



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

**Minutes of Board Meeting held Tuesday, June 7, 2016 9:30 a.m. at the PELRB offices, 2929
Coors Blvd. NW, Albuquerque, New Mexico; Vice Chair Bartosiewicz, presiding.**

1. **Call to Order.** Vice Chair Bartosiewicz called the meeting to order at 9:31 a.m. A quorum comprising Vice-Chair Bartosiewicz and Member Bledsoe were present. Chair Westbrook was absent due to a conflicting schedule.
2. **Approval of Agenda.** Vice-Chair Bartosiewicz moved to approve the Agenda. Member Bledsoe seconded the motion. Before the vote was taken Director Griego asked that the Board remove item 10a. Member Bledsoe moved that the Board amend the Agenda according to Director Griego's recommendation. Vice Chair Bartosiewicz seconded the motion. Upon a 2-0 roll call vote the motion to amend the Agenda passed. Vice Chair Bartosiewicz then moved to approve the Amended Agenda. Member Bledsoe seconded the motion. Upon a 2-0 roll call vote the Amended Agenda was approved.
3. **Approval of May 3, 2016 meeting minutes.** Member Bledsoe moved to approve the Minutes of the Board's May 3, 2016 meeting. Vice-Chair Bartosiewicz seconded the motion. Upon a 2-0 roll call vote the Minutes were approved.
4. **Public Comments.** There were none.
5. **Discussion re: Filing of Non-Original Copies of Pleadings.** Director Griego reminded the Board that at their last meeting he requested guidance with regard to whether he could accept for filing pleadings that did not bear original signatures. The Board's rules governing filing do not expressly address that issue and the Board tabled discussion until this meeting.

Vice Chair Bartosiewicz opened the discussion to the public. Shane Youtz stated that his clients' preference was for a clear and well defined rule regarding the methods of filing, but had no opinion or preference regarding whether parties should be allowed to file pleadings without original signatures.

Dina Holcomb opined that this would become a non-issue as soon as the Board finalized its' rule regarding electronic filing.

Director Griego expressed his apprehension at accepting any pleadings that do not conform to the rules and as such some Luna County cases have experienced delays until he receives direction on this issue.

After a brief discussion the Board decided to table the issue until a pending comprehensive rule change including the rules regarding filing is complete. In the meantime they granted Director Griego discretion to accept or reject such pleadings as he deems fit under the circumstances of each instance. Vice Chair Bartosiewicz moved to maintain the status quo and grant Director Griego the discretion to either accept or reject such pleadings. Member Bledsoe seconded the motion. Upon a 2-0 roll call vote the motion was passed.

6. **Investigation of Objections to Election Results. *AFSCME, Council 18 v. Luna County; PELRB Case No. 310-15 & AFSCME, Council 18 and Luna County Sheriff's Department; PELRB Case No. 304-16.*** Luna County was not present to present its objections, but the written objections submitted were given to the Board for their review. Shane Youtz, attorney for AFSCME, Council 18, provided the Director with copies to the Board the Board with pages from the Developing labor Law Treatise discussing electioneering as the basis for Objecting to the Election Results. Mr Youtz clarified that there were two elections at issue and while Luna County had filed one pleading objecting to two elections, the County submitted argument and evidence regarding only the Detention Center Officers; none to support an objection to the Sherriff's Officers' election. He argued that none of the County's objections or examples rose to the level of electioneering as defined in the PELRB's rules. At the completion of his statements Mr. Youtz called Rob Trombley, AFSCME Staff Representative, and Andrew Gilmore, former Luna County Detention Center Employee, to provide first-hand information to the Board regarding the election.

Regarding the failure to segregate one contested ballot Mr. Youtz pointed out that because AFSCME won with such an overwhelming majority, it was immaterial that one contested ballot was mistakenly allowed to be deposited into the ballot box because it would not have altered the outcome.

Director Griego told the Board that he would issue a report on the objections and schedule any appeal from that report for the next Board meeting to be heard before they would be able to certify the election results.

Member Bledsoe moved to table the issue until Director Griego had filed his report. Vice Chair Bartosiewicz seconded the motion. Upon a 2-0 roll call vote the motion was passed.

7. **Voluntary Dismissals. *AFSCME, Council 18 v. Grant County; PELRB No's 129-15 & 106-16.*** Director Griego informed the Board that the parties had settled and withdrawn the complaints and that he would be closing the cases. No action was necessary.
8. **Disclaimer of Interest. *AFSCME, Council 18 v. Rio Arriba County; PELRB No 306-16.*** Director Griego reminded the Board that AFSCME had filed a petition for certification and during that proceeding Ms. Holcomb noted that there was a prior certification for the unit AFSCME sought to represent. After a Status and Scheduling Conference, CWA decided to disclaim any interest in the unit, and the Board approved a Notice of Disclaimer at its previous meeting. Since the last Board meeting NMCPSO has also disclaimed their interest, which caused the notice and posting process to begin anew. The Disclaimer of Interest is before them because, although there is no statute or rule regarding such disclaimers, the Board's past practice has been to post notice of such disclaimers to afford any employees an opportunity to comment on the matter and he seeks their concurrence in following that procedure.

Counsel for Rio Arriba County, Dina Holcomb, supported the process set forth by Mr. Griego.

Counsel for AFSCME, Shane Youtz, also agreed with the process set forth by Mr. Griego and urged the Board to act as expeditiously as possible in scheduling the election.

Vice Chair Bartosiewicz moved to approve the Disclaimer of Interest and the process set forth by Director Griego. Member Bledsoe seconded the motion. Upon a 2-0 roll call vote the motion was passed.

9. **Objections to Mail-in Ballots. *NEA Clayton & Clayton Public Schools; PELRB 302-16.***

Director Griego explained to the Board that NEA Clayton had requested mail-in balloting because an upcoming election was to take place during the summer recess. Clayton Public Schools opposes mail-in balloting. Director Griego noted that, while permitted, mail-in balloting is the exception.

NEA Clayton UniServ Director, Jonathan Leibowitz, argued that mail-in balloting is necessary due to the disparate geographical location of teachers during the summer and any delay would cause great harm because the summer session is when changes are usually implemented. Further, it was not until after agreements had been reached regarding the mail-in ballots that the County voiced its objection to mail-in balloting.

Counsel for Clayton Public Schools, Dina Holcomb, disagreed that there was an agreement in place regarding the mail-in ballots. She went on to argue that the reasons given by Mr. Leibowitz, do not meet the requirements for mail-in balloting as set forth by the NLRB and no damage would come to the unit by not permitting mail-in balloting.

Vice Chair Bartosiewicz moved to use in-person balloting for the election. Member Bledsoe seconded the motion. Upon a 2-0 roll call vote the motion was passed.

10. **Director's Reports. Subsequent events pertinent to FY15 Audit.**

Director Griego reported that the Department of Finance and Administration required the Agency to report on any pertinent events subsequent to the completion of the FY15 Audit. Litigation is one of the reportable occurrences, and this year the Board is currently involved in ongoing litigation with Luna County as complainant and PELRB, AFSCME and Andrew Gilmore as co-defendants. There is no fiscal impact to this litigation, whatever the outcome.

11. **New Business.**

a. ***Proposed Rule Amendment; NMAC 11.21.1.8 Computation of Time (additional three days for service by mail.)***

Member Bledsoe moved to table the item until all three members were present to discuss the rule. Vice Chair Bartosiewicz seconded the motion. Upon a 2-0 roll call vote the motion was passed.

b. **Report to the full Board on results of IPA Selection Committee.**

Mr. Abousleman reported to the Board that the committee which they had authorized at its last meeting had selected Burt and Co. as their Independent Public Auditor for FY16 from a pool of three responsive proposals. Vice Chair Bartosiewicz moved to approve the recommendation of Burt and Co. as the

Agency's IPA for FY16. Member Bledsoe seconded the motion. Upon a 2-0 roll call vote the motion was passed.

c. **Discussion of litigation in D-619-CV-2016-00170.**

Member Bledsoe moved that the Board go into executive session pursuant to 10-15-1(H)(7) of the OMA to discuss pending litigation. Vice Chair Bartosiewicz seconded the motion. Upon a 2-0 roll call vote the motion was passed and the Board went into executive session at 11:23.

The Board came back into regular session at 11:45. Vice Chair Bartosiewicz stated that the matters discussed in executive session were limited only to pending litigation in D-619-CV-2016-00170.

12. **Adjournment.** Member Bledsoe moved to adjourn. Director Griego reminded the Board and the public that at its May meeting the Board had set Wednesday July 13, at 9:30 a.m. for its next meeting. Vice-Chair Bartosiewicz seconded the motion and upon a 2-0 roll call vote the meeting adjourned at 11:47 a.m.