

33-PELRB-2026

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

In Re:

UNITED STAFF-UNM, LOCAL 6155

Complainant,

and

PELRB Case No. 114-26

**REGENTS OF THE UNIVERSITY OF
NEW MEXICO,**

Respondent.

ORDER

THIS MATTER comes before the Public Employee Labor Relations Board at its regularly scheduled meeting on September 1, 2026, for *pro forma* adoption of the Hearing Officer's Report and Recommended Decision issued in this case pursuant to NMAC 11.21.3.19(D). The Hearing Examiner issued his report on July 10, 2026, and no request for Board review was filed by either party. Accordingly, the Board adopts the Hearing Officer's Recommended Decision and the decision is binding on the parties but does not constitute binding precedent.

DocuSigned by:

Peggy Nelson

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Date: 9/10/2026

Peggy J. Nelson, Board Chair

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

UNITED STAFF-UNM, LOCAL 6155

Complainant,

and

PELRB Case No. 114-26

**REGENTS OF THE UNIVERSITY OF
NEW MEXICO,**

Respondent.

**ORDER AND REPORT DENYING APPLICATION FOR PRELIMINARY
INJUNCTION/TRO, AND RECOMMENDING DISMISSAL OF THE PPC**

INTRODUCTION

This matter comes before the undersigned Hearing Examiner pursuant to an Application for Preliminary Injunction and Temporary Restraining Order¹ filed on June 5, 2026 and amended twice² on June 8, 2026 (hereinafter “Application for TRO” or “TRO Application”).

The Application was filed shortly after the filing of a 2026 Prohibited Practice Complaint (PPC) that it most directly relates to; but that PPC also relates to a 2025 PPC which is still pending: Cases 114-26 and 113-25. Case 114-26 was filed on May 22, 2026, and amended on June 3, 2026 to add two sectional violations under the Public Employee Bargaining Act (PEBA), based on the same facts initially alleged³. Case 113-25 was filed on May 2, 2025 and amended/cured on May 12, 2026. It is still in the midst of hearings on the merits, which commenced on June 21, 2025, continued on May 27, 2026, and requires an estimated two additional days of hearing.⁴

The Union alleges in Case 114-26 that the County has violated or will violate Sections 19(A)⁵,

¹ The Application was formally styled as one “for Interim Status Quo Order”, but the case law it cited to refers only to preliminary injunctions and TROs and those are the only pre-hearing injunctions with which the PELRB typically deals in.

² The amendments to the TRO Application did not materially alter the substance.

³ On June 16, 2026, during or after a hearing on the TRO Application in which the sufficiency of the PPC had been challenged, the Union sought to file a Second Amended PPC without first seeking either Respondent’s concurrence or the undersigned’s permission. The filing was treated as a motion to file and it was denied June 18, 2026.

⁴ The delay between hearings was due to health and/or FMLA leave taken by the Parties, and heating/HVAC failure at the PELRB offices on a December 2025 setting. The Union also filed a motion (on May 27, 2026) to continue the hearing in Case 113-25 pending resolution of the Application for TRO, which was denied the same day, based upon the length of delay already entailed, although the Parties have not yet agreed to any additional dates since then.

⁵ Section 19(A): discriminating against an employee in regard to terms and conditions of employment to discourage membership in a labor organization.

(B)⁶, (C)⁷, (D)⁸, (E)⁹, and (G)¹⁰ of the Public Employee Bargaining Act (PEBA), by engaging in conduct that has rendered or will render the final allocation and funding method of approximately \$36,000 of the otherwise locked-in and approved annual salary of the Union President, Doris Williams, uncertain after July 1, 2026, in violation of UNM policy and procedures. The Union further alleges that there is a “clear causal connection”, shown through “strict temporal proximity”, between the “unprecedented budgetary threats regarding her full-time position for the upcoming fiscal year” in Case 114-25, and her advocacy Case 113-25, filed in 2025. (Amended PPC at ¶ 10.)

The Union alleges in Case 113-25, that the University violated Sections 19(A), (B), (C), and (D) of the New Mexico Public Employee Bargaining Act (PEBA), by reclassifying and/or attempting to reclassify one or more bargaining unit members’ positions with the intent of removing them from the bargaining unit and thus interfering with their bargaining rights under PEBA, and/or by unilaterally changing their terms and conditions of employment in retaliation for their union advocacy or involvement; and that this has been an ongoing pattern, practice, and/or attempted pattern and practice for the past approximate five (5) years.

The TRO Application seeks an Order:

- 1) requiring “UNM to fully maintain the existing Fiscal Year 2026 (FY26) funding levels, operational allocations, and structural lines for the [Optical Science and Engineering] OSE department, specifically preserving the full funding, salary, and benefits for Petitioner Doris Williams’s position effective July 1, 2025”;
- 2) prohibiting UNM from engaging in “adverse actions...against the Petitioner [Williams] – specifically including automatic budget cutoffs, hour reductions, layoffs, or termination” pending final resolution of Case 114-26;
- 3) “mandatory mediation and budget finalization”;
- 4) Preservation of President Williams’s “status, rights, and campus access as the elected President of US-UNM, ensuring she can fully represent her bargaining unit without employer interference.”

⁶ Section 19(B): interfering with, restraining or coercing a public employee in the exercise of a right guaranteed pursuant to the PEBA

⁷Section 19(C): dominating or interfering in the formation, existence or administration of a labor organization.

⁸ Section 19(D): discriminating in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization.

⁹ Section 19(E): discharging or otherwise discriminating against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization.

¹⁰ Section 19(G): refusing or failing to comply with a provision of the Public Employee Bargaining Act or board rule.

(Second Am. Application at 5-6 (unnumbered).)¹¹ These are essentially the same remedies sought from the PPC, except that the injunctions be made permanent. *Compare* TRO and PPC.

The University filed its Response to the Second Amended TRO Application and Request for Sanctions on June 12, 2026. A Motion for Expedited Hearing was filed with the first Application, and oral arguments were held on the Application on June 16, 2026 by Zoom. Thereafter, the record was left open for supplementation. The Union filed authorities and additional evidence in support of its assertions that a TRO is justified based on organizational uncertainty/disruption, and that funding for the Union President's position remains uncertain. After the University filed its response¹² thereto, after which the record was closed, and this Order was timely issued.¹³

Based upon the preponderance of the record, the undersigned finds and concludes that the Application for TRO is not well-taken and it is therefore DENIED. The undersigned further recommends that the PPC be DISMISSED because, as described further herein, the challenged conduct fell within the University's management rights and no adverse employment action has yet occurred. Respondent's request for sanctions is DENIED as moot as to Case 114-26 and unwarranted as to Case 113-25.

APPEARANCES AND RECORD

For the Union

Doris Williams

President, United Staff – UNM, Local 6155, and Senior Academic Advisor in the OSE Interdisciplinary Program

For the Village:

Kevin Gick, Esq.

Emily Luhman

UNM Office of General Counsel

Asst. VP for HR, and Corporate Representative¹⁴

In addition to oral arguments, the following exhibits were received:

¹¹ The undersigned notes that a slightly different remedy request is embodied in the Union's attached Proposed TRO.

¹² The Union asks the undersigned to disregard that part of the Response that provides argument, as the undersigned's instructions were to only file identified documents and respond to them, and UNM had argued that the Union failed to explain the documents it submitted. The undersigned does so, taking notice that no additional argument was allowed, and that the relevance of any supplemental materials should be evident on their face, in light of the record.

¹³ The Union also filed a Second Amended PPC but the undersigned rejected that filing on due process and other grounds, because the Union filed the Second Amended Application without consent of the University or permission of the undersigned, after a two-and-one-half hearing on the subject matter in which the matter had been left open, and the University had already challenged the adequacy of the Application and the Union's shift in argument(s) at the June 16, 2026 hearing.

¹⁴ The Union objected to the presence of a corporate representative as "unnecessary" and the objection was overruled as not supported by law and normal legal procedures and norms.

- 1) Un. Ex. A-1:¹⁵ UNM OSE FY 2026-2027 Budget Development Working Report dated Apr. 8, 2026;
- 2) Un. Ex. A-2: Letter dated May 19, 2026 from UNM Interim Provost Barbara Rodrigues to OSE Chair letter to Interim Provost, regarding planned reorganization of UNM's interdisciplinary graduate programs, and an Aug. 1, 2026 deadline to complete MOUs "that clearly outline[] administrative responsibilities, budget processes, reporting relationships, faculty participation, and other operation expectations necessary to support the continued success of your program";
- 3) Un. Ex. A-3: a semi-narrative and/or argumentative document created by the Union, titled "Chronological Exhibit A Structure", which includes segments of copied and pasted and/or paraphrased communications between other people - the averments therein constitute hearsay and hearsay-within-hearsay, and their source and accuracy are not authenticated by affidavit;¹⁶
- 4) Un. Ex. B: Union IPRA Request to UNM Records Custodian dated Jun. 3, 2026 and

¹⁵ The Union submitted three documents purporting to be evidence and labeled in one manner or another as an "Exhibit A", so the documents are renumbered herein.

¹⁶ This is a lengthy, colorful, and confusing document, upon which the Union's arguments depend heavily. The copied and pasted and/or paraphrased information is not always clearly marked off from the content authored by the Union or President Williams; its source and dates are not always made clear; it includes considerable hearsay-within-hearsay; and there are no affidavits from the various senders or recipients having personal knowledge of the statements therein. President Williams provided a brief and general affidavit of her knowledge of the contents but that does not address the hearsay within, and not all of the communications were forwarded to the President by a recipient (the OSE Chair, her supervisor). UNM argues that it is salacious and wholly unreliable. (UNM Resp. to Second Applic. for TRO at 2.) The Union summarizes it as follows:

- SECTION 1: February 26, 2026 (The Anchor): The OSE proposal agreed to by the Provost, explicitly securing funding for program operations and Senior Academic Advisor position. Based on OSE Affiliated faculty open comments and presented by OSE Chair to the Provost in response to Interdisciplinary Structure.
- SECTION 2: March 3, 2026: Provost Rodriguez's follow-up email confirming she is coordinating student funding lines based on the proposal.
- SECTION 3: March 18, 2026: Dr. Diels's email to the Provost confirming her explicit agreement to fund OSE operations, personnel, and protect its 40-year autonomy.
- SECTION 4: April 3, 2026: AVP Nicole Dopson's email directing OSE to use the placeholder allocations to build the FY27 budget.
- SECTION 5: April 8, 2026: Nicole Dopson's email promising that she will set up the collaborative May meetings with Dean Lane to finalize the budget.
- SECTION 6: April 8, 2026 (Official FY27 Budget Report) The official UNM budget report for OSE containing the formal text: "*Per discussion between Provost Office and College of A&S final allocation and funding method of OSE to be determined, pending discussions regarding interdisciplinary program reporting lines.*"
- SECTION 7: May 19, 2026 (The Adverse Action): The Provost's memo abruptly breaking her March promises and transferring exclusive administrative and budget power to Dean Lane.
- SECTION 8: June 2, 2026 (The Pocket Veto): Dr. Diels's email exposing that UNM completely ignored and stonewalled his May scheduling attempts, leaving budget shortfalls with 23 days left until the start of FY27.

(*Id.* at p. 1 of 14, unnumbered.)

seeking documents in support of PPC 114-26;

- 5) Un. Ex. C¹⁷: UNM Organization Chart showing Provost, Dean, Department Chair lines of responsibility;
- 6) Un. Ex. D: UNM OSE FY 2026-2027 Budget Development Working Report dated Jun. 17, 2026;
- 7) Un. Ex. E: NMSA § 10-7E-18 (D)¹⁸;
- 8) UNM Ex. A: Affidavit of Mark Maddaleni, Director of Financial Operations, Office of the Provost;
- 9) UNM Ex. B: UNM Graduate Studies FY 2026-2027 Budget Development Working Report dated Jun. 8, 2026;
- 10) UNM Ex. C: UNM OSE FY 2026-2027 Budget Development Working Report dated Jun. 8, 2026;
- 11) UNM Ex. D: UNM FY 26/27 Salary Planner Working Report dated Jun. 8, 2026; and
- 12) UNM Ex. E: UNM Budget Development Calendar FY 26/27.

Additionally, the Union submitted two (2) legal authorities in support of a proposed alternative TRO standard: (a) 19-PELRB-2020, *MCFUSE v. Gallup McKinley County Schools* (in re: 122-20, dated 12/23/20); and (b) *Aragon, et al. v. Brown et al.*, 134 N.M. 459 (2003).

RELEVANT LEGAL STANDARDS

Petitioners bear the burden of proof and the burden of going forward with evidence establishing they are entitled to injunctive relief. *See* NMAC 11.21.1.22(B).

To obtain a preliminary injunction, Petitioners must present sufficient evidence demonstrating that (1) they will suffer irreparable injury unless the injunction is granted; (2) the threatened injury outweighs any damage the injunction might cause the Respondent; (3) issuance of the injunction will not be adverse to the public's interest; and (4) there is a substantial likelihood Petitioners will prevail on the merits. *LaBalbo v. Hymes*, 1993-NMCA-010, ¶ 11 (citing *Tri-State v. Shoshone River Power, Inc.*, 805 F.2d 351 (10th Cir. 1986)); *see also Winter v. Natural Resources Defense Council, Inc.*, 555 US 7 (2008) and *National Trust for Historic Preservation v. City of Albuquerque*, 1994-NMCA-057, ¶ 57 (both reiterating the same standards).

¹⁷ The undersigned has added identifying characters to the Union's post-hearing and supplemental submissions, Un. Exs. C-D.

¹⁸ Section 18(D): stating that "[i]n the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the public employer to increase any employees' levels, steps or grades of compensation contained in the existing contract." The relevance of this citation was not evident. *See* Note 22, *infra*.

Failure to establish even one of the factors warrants denial of the injunction. *Id.* Additionally, “injunction is not a matter of right, but may be granted only in the sound discretion of the court when the remedy at law is not adequate.” *State ex rel. State Tax Comm’n v. First Judicial Dist. Court*, 1961-NMSC-157, ¶ 13. It will be an abuse of that discretion if the preliminary injunction is issued based on an incorrect application of “the standard for a preliminary injunction or incorrect substantive law, resting issuance of the injunction on clearly erroneous findings of fact; or applying the standards in a manner that results in an abuse of discretion.” *LaBalbo*, at ¶ 11.

Under this exacting standard, the Petitioner must produce evidence of actual irreparable injury. “[A]n ‘irreparable injury’ is an injury which cannot be compensated or for which compensation cannot be measured by any certain pecuniary standard.” *City of Sunland Park*, 2000-NMCA-044 *id.* at ¶ 19 (quoting *Parkem Indus. Servs., Inc. v. Garton*, 619 S.W.2d 428, 430 (Tex.Civ.App. 1981)). “The injury must be actual and substantial, or an affirmative prospect thereof, and not a mere possibility of harm.” *Id.* (quoting *Parkem*); *see also Winter, supra* (that the irreparable harm must be shown to be “likely”, not merely “possible”). Moreover, “[i]t is not enough that the party seeking injunctive relief merely claim irreparable harm; he must come forth with evidence of the irreparability of his harm or inadequacy of the remedy.” *Sunland Park* (citing *City of Las Cruces v. Rio Grande Gas Co.*, 1967-NMSC-790, ¶ 11, among others). Speculative harm, without more, does not warrant issuance of an injunction. *Sunland Park* at ¶ 21 (citing *Parkem*); *see also Sunland Park*, ¶ 17, quoting *Tiller v. Owen*, 243 Va. 176, 413 S.E.2d 51, 53 (1992) (“equitable relief may not be granted where the complainant has failed to produce sufficient evidence in support of his prayer for relief”).

Lastly, Petitioners bear a heightened burden of proof where, as here, their Application seeks immediate implementation of the relief they seek in an underlying PPC upon which it is predicated. *Compare* Amended PPCs, Cases 113-255 and 114-26; and *Grisham v. Romero*, 2021-NMSC-009, ¶ 20 (“where injunctive relief is the ultimate relief sought, or where such relief is affirmative – not merely a maintenance of the status quo – the plaintiff ‘must satisfy a heightened burden’ of proof”) (citing *O Centro Espirita Beneficiente Uniao do Vegetal v. Ashcroft*, 389 F.3d 973, 975 (10th Cir 2004)).

FINDINGS OF FACT¹⁹

President Williams's Salary and Status

1. UNM Main Campus academic programs employ faculty and educational support staff. (*Id.*, ¶ 14.)
2. US-UNM represents educational support staff employees, including Academic and Senior Academic Advisors, as their exclusive collective bargaining representative with the University. (CBA.)
3. Petitioner Doris Williams is a Senior Academic Advisor for Respondent's interdisciplinary Optical Science and Engineering Program (OSE or "the Program"), located on the Main Campus. She is the only US-UNM Local 6515 educational support staff employed in the Program. (Advocate argument at 6-16-26 oral arguments.) She is also the President of US-UNM.²⁰
4. The OSE Program "is jointly administered by the optics faculty of the Departments of Physics & Astronomy and Electrical & Computer Engineering." (*See* "University of New Mexico Optical Science & Engineering", located at <https://optics.unm.edu/> (June 11, 2026).)
5. Like most educational support staff positions, President Williams's salary is funded by the legislature's instruction and general appropriation as allocated by the Regents. (UNM Ex. A, Maddaleni Affidavit, ¶¶ 15-17.)
6. President Williams's salary funding is administered by both the Program and the Graduate Studies Department ("Graduate Studies"). (UNM Exs. B, C and D, respectively Graduate Studies FY 2026-2027 Budget Development Working Report dated 6/8/26; OSE FY 2026-2027 Budget Development Working Report dated 6/8/26; and FY 2026-2027 Salary Planner Working Report dated 6/8/26; *see also* UNM Ex. A, ¶ 19.)
7. Specifically, Graduate Studies administers approximately 13% of President Williams's salary, while the Program administers the other approximately 87%. (UNM Exs. B-C; *see also* UNM Ex. A, ¶ 20.)

Respondent's Reorganization

8. Commencing in or about late 2025 or February 2026, the University has been in discussion and processes of reorganizing certain lines of management, including of the interdisciplinary

¹⁹ These findings are made based upon the paper record only for the purpose of resolving the Application for TRO and Response thereto.

²⁰ President Williams is not legally trained although she has been an advocate for some years, to the undersigned's knowledge. Some limited leeway has been accorded her, provided there is no prejudice to the Respondent in doing so.

programs such as OSE, where President Williams works.

9. Historically, according to unsworn statements or argument by the Advocate, President Williams, the interdisciplinary OSE was overseen by the Provost over academic affairs. (Hearing audio recordings.) Members of an OSE Committee were not happy with the three options for reorganization, but reportedly selected Option B by default. (Union A-3, “Chronological Structure”.)
10. Option B placed administrative and budgetary management responsibility for OSE in the Graduate Studies Department, under Dean Marie Lane. (Un. Ex. A-3.) The Union accuses Dean Lane – in Case 113-25 – of acting and/or attempting to reclassify bargaining unit member Academic Advisors to remove them from that unit, to weaken the Union and/or retaliate/discriminate against the bargaining unit members. In the pleadings for TRO, the Union describes GS Dean Lane as a “hostile actor”
11. President Williams and/or her supervisor, the outgoing Chair of the OSE Program (Dr. Jean-Claude Diehls) believe that (a) there was an “agreement” or “promise” between the Provost and the OSE Chair to retain OSE oversight under the Provost and/or to ensure that President William’s salary is fully funded; and (b) breach of such promise or agreement is evidenced by (i) the withdrawal of the Provost from further discussions, in favor of GS Studies Dean Lane handling them, at some point, (ii) the failure of Dean Lane to meet with Chair Diehls before the end of the 2026 fiscal year, and/or (iii) continued uncertainty regarding the “final allocation and funding method” of approximately \$36,000 for President Williams’s salary evidences. (Un. Exs. A-1 and A-3; *see also* Un. A-D and UNM Ex. D.)^{21 22}
12. President Williams also believes evidence of UNM and/or Dean Lane’s intent and malfeasance will be generated by the Union’s IPRA request dated June 3, 2026. (Un. Ex. B; and TRO Applic. at 3-4.)

Respondent’s Budgeting Processes and Timeline

13. Respondent University is an educational institution created by operation of New Mexico Constitution and statute. N.M. Const. Art. XII, § 11; NMSA 1978, § 21-7-1 *et seq.*

²¹ The Union was instructed to and did not supplement the record with a document that would clearly show the sum at issue. The Union also did not describe at oral arguments how the documents it had produced by then demonstrated the sum at issue. Therefore, it is presumed only for purposes of the instant Application to be approximately \$36,000, which amounts to about one-third of President Williams’s locked in and approved annual salary.

²² To the extent the Union provided Section 18(D), the evergreening provision, in relation to this alleged promise or agreement, the argument is rejected based on the lack of adequate, reliable and authenticated evidence of such an agreement.

14. Respondent's management and control is vested solely in a board of seven Regents ("the Regents"). NMSA 1978, § 21-7-3.
15. Respondent's departmental organization is determined solely by the Regents. NMSA 1978, § 21-7-8.
16. Respondent's Main Campus instruction and general program is funded annually by legislative appropriation in House Bill 2 ("HB2"). *See N.M. Legislature*, 1016 Regular Session – HB2, pp. 143- 151, located at <https://www.nmlegis.gov/Sessions/26%20Regular/final/HB0002.pdf> (6-11-26).
17. This funding is regulated and verified by the New Mexico Higher Education Department ("HED"). *See* NMSA 1978, § 21-1-26.3.
18. Respondent's annual operating budget is further regulated by the State of New Mexico. NMSA 1978, § 6-3-7; *see also id.* at § 6-3-1 (defining "state agency" as "any ... institution ... of the state of New Mexico...").
19. Academic programs on Respondent's Main Campus are funded through instruction and general funds appropriated by the legislature as allocated by the Regents. (UNM Ex. A, Affidavit of Mark Maddaleni, ¶¶ 4-13.)
20. These academic programs submit a budget request to the Regents each year, which, if approved, is then allocated by the Regents. (*Id.*, ¶ 13.)
21. The Governor approved Respondent's instruction and general allocation on March 11, 2026, by signing HB2. (*N.M. Legislature*, 2026 Regular Session – HB2, pp. 143- 151, located at <https://www.nmlegis.gov/Sessions/26%20Regular/final/HB0002.pdf> (June 11, 2026).)
22. These budgets were locked no later than April 20, 2026, and the Regents approved the budgets on May 19, 2026. (UNM Ex. A, ¶ 21.)
23. President Williams's salary is fully funded for fiscal year 2026-2027, through the foregoing processes and as documented in the UNM Exhibits cited therein. (*Id.*, ¶ 20.)
24. President Williams's salary has not been defunded or otherwise altered, and there have been no proposals to defund or alter her salary since the budgets were locked and the Regents approved them. (*Id.*, ¶ 22.)
25. Because President Williams's salary has been locked in and approved, it is highly unlikely that it will be reversed, reduced or eliminated during the fiscal year.
26. Both Union and UNM versions of the OSE FY26 Budge Worksheet state that "final allocation and funding method of OSE" is "to be determined, pending discussions regarding interdisciplinary program reporting lines." (Un. Exs. A-1 and D; UNM Ex. D.) However, on its face this language does not create or demonstrate uncertainty regarding the full funding

of President Williams's salary, since this language refers only to "allocation and funding method" not actual funding, which is already locked in and approved.

27. Petitioner's own documents show that the deadline to enter into a Memorandum of Understanding regarding Graduate Studies' administration and budget allocation for OSE is August 1, 2026.

PARTIES' POSITIONS

The Union argues that the funding of the President's position, and the Union's resultant institutional stability, are threatened with immediate structural harm, chaos and limbo as a result of the threat defunding of the Union President's position; that this defunding would cause "irreparable decapitation of Union leadership and representation" in Cases 113-25 and 114-25; that it would subvert the "active litigative processes" of those two cases, as well as the PELRB's jurisdiction to hear them; and that there is no adequate remedy at law to retroactively address this "economic and structural displacement of Union leaderships". (Second Amended TRO at 1-3.)

It specifically argues that, due to reorganization, OSE funding and continuation of the President's position will be dependent on the discretion of a "hostile actor" from Case 113-25, Graduate Studies Dean Maria Lane; and that Dean Lane and/or UNM management generally are shown by the evidence of Cases 113-25 and 114-26 to dilute the Union by misclassifying Academic Advisors (Case 113-25) and/or further threatening union stability by threatening the livelihood of its President (Case 114-26).

The Union further argues that the TRO is warranted here because the Union has demonstrated likely success on the merits by presenting a prima facie case of discrimination, retaliation, and /or interference under the *Wright Line* test. It argues it has done so by demonstrating: (a) employer knowledge of President Williams's involvement and advocacy in these two PPCs, "establishing a direct link between Petitioner's advocacy and subsequent budget manipulations..."; (b) "adverse employment action via tactical budgetary limbo", created by management concerning the final allocation of part of President Williams's annual salary; (c) "incontrovertible evidence of pretext and shifting explanations" between late February 2026 and late May 2026, concerning that funding; (d) 'bad-faith administrative stonewalling' related to setting up a meeting between the OSE Chair and Dean Maria, the "hostile actor" named and questioned in Case 113-25; (e) and "corroborating evidence of open records tracking", in the form of the Union's June 3, 2026 IPRA request (Un. Ex. B), which the Union says shows "the manufactured budget gap is currently being tracked" by the Union, and that "these physical records will be introduced at the hearing to further expose UNN's discriminatory intent." (TRO Applic. at 3-4.)

Lastly, the Union argues that the balance of equities and hardships, and the public interest, support the requested TRO to protect funding of the President's salary. It asserts the TRO would have minimal or no impact on UNM, by requiring it to maintain the \$36,000 salary funding at issue; while the failure to protect President Williams's salary by granting the TRO would, conversely, "inflict[] total disruption on US-UNM Union's leadership structure and threaten[] the immediate livelihood of its President." Further "[t]he public interest is profoundly served by maintaining stable collective bargaining relationships", while "[f]reezing the status quo protect the integrity of the PELRB's active processes" related to Case Nos. 113-25 and 114-26. (TRO at 4-5.)

The University argues that the Application for TRO must be dismissed because it is not supported by the Union's unauthenticated and unreliable documents presented with the Application and the non-responsive; or by the facially nonresponsive, unauthenticated, and unreliable documents, and inapposite legal authority that the Union provided upon the Hearing Examiner's instructions at the conclusion of the hearing. Additionally, it argues, the lack of merit is affirmatively demonstrated by the University's vastly better (authenticated and more relevant) evidence and legal authorities. UNM's arguments are summarized as follows.

First, the evidence shows it is not warranted. The Union's own documents show the deadline for a Memorandum of Understanding (MOU) regarding interdisciplinary allocation(s) to cover the balance of President William's salary is not until August 1, 2026. Additionally, UNM argues, its own evidence affirmatively shows that the President's salary is both locked in and approved, and therefore any shortfall or diminishment is highly unlikely; and the PPC was based upon documents that predate and/or are superseded by the April 20, 2026 lock-in and the May 19, 2026 approval. (*Compare* Un. Ex. A-1, dated 4/8/26 and Un. Ex. A-2, dated 5/19/26.) UNM further argues, therefore, that it is entitled to sanctions in the form of dismissal of Case 114-26 and 113-25, for the Union failing to do basic research before filing a PPC and imposing the burden of answering on UNM.

Second, the University argues that, in the face of UNM's evidence, the Union has shifted its claims and arguments, which UNM describes as trial by ambush.²³ The Union, UNM asserts, is no longer alleging that all or part of the President's salary is at imminent risk of loss, but rather it is now arguing that allocation of part of the President's salary could be at risk merely because of "upper-level administrative reorganizations" (UNM Post Hearing Brief at 7 and Hearing recordings), which put Dean Maria Lane of Graduate Studies over OSE and, derivatively,

²³ The undersigned notes the Union described this as amending arguments as evidence is developed at trial.

President Williams. However, there is no evidence or right of presumption that Dean Lane will take adverse action against President Williams.

Third, the University argues, the Union's PPC as now re-casted is directed towards the legitimate exercise of management rights: budgeting and upper-level reorganization of its academic departments and management therein. As UNM writes,

Petitioners seek an Order from the Board 1) enjoining the University of New Mexico from implementing its legislatively-funded budget that has already been approved by the Governor, the New Mexico Higher Education Department, and its governing board; 2) enjoining Respondent from engaging in operations it is entitled to engage in under the express terms of the Public Employee Bargaining Act, NMSA 1978, § 10-7E-1 et seq. ("PEBA") and the Collective Bargaining Agreement currently in effect between the Parties ("the CBA"); and 3) requiring Respondent to engage in financial processes that may require the legislature to reappropriate funds and Respondent's governing Board to reallocate those funds in direct violation of the express terms of the PEBA.

(UNM Post Hearing Brief at 2.)

Fourth, UNM argues that, in any event, "[n]o restraining order, preliminary injunction or appointment of a receiver shall issue or occur except upon the giving of security by the application, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained." Rule 1-066(C) NMRA. Here, no such security has been offered or provided and the impact of the requested TRO on UNM's overall budget is uncertain and potentially large.²⁴

Finally, the University also argues that the PPC must be dismissed on the same ultimate grounds as for denying the Application for TRO. Specifically, the Union cannot demonstrate either irreparable harm or likelihood of success on the merit because it is challenging management rights that have not yet been implemented in a manner to give the Union or affected employee (the Union President, Doris Williams) standing, or to state a claim for relief under PEBA.

ANALYSIS AND CONCLUSIONS

Before turning to the TRO/preliminary injunction elements, the undersigned makes a threshold observation and threshold determination.

First, the inadequacy and lack of authentication of Petitioner's documents must be emphasized because it is relevant to the TRO standard. As noted and/or discussed above, other than a short and generalized affidavit provided by President Williams attesting to her knowledge

²⁴ Based on the present record, the value of the security would be about the sum of wages alleged to be at risk of threat or irreparable harm, e.g., approximately \$36,000.00.

of matters asserted in the TRO Application, the Application here is not supported by any sworn statement, such as affidavits of persons having personal knowledge of facts alleged therein. Additionally, the documents on their face lack reliability, particularly the document titled “Chronological Exhibit A Structure”, upon which the TRO heavily relies. (Un. Ex. A-3; *see also* Note 16, *supra*.) As the University observes, New Mexico Courts require that a preliminary injunction or TRO be supported by “actual” and “sufficient” evidence, (Resp. to Second Application for TRO), and it argues that the Application should be dismissed on that ground alone. Certainly, because of the inadequacy and lack of authentication, proof relevant to certain TRO elements is conspicuously missing; and that is impactful because the TRO standard is a high and exacting one, as discussed.

Second, the undersigned rejects the land use servitude or covenant standard for TRO offered by the Union. *See MCFUSE*, citing *Aragon*, citing *Wilcox* (both covenant cases). That standard appears to the undersigned to be a more relaxed one, and the Union argues that it is appropriate here because it allows the Hearing Examiner to consider the institutional or organization impact on the Union as proof of imminent harm. However, as evident on the face of the *MCFUSE* decision, the covenant standard was used based upon party stipulation in *MCFUSE*. The hearing examiner therein determined that standard was consistent with the ordinary standards stated above, but the undersigned finds the covenant standard to be noticeably different from the ordinary TRO standard, and its applicability was not evident or shown under the record. Therefore, the undersigned declines to apply the covenant standards stated in *MCFUSE* here, absent Party stipulation.

A. Irreparable injury unless the injunction is granted

Upon review of the record and consideration of the Parties’ arguments, it is evident that no irreparable injury is alleged or established, and the TRO instead seeks only to prevent speculative prospective harm.

Essentially, the Union seeks to prophylactically protect President Williams’s salary funding and bargaining unit status, based on a presumption that both are in danger because allocation of up to a third of her salary will depend in whole or part by decisions made by a member of management that she accused in another PELRB case (Case 113-25) of violating the PEBA. The Union asserts prophylactical protection is necessary because the University has proven itself unreliable in Case 113-25, which alleges reclassification or attempts thereof, to discriminate or retaliate for, or interfere with, bargaining unit membership and activities/involvement. However, Case 113-25 is still pending so cannot serve as proof of discriminatory intent or desires.

Nor is the Union's other evidence or argument to avail. The overwhelming weight of the reliable, authenticated evidence is that President Williams's whole salary funding was locked in by April 20, 2026 and approved by May 19, 2026; and that it would be highly unlikely to be altered or diminished. Notably, it is only the "*final allocation and funding method of OSE*" that remains uncertain, and that is "*to be determined, pending discussions regarding interdisciplinary program reporting lines*" by August 1, 2026. (Un. Exs. A-1 and A-3, and D; UNM Ex. B.)

Moreover, it is undisputed that the upper-level administrative reorganization and budget allocation are within management rights reserved and protected under the PEBA. See NMSA § 10-7E-6 (that "[u]nless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may: A. direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees; B. determine qualifications for employment and the nature and content of personnel examinations; C. take actions as may be necessary to carry out the mission of the public employer in emergencies; and D. retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act").

Notably, this case is distinguishable from the facts of *MCFUSE v. Gallup McKinley County Schools*, 19-PELRB-2020 (in re: 122-20), granting an injunction. Even assuming the covenant standard were applicable or stipulated to, the case would be inapposite because it concerned a defined, actual impact to be enjoined: the immediate and invasive surveillance of employees without notice or bargaining. Here, in contrast, "Petitioners only allege hypothetical outcomes that their own evidence demonstrates have not and are likely not to pass or, alternatively, present no defined actual harm." See UNM Post Hearing Brief at 7; compare *Sunland Park* ("[t]he injury must be actual and substantial, or an affirmative prospect thereof, and not a mere possibility of harm"); *Winter* (that the irreparable harm must be shown to be "likely", not merely "possible"); *City of Las Cruces* (that it is not enough that the party seeking injunctive relief merely claim irreparable harm; he must come forth with evidence of the irreparability of his harm or inadequacy of the remedy); *Parkem* (speculative harm, without more, does not warrant issuance of an injunction); and *Tiller* ("equitable relief may not be granted where the complainant has failed to produce sufficient evidence in support of his prayer for relief").

Lastly, even if harm were imminent or likely, there would be adequate remedies at law. As the University correctly observes, a grievance could be filed under the CBA or a PPC filed under the PEBA as appropriate, and an award of backpay or compensatory damages could be awarded. *Sunland Park*, supra at ¶ 19 ("an 'irreparable injury' is an injury which cannot be

compensated or for which compensation cannot be measured by any certain pecuniary standard”).

B. The threatened injury outweighs any damage the injunction might cause

The undersigned notes the worst of damages cited by the UNM sound a bit speculative and extreme. However, as noted by the U.S. Supreme Court in *Winter*, the injury to a Respondent will often be somewhat speculative.

In any event, here no immediate threat of injury to the Union or Ms. Williams was evidenced, so it obviously cannot outweigh the damage the injunction might cause.

C. Issuance of the injunction will not be adverse to the public’s interest

The Union argues that the TRO Application is supported by the public interests of maintaining industrial peace between labor and management, protecting against violations of the PEBA, and protecting the integrity of the PELRB process are vital public interests.

However, there is no public interest in intruding upon management rights prophylactically, before adverse action is taken. There is also no public interest in issuing an injunction upon a mere “possibility” standard. *See Winter, supra* (rejecting the Ninth Circuits possibility standard in favor of the likelihood of success standard); and *Sunland Park*.

D. Substantial likelihood of success on the merits

The governing issues at a hearing on the merits would be whether there was adverse action; and whether it was taken in violation of the PEBA.

The Union maintains that it has made a prima facie case of PEBA violations, and the undersigned agrees that the President’s union activity and employer knowledge thereof are established. However, the Union does not demonstrate the occurrence of any cognizable adverse employment action, much less that there is a nexus between such adverse action and the Union President’s protected activities. *See, e.g., Wright Line*, 251 NLRB 1083 (1980) (establishing a burden shifting analysis, upon presentation of a prima facie case, to determine whether action was motivated by union animus or pretext, rather than for a legitimate business reason); and 8-PELRB-2026, *MCFUSE v. Gallup-McKinley County Schools*, Case 102-25 (pro forma adopting the Hearing Examiner’s Report applying the *Wright Line* analysis and dismissing the PPC because the Complainant failed to rebut the evidence of a management’s legitimate business justification for terminating a Union President or proven misconduct).

The Union argues that the reorganization is adverse employment action because it has placed President in an administrative limbo by rendering the funding of her full salary uncertain;

and that this “disrupts” and “decapitates” the Union. However, this was not adverse employment action; and President Williams’s salary funding is not uncertain, only its present allocation is as of yet undecided. As discussed above, this was the legitimate exercise of management rights to engage in upper-level reorganization; and President Williams’s funding is locked in and approved.

Moreover, for the same reasons the Union has not demonstrated a likelihood of success, it also fails to state a claim under PEBA entirely, at present. On one hand, no adverse employment action has or is alleged to have occurred, since: management has a right to reorganize, even if lower-level employees, Program Committees, and/or the Union do not like the results; and President Williams’s salary is locked in and approved irrespective of “pending discussions regarding interdisciplinary program reporting lines.” (Un. Exs. A-1 and A-3, and Un. Ex. D; UNM Ex. B.) On the other hand, because the reorganization was within management’s rights, and there is no evidence proffered of retaliatory, discriminatory, or otherwise arbitrary and capricious implementation, there is no ripe claim for which the Union or President Williams have standing to bring claims under the PEBA.

RECOMMENDED DECISION

Based upon the foregoing record, the Application for preliminary injunction or TRO is hereby DENIED; and the Hearing Examiner further recommends that the PPC be DISMISSED WITHOUT PREJUDICE²⁵ in its entirety due to lack of ripeness or standing, and/or failure to state a claim.

The Respondent’s request for sanctions is DENIED as moot as to Case 114-26, if the recommended dismissal is affirmed; and DENIED as unwarranted as to Case 113-25. Although the Union argues the two cases are related, the undersigned does not find that the conduct in Case 114-26 warrants dismissal of Case 113-25, which is still pending.

This is a FINAL ORDER, and the Parties’ rights to Board review are provided in NMAC 11.21.3.19

ISSUED this 1st day of July, 2026



Pilar Vaile,
Exec. Dir. and Hearing Examiner

²⁵ By this, the undersigned means that the Union could refile the PPC in the event that, for instance, it discovers new and admissible evidence in support of the PPC as stated; or adverse action is taken in implementing the locked in and approved funding for President Williams’s salary.