



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

**Minutes of Board Meeting held Tuesday, January 9, 2018 9:30 a.m. at the PELRB offices,
2929 Coors Blvd. NW, Albuquerque, New Mexico; Duff Westbrook, presiding.**

1. **Call to Order.** Chair Westbrook called the meeting to order at 9:30 a.m. Vice-Chair R.E. Bartosiewicz and Member Jay Bledsoe was also in attendance so that a proper quorum was present.
2. **Approval of Agenda.** Member Bledsoe moved to approve the agenda. Vice-Chair Bartosiewicz seconded the motion and the agenda was approved 3-0 after a roll call vote.
3. **Approval of November 14, 2017 meeting minutes.** Member Bledsoe moved to approve the minutes of the Board's November meeting. Vice-Chair Bartosiewicz seconded the motion and upon a 3-0 roll call vote the minutes were approved without modification.
4. **Public Comments.** There were no public comments.
5. **Voluntary Dismissals.** Three Voluntary Dismissals were reviewed:
 - a. *Central Consolidated Education Association v. Central Consolidated School District*, PELRB No. 117-17
 - b. *AFSCME, Council 18 v. NM Division of Vocational Rehabilitation*; PELRB 122-17

Each dismissal was due to the parties resolving their issues and withdrawing the filed PPC or Petition. No Board action was necessary and none was taken.

6. **Dismissals by Director.** Three Summary Dismissals were reviewed:
 - a. *NMCP SO & Rio Rancho Police and Dispatch Ass'n*; PELRB No. 307-17. Director Griego gave a brief summary of his dismissal of this severance petition on the ground that the Board's rule 11.21.2.41 NMAC, governing severance petitions, permits severance of only those employees in the occupational groups specifically delineated in the PEBA § 13 and the Communications Workers in this case do not fall within any of those delineated occupational groups. Attorney Adrian Terry appeared on behalf of NMCP SO. Dina Holcomb appeared for the City of Rio Rancho. Each argued their respective positions as set forth in the briefs submitted in support of and in opposition to the City's Motion for Dismissal or for Summary Judgment. At the conclusion of argument Vice Chair Bartosiewicz moved to ratify the Executive Director's dismissal of the Severance petition. Member Bledsoe

seconded the motion and upon a 3-0 roll call vote the Board adopted and ratified the Director's dismissal.

- b. *Clay Cullison v. Santa Fe County*; PELRB No. 125-17. Director Griego informed the Board that PELRB 125-17, *Cullison v. Santa Fe County*, represents a second attempt by the Complainant to file a PPC on the same facts. The first attempt was dismissed for failure to adequately state a claim under the PEBA. This case did not correct the deficiency of the first filing and so, is also being dismissed as inadequate. Mr. Griego informed the Board that a timely appeal of the dismissal was not received; instead, a third PPC was received this morning via FAX. That third filing is not before the Board at this time and will be processed in accordance with our usual procedures. Attorney Rachel Brown, appearing for Santa Fe County verified the Director's representations and suggested that the Board may want to consider a future rule change that would limit the number of attempts to cure a deficient filing before dismissing a complaint with prejudice. Chair Westbrook observed that the new filing received via FAX this morning is an indication that Mr. Cullison was abandoning any appeal of the dismissal, electing instead to attempt a third time to file an adequate PPC. Counsel for the Complainant did not file an appeal to the board for review. Attorney Rachel Brown addressed the dismissal for the County. Mr. Cullison did not appear in person or by counsel to address the dismissal. The Board voted 2-0 on a roll call vote to ratify the Director's dismissal of this case. Vice Chair Bartosiewicz moved to ratify the Executive Director's dismissal of the Severance petition. Member Bledsoe seconded the motion and upon a 3-0 roll call vote the Board adopted and ratified the Director's dismissal.
 - c. *N. M. Coalition of Public Safety Officers v. Santa Fe County*; PELRB 118-17. Director Griego summarized the issue in this case as whether the Summary Dismissal was appropriate for failure to state a claim. Mr. Terry appeared for the union. Ms. Holcomb and Ms. Brown appeared on behalf of the County. Mr. Terry explained that the union had no issue with the dismissal in light of the fact developed at the oral argument on the Dismissal motion that the employee in question did not receive discipline. Chair Westbrook moved to ratify and adopt the Executive Director's summary dismissal. Member Bledsoe seconded the motion and upon a roll call vote the motion passed 3-0.
7. **Approval of Consent Election Agreement; *Communication Workers of America & Third Judicial District Attorney's Office*; PELRB Case No. 310-17.** Director Griego presented the Agreement reached by the parties in this case calling for an election on January 26, 2018 and requested that the Board approve the agreement do that the election may take place as scheduled. Chair Westbrook moved to approve the CEA. Member Bledsoe seconded the motion and upon a roll call vote the motion passed 3-0.

8. **Director's Reports:**

- a. There was no Board action required. The fact that the District Court District Court Memorandum Opinion and Order in *AFSCME & N.M. Human Services Dep't*, PELRB 309-15; District Court cause number D-202-CV-2016-07671 upheld the Board's decision overruling the Hearing Officer with regard to composition of a "wall-to-wall" unit in HSD is presented for the Board's information. The decision has already been posted on the Board's website and this decision will be included in an update of the Board's practice manual and case statistics table as part of the Annual report update now in progress.
9. **FY17 Audit Report.** Director Griego outlined the findings, which were non-material, and explained the corrective actions already taken place. The Board directed Mr. Griego to publish the audit report on the Board's website.
10. **Destruction of 2005 audio tapes.** There is an ongoing project of transferring all analog recordings of Board meetings and hearings. All tapes from 2005 have been successfully transferred to digital format and stored electronically. The Executive Director stated his desire to get rid of the analog tapes and proposed a form of notice to be published alerting interested parties of that plan. He also sought comment about the plan from those members of the public in attendance. Rachel Brown of the Santa Fe County Attorney's Office stated that her understanding of the Public Records Act required such records to be retained in their original format. Both Director Griego and Lori Chavez, counsel for the Board were uncertain whether that was required. Ms. Chavez agreed to research that issue before any action was taken to eliminate the audio tapes. In either case, Director Griego opined that it was still useful to transfer the analog audio to digital because the sound quality can be enhanced as needed and transferability and degradation of the audio record is improved.
11. **Next Meeting Date and Adjournment.** The Board set Tuesday February 6, 2018 9:30 a.m. as the next Board Meeting. Chair Westbrook moved to adjourn. The Motion was seconded by Member Bledsoe and passed after a 3-0 roll call vote at 10:17 a.m.