and *Ingalls Memorial Hospital and International Union of Operating Engineers, Local 399*, 1309 NLRB 57, 142 LRRM 1367. The ACO and Evidence Tech, however, are not “office clerical employees”. Nor are the ACO and Evidence Tech otherwise as divergent as the Administrative Secretaries in *NMSU*. As the ALJ wrote in *NMSU*, the Administrative Secretaries there were “not engaged in the performance of the same or even similar skills and their impact upon the primary function of the department is tangential.” *Id.* at 15. Here, in contrast, the ACO’s impact on BFPD operations is frequent and regular, and the Evidence Tech’s impact is daily and absolutely critical.⁶

Lastly, the undersigned takes administrative notice that it is not unheard of to combine clerical, evidence tech, animal control, and/or other positions with Police Officers into a single bargaining unit to align with employee preferences, promote efficiency in operations, and/or avoid fragmentation. See, e.g., [All-Known-State-and-Local-Public-Bargaining-Units-Feb-2026.pdf](#) (Carlsbad, Las Cruces, Roswell, UNM.).

⁶ The ALJ in 1-PELRB-13 also paraphrased Section 13 and wrote that “it is clear that secretarial clerical employees are intended to be treated as separate bargaining units”. However, his paraphrase and conclusion omitted and ignored the “or” between “occupational groups” and “clear and identifiable communities of interest...” *Id.* at 16. Accordingly, the undersigned rejects that part of his decision as contrary to the express statutory language.

RECOMMENDED DECISION

Based upon the foregoing findings, legal standards, reasoning and conclusions, the Hearing Examiner recommends that the Petitioned-for unit be approved, as amended by Union to include Police Officers, the Animal Control Officer, and the Evidence Tech, as appropriate under Section 13 of the Public Employee Bargaining Act, NMSA 10-7E-1 et seq., subject to a demonstration of majority support.

To facilitate that, the Village is hereby ORDERED to provide the PELRB and Petitioner with an eligible employee list that does not include probationary Officers, within five (5) business days of the issuance of this Report.

This is a final determination as to unit composition, and an aggrieved Party may obtain Board Review of this Recommendation pursuant to NMAC 11.21.2.22

ISSUED this 4th day of May, 2026

A handwritten signature in blue ink, appearing to read 'P. Vaile', is positioned above a horizontal line.

Pilar Vaile
Exec. Dir. and Hearing Examiner