



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

Minutes of Board Meeting held Tuesday, May 1, 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 9:35 a.m. Member Jay Bledsoe and Vice-Chair R.E. Bartosiewicz were in attendance so that a quorum was present.
2. **Approval of Agenda.** Member Bledsoe moved to approve the agenda. Chair Westbrook seconded the motion and the agenda was approved 3-0 after a roll call vote.
3. **Approval of March 6, 2018 meeting minutes.** Vice-Chair R.E. Bartosiewicz moved to approve the minutes of the March 6, 2018 meeting. The motion was seconded by Member Bledsoe 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.** Director Griego noted that there were two matters under this agenda item: First, *NEA - New Mexico v. McCurdy Charter School*; PELRB 110-18, and second, *AFSCME Council 18 v. City of Española and the Española Dep't of Pub. Safety*; PELRB No. 124-17. In the *McCurdy Charter School* case the Complainant withdrew the charge rather than have it dismissed following an oral motion by the employer at the Status and Scheduling Conference pursuant to NMAC 11.21.3.12 (C). In the *City of Española* matter the Complainant withdrew its charge after a municipal election resulted in a change of administration. Based on the withdrawal of the charges the Director issued voluntary dismissals pursuant to NMAC 11.21.3.15 (D). There was no action for the Board to take.
6. **Union Disclaimer of Interest.** *AFSCME, Local 2976 & City of Moriarty*; PELRB No. 302-18. Director Griego explained to the Board that this was a situation where the Union wanted to disclaim interest in a Unit where there were no supportive members in the unit. A letter and Notice was posted at the Police Station with information for anyone who would like to object. None were received and the Director prepared a certification to that effect. The Board took no action.
- 7.
8. **Amended Certification of Representation.** *N.M. Children, Youth and Families Dep't & AFSCME*; PELRB No. 301-18. Director Griego explained to the board that this was a joint motion and that the parties were seeking to update existing job titles and numbers to current job classifications. Present for the employer and the Union were Sandy Martinez and James Montalbano, respectively. Ms. Martinez and Mr. Montalbano supported the Director's

explanation with Ms. Martinez further explaining that the parties were changing the unit description from one based on job titles to one based on those employees' classifications. It was not about changing position numbers. Ms. Martinez responded to questions from Member Bledsoe concerning the difference between classifications and job numbers and titles. There was no action for the Board to take.

9. **Review of Recommended Decision.** *AFSCME, Local 3422 v. New Mexico Corrections Dep't*; PELRB No. 113-17. Director Griego reported to the Board that this case dealt with *Weingarten*-type representation rights and that he had ruled against the Union, finding that there was no violation of those representation rights. Because the Union did not appeal the decision there was no action for the Board to take and the decision does not have precedential value.

10. **Motions for Reconsideration.**

- a. *Clay Cullison v. Santa Fe County*; PELRB No. 104-18. Director Griego gave a history of Mr. Cullison's cases to date, culminating in the present Dismissal of the PPC as time-barred having been filed after the six-month limitations period. Although there was no formal motion for reconsideration filed, Cullison's legal counsel requested reconsideration by email. Chair Westbrook moved to ratify Director Griego's dismissal of the PPC without considering the propriety of requesting reconsideration by email. Vice-Chair R.E. Bartosiewicz seconded the motion and it was approved 3-0 after a roll call vote.
- b. *International Ass'n of Firefighters, Local 1687 & City of Carlsbad*, PELRB 308-17. As in the *Cullison* case, there was no formal Motion for Reconsideration filed in this case. Rather, after issuing his decision denying the Employer's Motion to Dismiss for Lack of Jurisdiction, the City filed a "Reply" which the Director decided to regard as a Motion for Reconsideration, which he also denied. Although the matter was placed on the Board's agenda for review, the parties did not receive notice of the Board meeting with sufficient time to prepare any arguments they may have wanted to present. Because the issue was not interlocutory, Director Griego recommended that the Board table this issue until their next meeting, when the hearing on the merits was expected to be completed and the jurisdictional issue reviewed as part of any appeal filed after the decision on the merits. Member Bledsoe moved to table the issue until their next meeting. Chair Westbrook seconded. The motion was approved 3-0 after a roll call vote.

11. **Enforcement of Board Orders.** The Director presented two cases in which the parties had exhausted their appellate rights and compliance with the Board's Orders, stayed pending the appeals, was not verified:

- a. *AFSCME v. N.M. Dep't. of Corrections*; PELRB No. 105-09; Ct. App. No. A-1-CA-34737; Sup. Ct. No. S-1-SC- 36688; and,
- b. *Central Consolidated Education Ass'n v. Central Consolidated School District #22*; PELRB No. 101-13; Second Judicial Dis. Ct. No. D-202-CV-2013-08758; Ct. App. No. A-1-CA-34843.

Mr. Griego sent letters to the parties in each case inquiring about compliance with the

original orders formerly on appeal and those letters went unanswered. Chair Westbrook moved to send letters to the attorneys of record for the New Mexico Department of Corrections and the Central Consolidated School District requiring compliance with the Board's Original orders. Vice-Chair R.E. Bartosiewicz seconded the motion and it passed 3-0 after a roll call vote.

12. **Board Order on Appeal.** *AFSCME v. DOH*; PELRB 305-16; Second Judicial District Court No. D-202-CV-2017-08953. Director Griego reported to the Board that this was an appeal sought by AFSCME to reverse his decision regarding home health care workers. There was no action for the Board to take.

13. **Director's Reports**

- a. Budget Preparation and Independent Auditor Contract update. Matt Abousleman updated the Board on the status of the FY19 Operating Budget and the Independent Auditor Contract submissions. Mr. Abousleman reported that the Agency had prepared and delivered both submissions ahead of the deadline.
- b. Permission for Arbitration cases. Director Griego requested permission to serve as an Arbitrator in labor cases in California. He assured the Board the no State time or resources would be used and he would either take leave or use off-duty time to work on the cases. He explained he would not be employed, but would be retained on individual professional service contracts. Because the cases would be in California, there is no conflict with parties or cases before the Board. The Board granted permission with the understanding that Director Griego not accept any cases involving parties over which this Board has jurisdiction.
- c. Changes to NMAC 11.21.1.7 Definitions, 11.21.1.10 Filing with the Director or the Board and 11.21.1.24 Service. Director Griego reported to the Board that this was the same rule change that the Agency had been attempting to complete when the Legislature altered the requirements for approving and publishing agency rule changes. The new requirements required us to begin anew the process amended the referenced rules. The first step in that process is to present the proposed changes to the Board for approval and that is what is being done at this meeting. Matt Abousleman presented an outline of deadlines required under the new process as follows:
 1. May 1, 2018 – PELRB authorizes staff to proceed with the rules changes;
 2. May 17, 2018 Staff submits Rule Change Notice to the New Mexico Register and to Albuquerque Publishing Co. for publication;
 3. May 29, 2018 Rule Changes are published;
 4. July 1, 2018 or later, PELRB is required to hold a public hearing on the changes. This hearing may be held in conjunction with the Board's regularly scheduled monthly meeting.
 5. After receiving public comment at the referenced hearing, the Board approves or amends proposed rule changes at an open meeting.
 6. The Rule Change Packet following NM Register's requirements is submitted to the NM Register no later than July 12, 2018.
 7. On July 24, 2018 the new rules are published in the NM Register with their effective date.

Chair Westbrook moved that staff be directed to proceed with the proposed rule changes as presented and under the stated schedule. Vice-Chair R.E. Bartosiewicz seconded. The motion passed 3-0 after a roll call vote.

14. **Next Meeting Date and Adjournment.** The Board set Tuesday, July 10, 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 and the Board meeting was adjourned at 10:32 a.m.