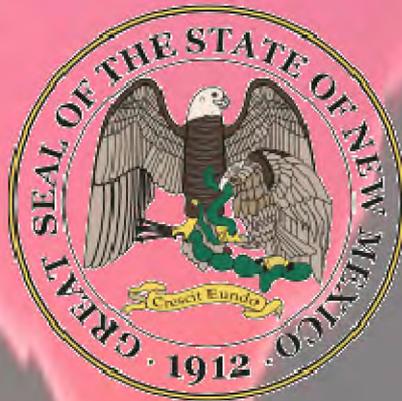


2014 ANNUAL REPORT

State of New Mexico

SUSANA MARTINEZ
Governor



THOMAS J. GRIEGO
Executive Director

Duff Westbrook, Board Chair
Roger E. "Bart" Bartosiewicz, Board Vice-Chair
James Shaffner, Board Member

Public Employee Labor Relations Board

NEW MEXICO PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**2013
ANNUAL REPORT**

**Albuquerque, New Mexico
January 2014**

This report was prepared by the staff of the New Mexico Public Employee Labor Relations Board under its authority to “conduct studies on problems pertaining to employee-employer relations” found in NMSA §10-7E-9(2) and to keep the Board members informed regarding the results and trends surrounding its business. By publication of this report the Board seeks to provide a public service disseminating general information concerning its functioning and its role in New Mexico’s public employee labor relations.

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INTRODUCTION

When its first statewide public employee collective bargaining law was enacted in 1992, NMSA §§ 10-7D-1 *et seq.* (PEBA I), New Mexico had already experienced decades of public sector collective bargaining, primarily at local levels. After PEBA I expired in 1999 due to its “sunset clause,” the Legislature enacted a second and very similar act, NMSA §§ 10-7E-1 *et seq.* (PEBA II), in 2003. In the interim years between the two Acts a number of public employers continued to permit collective bargaining under their own ordinances or resolutions, some of which predated PEBA I and some of which were created and approved under PEBA I.

As a consequence of this history, New Mexico’s PEBA contains a number of provisions designed to protect pre-existing local boards, bargaining units, bargaining representatives and collective bargaining agreements (CBAs). The creation of new local boards is also authorized.

This report explains the role of the New Mexico Public Employee Labor Relations Board (PELRB) in enforcing the rights of public employees to organize and collectively bargain or to refrain from forming, joining or assisting a union and in ensuring the right of local public employers to set up new local boards or to continue operating under grandfathered local ordinances. The PELRB also has the responsibility of ensuring that grandfathered local ordinances or those created in that interim period between PEBA I and PEBA II that are substantially changed after January 1, 2003 meet certain enumerated substantive requirements and that they do not except from coverage public employees who are covered under PEBA II. Several cases decided during the reporting year address the parameters of the Board’s jurisdiction in light of local public employee collective bargaining ordinances or resolutions and this continues to be a developing area of public policy.

The PELRB encourages the peaceful resolution of public employee collective bargaining disputes thereby promoting its statutory objective of “promoting harmonious and cooperative relationships between public employers and public employees” while simultaneously protecting the public interest by ensuring “the orderly operation and functioning of the state and its political subdivisions”.

The Board’s adjudicatory function serves a critical purpose of resolving allegations of discrimination or retaliation because of an employee’s involvement in union activities or because a public employee signed or filed an affidavit, a petition, a grievance or gave information or testimony in a PELRB sanctioned proceeding. A union that violates the PEBA by discriminating against a public employee with regard to union membership because of race, color, religion, creed, age, sex or national origin or because of the employee’s non-membership in, or opposition to the union. A good deal of the issues requiring adjudication involve the obligation of both public employers and unions representing public employees to “bargain in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties” and

questions concerning an employer's interference with or coercion of a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act. *See*, NMSA §§10-7E-17(A)(1), 19(B), (C) and (F) and § 20(C).

Representation Cases

Under the PEBA, employees may organize in units represented by labor organizations of their own choosing for the purpose of bargaining collectively with their employers concerning wages, hours and other terms and conditions of employment. One of the Board's major functions is to determine the appropriateness of those collective bargaining units based on guidelines established in PEBA and relevant case law. The Board also determines whether the employees in an appropriate bargaining unit wish to be represented by a particular labor organization. This is principally done through secret ballot elections supervised by the Board. Employee representatives seeking to represent a bargaining unit file a petition with the Board that must be supported by at least 30 percent of the employees in the unit.

Units may be certified without conducting elections if an employer does not question either the appropriateness of the unit or the majority status of a petitioning labor organization and agrees with the petition to certify the proposed unit.

Once certified, a labor organization is the exclusive bargaining agent for the employees in the bargaining unit. As exclusive representative, the union owes a duty to fairly and adequately represent the interests of employees in the bargaining unit members, whether or not they are members of the organizing union. PEBA §15(A).

Just as employees may petition the Board for recognition of a collective bargaining representative, they may also seek decertification of a previously recognized representative. A member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if 30 percent of the public employees in the bargaining unit file a petition for a decertification election. PEBA , §19. Decertification elections are held in a manner substantially the same as that for certification.

The Board's rules provide a procedure for parties to petition the Board for amendment of certification to reflect changes such as a change in the name of the exclusive representative or of the employer, or a change in the affiliation of the labor organization. (NMAC 11.21.2.35). The Board has also established procedures to clarify the composition of an existing bargaining unit where the circumstances surrounding the creation of an existing collective bargaining unit are alleged to have changed sufficiently to warrant a change in the scope and description of that unit, or a merger or realignment of previously existing bargaining units represented by the same labor organization, (NMAC 11.21.2.37) and for the accretion of unit employees who do not belong to an existing bargaining unit, but who share a community of interest with the employees in the existing unit. (NMAC 11.21.2.38)

The accretion procedure is frequently used to allocate newly created positions to appropriate bargaining units or to merge two or more existing units.

Approval of Local Boards

Any public employer other than the state that wishes to create a local public employee labor relations board shall file an application for approval of such a local board with the PELRB. *See*, NMSA §10-7E-10. Once created by ordinance, resolution or charter, and once approved by the PELRB, a local board assumes the duties and responsibilities of the PELRB and shall follow all procedures and provisions of the Public Employee Bargaining Act unless otherwise approved by the Board.

The PELRB has prepared and published templates for the creation of resolutions, ordinances or charter amendments (provided at www.state.nm.us/pelrb) designed to ensure compliance with the PEBA's requirements for approval of local boards. A public employer may propose variances from the templates pursuant to section 11.21.5.10 NMAC if the unique facts and circumstances of the relevant local public employer are deemed by the Board to be reasonable and necessary to effectuate the purposes of the Act. (NMAC 11.21.5.9)

Upon receipt of an application for approval seeking variance from the board approved templates, the director holds a status conference with the local public employer or its representative and any identified interested labor organizations, to determine the issues and set a hearing date. Upon setting a rule-making hearing, the director shall issue notice of the hearing and in the event that the board determines that such variance is warranted, and the resolution, ordinance or charter amendment otherwise conforms to the requirements of the Act and these rules, it shall authorize the director to proceed with processing the application. (NMAC 11.21.5.10)

Prohibited Labor Practice Cases

The Board enforces and protects the rights guaranteed both public employers and employees under PEBA through the investigation and adjudication of charges of prohibited labor practice charges (PPC). The board has the power to enforce provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies. (NMSA §10-7E-9)

After initial screening and investigation of a PPC but before conducting a hearing on the merits of any claim the Board's Director will facilitate settlement discussions in order to further the Board's preference for peaceful resolution of disputes thereby promoting its statutory objective of "promoting harmonious and cooperative relationships between public employers and public employees".

If the complaint cannot be settled by the parties prior to the hearing, the matter shall proceed to hearing. The hearing examiner has discretion to examine witnesses, call

witnesses, or call for the introduction of documents (NMAC 11.21.3.16) after which the hearing examiner issues his or her report and recommended decision.

A party may obtain Board review of the report and recommended decision by filing a notice of appeal within ten (10) days following service of the hearing officer's report, whereupon the Board will either determine an appeal on the papers filed or, in its discretion, may also hear oral argument. The Board's Decision may adopt, modify, or reverse the hearing examiner's recommendations or take other action it may deem appropriate such as remanding the matter to the hearing examiner for further findings or conclusions. Even when no appeal to the Board is taken the hearing examiner's decision is transmitted to the board which may *pro forma* adopt the hearing examiner's report and recommended decision as its own. In that event, the report and decision so adopted shall be final and binding upon the parties but shall not constitute binding board precedent.

(NMAC 11.21.3.19) The Board is empowered to remedy PPC's through the imposition of appropriate administrative remedies (PEBA §9). The Board has authority to petition the courts for enforcement of such orders. *See*, NMSA §23.

Impasse Resolution Cases

The Board has limited powers related to bargaining impasses between employers and employees under the Act, acting primarily as a monitor and facilitator of mediation and arbitration performed by other entities. Similar but distinct procedures apply to the State and its employees and employees of other political subdivisions of the state or special districts under the PEBA. Although both procedures call for mediation of bargaining impasses under the auspices of the Federal Mediation and Conciliation Service impasse procedures followed by the state and exclusive representatives for state employees are employed within a specific time frame:

(1) If an impasse occurs by October 1, during negotiations required to have begun in June of any particular bargaining year, either party may request mediation services from the Board. The Board does not provide those mediation services itself but a mediator from the Federal Mediation and Conciliation Service is assigned by the board unless the parties agree to another mediator;

(2) The mediator provides services to the parties until the parties reach agreement or the mediator believes that mediation services are no longer helpful or until November 1, whichever occurs first;

(3) If the impasse continues after November 1, the matter is referred to arbitration under the auspices of the FMCS. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offers and is "final and binding" as that term is understood under Section 17 of the PEBA and the Uniform Arbitration Act [44-7A-1 NMSA 1978].

The impasse procedure followed by all other public employers and exclusive representatives is similar in that, if an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations and unless the parties

agree on a mediator one from the FMCS is assigned. The specific time frame for requesting bargaining, declaring impasse and proceeding to arbitration applicable to the state as an employer are not applicable to public employers other than the state. If impasse continues after a thirty-day mediation period, either party may request arbitration from the FMCS. As under the process followed by the State as an employer the arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offers and is "final and binding" as that term is understood under Section 17 of the PEBA and the Uniform Arbitration Act [44-7A-1 NMSA 1978].

Rulemaking Activity

The PELRB is empowered by NMSA §10-7E-9(A) to promulgate rules necessary to accomplish and perform its functions and duties as established in the Public Employee Bargaining Act, including the establishment of procedures for the designation of appropriate bargaining units, the selection, certification and decertification of exclusive representatives and for the filing of, hearing on and determination of complaints of prohibited practices. The Board has enacted such rules and over time the need to amend those rules may arise either to correct apparent errors or simply to adjust procedures to better serve the Board's mission or to comport with changes in the substantive law.

The Board has undertaken amendment to its rules, NMAC 11.21.2.8, Commencement of Case and NMAC 11.21.3.17, Briefs, in order to correct spelling and grammatical errors. Since then the Executive Director convened a committee made up of former PELRB Directors, Deputy Directors or Board members and chaired by the current Executive Director to perform a more comprehensive review of all the Board's rules and to draft proposed amendments. The Board recently published notice that it will conduct a public rule hearing on the resulting proposed amendments at its Albuquerque office on February 20, 2015. The proposed rule changes are posted on the Board's website and include not only additional correction of typographical and grammatical errors but more substantive changes to 11.21.1 NMAC General Provisions, 11.21.2 NMAC Representation Proceedings, 11.21.3 Prohibited Practices Proceedings and 11.21.5 NMAC Approval of Local Boards. We are currently in the period wherein written comments from interested parties are expected and before the public hearing to receive and discuss comments is to be held. The results of this rulemaking activity will appear in the next annual report.

2014 Operations Summary

In 2014 there were 46 proceedings filed; an increase over the 37 proceedings filed in the preceding reporting period. Of those, eight were representation cases (including one petition for decertification) compared with 18 filed in the preceding reporting period. This may attributed either to exhaustion of the pool of potential bargaining units not already organized for collective bargaining or because CBA's for employees of the major public employer, i.e. the State of New Mexico are currently being bargained and the largest collective bargaining representatives may be devoting resources to negotiations rather than organizing. More specifically, of the eight representation petitions two involved

changing the name of an already recognized representative. Of the remaining six, three involved disputes over composition of the unit for which recognition was being sought. Two of those six required an evidentiary hearing; one was resolved by agreement.

33 of the 46 proceedings filed during the reporting period were Prohibited labor Practice Complaints (PPC's) compared to 14 PPC's filed in 2013. While this represents a marked increase in the total number of PPC's filed the majority of these cases were settled by the parties without the necessity of a hearing on the merits (See Table F). In the opinion of PELRB staff, the high settlement rate considered in light of the increased total PPC's filed over the last reporting period demonstrate that the year 2014 represents a period of relative labor peace with greater cooperation between labor and management regarding resolution of their disputes. This conclusion is bolstered by the fact that there were no impasse proceedings reported during the current reporting period.

While petitions involving local board approval are up slightly from three in 2013 to four in this reporting period, that increase is not statistically significant and includes an incident in which one school elected to rescind its local labor board option.

There has been a shift in the category of cases constituting the majority of filings with the PELRB. In the prior reporting period, representation petitions comprised 51% of the Board's caseload followed by PPC's at 38% of cases filed. During the current reporting period PPC's represent 72% of the Board's caseload while representation petitions are 20% of the total. As previously stated, the total number of filings is higher than those in the preceding year by 20%. (Compare Tables B and C). Of the cases processed during the reporting period (See Table E), two were decided in the preceding reporting period but are currently pending judicial review on appeal. Accordingly, they are not included in the specific breakdown of the disposition of cases shown on Table E in order to avoid double counting.

More specifically, the representation petitions filed in 2014 include one decertification petition by which a unit comprising police officers employed by the Town of Edgewood was decertified. They also include two petitions for clarification by which the names of the bargaining representative for units in Cibola County were changed to reflect the local union's dis-affiliation from a national union. A similar clarification issue was also present in one of the petitions for recognition referenced above, wherein the union petitioning for recognition was competing with another union claiming incumbent status.

During the reporting period parties filed four petitions for approval of local boards; one for the City of Belen; one for the City of Las Vegas; one for Central Consolidated Schools and the third for Cuba Independent School District, three of which were approved by the PELRB without variance. The fourth, that for the City of Las Vegas, was submitted with objection in order to comply with a directive from the Hearing Officer issued as part of a recommended decision that included a finding that the City had a functioning local board (albeit, one that had not previously been approved by the PELRB). Approval of that ordinance and discussion of the City's objections to submitting it for review are pending as of this writing.

It should be noted that the School Board for the Central Consolidated Schools subsequently declined to pass the PELRB approved local board resolution with the result that the PELRB retains jurisdiction over issues under the Act in that venue. It should also be noted that one venue, Loving School District, voted to rescind its local collective bargaining resolution and come under the jurisdiction of the State Board.

With regard to PPC's filed during the reporting period, 16 of the 33 filed were settled or successfully mediated prior to conducting a full evidentiary hearing. This means that approximately 70% of the PPC's filed with the PELRB were settled, which compares favorably with 45% of the PPC's being settled without completing a full evidentiary hearing during the preceding reporting period.

Most cases settled without the necessity of conducting a merits hearing. Interestingly, the two cases that did require a hearing both settled either before conclusion of the case and before any decision was rendered or before conclusion of the case but after as partial decision was announced. The PELRB has successfully completed all cases during the reporting period within 180 days of filing. The average time taken to complete a PPC was 80 days; a notable improvement over the preceding reporting period. See Table A.

As in the preceding reporting period, school districts, municipalities and counties throughout the State were the largest source of filings in 2014 constituting a combined 70% of all cases filed. As might be expected, labor organizations representing city, county and school district employees comprise the most frequent petitioners. AFSCME, Council 18, as it historically has been given the number of employees it represents, remained among the most frequent filers during 2014 filing 13 PPC's and six representation petitions (41% of the total filings); followed by NEA-NM filing four PPC's (9%), CWA filing three PPC's (7%) and AFT-NM, IAFF and NMCPSO, each having filed two PPC's. Management representatives did not file any PPC's during the reporting period. It is perhaps interesting that individuals acting on behalf of themselves without the assistance of a collective bargaining representative filed seven PPC's; (15%). See Table D.

There were 6 elections conducted in 2014, one of which was a decertification election. One election is currently pending. The PELRB has successfully completed all representation proceedings during the reporting period within 180 days of filing. For Representation proceedings the average time from case opening to closure was 98 days; a notable improvement over the preceding reporting period. See Table A.

Along with the statistical data on cases filed and those concluded within the reporting year summaries of final orders issued by the Board and relevant court decisions are contained in this report. Excluded from the Summary of Board Orders are those of a routine nature such as approval of the Director's certification of bargaining units or approval of consent election agreements, etc. Concluded cases are those that have been closed prior to a hearing and final order together with those closed after the entry of a final Board Order but does not include those pending on appeal or deferred to arbitration and pending. The court case summaries are informational only and should not be relied upon for legal research.

SUMMARY OF BOARD ORDERS

1-PELRB-2014

CSEC-LAS CRUCES v. LAS CRUCES PUBLIC SCHOOLS (January 21, 2014).

The PELRB approved the Executive Director's certification of a unit accreting Nutrition Services Warehouse and Delivery employees voluntarily recognized by the employer.

2-PELRB-2014

NEW MEXICO COALITION OF PUBLIC SAFETY OFFICERS v. CIBOLA COUNTY (April 15, 2014).

The PELRB ratified the Executive Director's approval of the Union's petition for amendment of certification of the bargaining unit comprised of employees of the Cibola County Regional Communications Center.

3-PELRB-2014

NEW MEXICO COALITION OF PUBLIC SAFETY OFFICERS v. CIBOLA COUNTY (April 15, 2014).

The PELRB ratified the Executive Director's approval of the Union's petition for amendment of certification of the bargaining unit comprised of employees of the Cibola County Detention Center.

4-PELRB-2014

CWA LOCAL 7076 v. N.M. PUBLIC EDUCATION DEP'T. (April 15, 2014).

Supplemental Findings of Fact and Conclusions of Law issued by the Hearing Examiner after remand from the Second Judicial District Court (J. Brickhouse) were reviewed and adopted by the PELRB. Based on the supplemental findings the Board concluded that:

1. NMPED's Counterclaim was without merit and dismissed.
2. Articles 14 and 5 of the parties' CBA, do not constitute a waiver of the union's right to bargain the effects of a changed working condition reserved to management's discretion and the union did not waive bargaining by inactivity.
3. The PED has satisfied its obligation to bargain the specific effects of the RIF identified by the union in this case. However, the duty to bargain in good faith includes the duty to provide information necessary to administer and monitor compliance with the CBA and to fairly and adequately represent all collective bargaining unit employees. Because the Union is statutorily required by NMSA §10-7E-15(A) to act for all public employees in the appropriate bargaining unit and to represent the interests of all public employees in the appropriate bargaining unit without discrimination or regard to membership in the labor organization the employer's obligation to be forthcoming with the requested information in this case is all the more essential. For this reason the Employer committed a prohibited labor practice when it intentionally withheld from the union information relevant to enforcing or monitoring compliance with the CBA or otherwise impairing the Union and its

President in fulfilling her statutory duty to represent all employees in the bargaining unit. Accordingly, the union sustained its burden of proof with regard to a violation of §10-7E-19(B), by proving that NMPED interfered with or restrained Michelle Lewis' ability to represent her constituents as President of Local 7076 by withholding information regarding the classifications and number of employees to be RIF'd. The union also sustained its burden of proof with regard to a violation of §10-7E-19(F), refusing to bargain in good faith and §19(G) refusing or failing to comply with a provision of the Public Employee Bargaining Act insofar as NMPED's withholding information is a breach of a comprehensive duty to bargain in good faith. The union sustained its burden of proof with regard to a violation of §10-7E-19(H) by refusing or failing to comply with Article 14's requirement that the parties meet to discuss layoff plans, again, by withholding requested relevant information during its meetings with the Union concerning the RIF. Because it appears that the effects of the RIF identified by the union in this case are covered by the parties' contract a return to status quo ante requested by the union is not an appropriate remedy.

The Board's order directed the Employer to cease and desist from failing and refusing to provide relevant information upon request and to refrain from such similar conduct in the future; directed the Employer to post Notice of its violation; and, dismissed the Employer's Counterclaim in its entirety.

5-PELRB-2014

AFSCME, COUNCIL 18 v. GILA REGIONAL MEDICAL CENTER (April 15, 2014)

The Executive Director's approval of a Consent Election Agreement was ratified.

6-PELRB-2014

HATCH POLICE OFFICER'S ASS'N/FOP v. VILLAGE OF HATCH (April 15, 2014)

The Executive Director's approval of a Consent Election Agreement was ratified.

7-PELRB-2014

NMCP SO and AFSCME, COUNCIL 18 v. SANTA FE COUNTY (April 18, 2014)

NMCP SO'S Petitions for Amendment of Certification Name Change, PELRB No. 314-13 pertaining to Santa Fe County Sheriff's employees; PELRB No. 315-13 pertaining to Detention and Youth Development employees; PELRB No. 316-13 pertaining to Regional Communications Center employees was granted.

Additionally, AFSCME's Petition for Certification as the bargaining representative for Corrections employees was denied.

The case is currently on appeal in the First Judicial District Court (J. Singleton) as case number D-101-CV-2014-01195.

8-PELRB-2014

**AFSCME, COUNCIL 18 and NMCP SO v. SANTA FE COUNTY (June 3, 2014)
8-PELRB-2014**

A Temporary Injunction issued by the Executive Director enjoining the parties from taking further action to ratify a successor CBA between NMCP SO and the County pending the election scheduled to take place as a result of the Board's Order in 7-PELRB-2014 was ratified by the Board.

**9-PELRB-2014
AFSCME, COUNCIL 18 v. HIDALGO COUNTY (June 3, 2014)**

AFSCME filed a Motion for Clarification asking the Board to determine whether the bargaining unit certified by the PELRB in PELRB 303-13 included Sergeants. The Union's Motion was denied. The Board held that the Union's original petition for representation did not include Sergeants, rejecting the Union's argument that the term "deputy" used in its Petition for Recognition and related documents encompasses all deputies commissioned or appointed by the Sheriff regardless of rank and so, would include any Sergeants in the proposed bargaining unit.

The Board found it noteworthy that there was no Sergeant rank in the Department at the time of the Petition for Recognition, the Department having been restructured to eliminated all ranks except Undersherriff. That the Deputy in question was required to undergo the County's usual promotion process in April of 2013 supported the County's argument he did not hold the rank of Sergeant despite appearances. Accordingly, his "appointment" by the Sheriff to serve in the role of Sergeant does not compel a conclusion other than there were no Sergeants in the Sheriff's Department during the period in which the Union petitioned for recognition and a representation election was held.

The union is free to seek accretion of that position on the basis that its discovery that the new rank created on April 27, 2013 was not included in the recognized unit.

**10-PELRB-2014
AFSCME, COUNCIL 18 v. HIDALGO COUNTY (June 3, 2014)**

The Board upheld a Directed Verdict granted by the Executive Director and approved the parties' settlement of those issues remaining after the Directed Verdict on the basis that changes made to the County's Personnel Policies were not substantial, material and significant because they made no change in the actual practices followed in those policies. Therefore, the changes in the Personnel Policy were found to be *de minimus* and insufficient to sustain a Prohibited Practices Complaint. Accordingly, the Board dismissed the PPC insofar as it alleged that the County's unilateral adoption of a new Personnel Policy violated §§ 17(A)(1) and 19(F) of the PEBA.

**11-PELRB-2014
AFSCME, COUNCIL 18 v. TOWN OF TAOS (July 1, 2014)**

PELRB issued an Election Order covering all blue collar and white collar employees in the Town of Taos except those in the Police and Fire Departments.

12-PELRB-2014

AFSCME, COUNCIL 18 v. GRANT COUNTY (July 1, 2014)

PELRB issued an Election Order covering bus drivers.

13-PELRB-2014

AFSCME, COUNCIL 18 and NMCP SO v. SANTA FE COUNTY (June 24, 2014)

The Board certified AFSCME, Council 18 as the exclusive bargaining representative for the employees at issue after an investigation of an objection to the conduct of an election filed by NMCP SO. The Union's objection was based on the fact that although a preliminary voter eligibility list was filed, an updated voter eligibility list was to have been submitted by the Employer prior to the election according to the parties' Consent Election Agreement and NMAC 11.21.2.24 (C) and the updated list was not filed as called for. The Election Supervisor used the preliminary list as the operative eligibility list to conduct the election and challenged the eligibility of 11 voters who did not appear on it, segregating their ballots. The challenged ballots were then investigated by the election supervisor by requiring the County to produce the updated list at the ballot count. That procedure was found to be consistent with the requirements of NMAC 11.21.2.24 (C) and NMAC 11.21.2.30. NMCP SO made no objection at the ballot count itself to proceeding in that manner and its representative participated fully in the debate over whether to sustain the various challenges to the 11 ballots. After debating the challenges the parties agreed to count eight of the challenged ballots and not to count the remaining three, either because the voters were not members of the bargaining unit or were probationary employees. Each of the challenged ballots counted were cast by voters who met the definition of an "eligible voter" as set forth in NMAC 11.21.2.24 and paragraph 4 of the parties' Consent Election Agreement. After including challenged ballots agreed to by the parties, the ballots were recounted with the result that AFSCME prevailed in the election.

No error was committed by the Election Supervisor. The ballots counted represented the will of members of the bargaining unit eligible to vote both under the Board's rules and under the terms of the parties' CEA. Using the revised list to resolve ballot challenges was both appropriate and necessary and NMCP SO's representative present at the ballot count agreed to permit the eight dispositive ballots to be counted and there was no factual basis on which anyone could have claimed that those voters were not eligible to vote. Objections raised orally at the Board's July 1, 2014 meeting or by its response to the Election Supervisor's report of investigation were not timely raised pursuant to NMAC 11.21.2.34 requiring such objections to be raised within five days following the service of a tally of ballots and therefore were not considered.

14-PELRB-2014

AFSCME, COUNCIL 18 and NMCP SO v. SANTA FE COUNTY (August 11, 2014)

NMCP SO's request for a stay of collective bargaining pending appeal of the decision in 14-PELRB-2014 was denied by the board.

15-PELRB-2014

AFSCME, COUNCIL 18 and TOWN OF TAOS (August 11, 2014)

PELRB ratified the Executive Director's Certification of the election results in the Town of Taos and the designation of AFSCME as the exclusive collective bargaining representative.

16-PELRB-14

AFSCME, COUNCIL 18 and GRANT COUNTY (August 11, 2014)

PELRB ratified the Executive Director's Certification of the election results in Grant County and the designation of AFSCME as the exclusive collective bargaining representative.

17-PELRB-14

JERROD KUCHAN and AFSCME, COUNCIL 18 and TOWN OF EDGEWOOD COUNTY (August 11, 2014)

PELRB ratified the Executive Director's approval of the parties Consent Election Agreement in this decertification proceeding.

18-PELRB-14

JERROD KUCHAN and AFSCME, COUNCIL 18 and TOWN OF EDGEWOOD COUNTY (August 11, 2014)

PELRB ratified the Executive Director's certification of the election results and approved decertification of AFSCME as the exclusive collective bargaining representative.

19-PELRB-14

In Re: PELRB OPEN MEETINGS NOTICE RESOLUTION (October 7, 2014)

PELRB passed its annual resolution setting forth procedures to comply with the Open Meetings Act, Section 10-15-1 *et seq.* (NMSA 1978).

SUMMARY OF COURT DECISIONS

There were no court decisions relating to PELRB decisions handed down during the current reporting period. There are currently two decisions on appeal: *AFSCME & NMCP SO v. Santa Fe County* in which NMCP SO appealed from this Board's Decision in 13-PELRB-2014, pending in the First Judicial District (J. Singleton) as case No. D-101-CV-2014-01195; and, *Central Consolidated Education Ass'n v. Central Consolidated School District #22*. In that case the School District appealed from the Board's Order No. 27-PELRB-2013 and it is pending in the Second Judicial District Court as case No. D-202-CV-2013-08758.

Table A

Agency 37900 Public Employee Labor Relations Board

Criteria	Outcome	Description
Percent compliance with statutes, with particular attention to due process, equal protection, the Public Employee Bargaining Act and Board rules.	100%	By establishing routine procedures to ensure compliance with the Act and rules and by using a centralized calendaring system, staff seeks to ensure compliance with all applicable law and regulations. There are no incidents of self-reported violations of rules or deadlines. Beyond self-reporting, staff relied upon formal or informal complaints submitted in pleadings or other documented complaints, or received in the Public Comment portion of the Board's agenda. In the reporting period the Board has not received any complaints from practitioners before the Board or from the general public that the Board has committed any Open Meetings Act violations, or denied procedural due process, either through delay or the manner of conducting its hearings or elections.
Percent of decisions overturned on appeal	0%	For the reporting period, two decisions have been appealed to District Court and are currently pending.
Percent of cases resolved through agreement, mediation or arbitration prior to hearing	70%	Of the 33 cases filed during the reporting period 15 were settled or successfully mediated prior to conducting a full evidentiary hearing. (One was withdrawn in favor of an alternate venue, six were dismissed prior to hearing and 10 are pending)
Percent of cases resolved through agreement, mediation or arbitration post- hearing	0%	For the reporting period thus far, no cases have been resolved after the conclusion of a merits hearing; however, in two cases settlement occurred after a merits hearing convened but before it was concluded.
Percent of prohibited practice complaints, not settled or withdrawn, decided within 180 days of filing.	100%	Of the 33 PPC's filed in the reporting period six were not settled or withdrawn and all were completed well within 180 days. 10 are pending. The average time taken by the Board to decide a PPC is 80 days. This is up from the 2013's average of 35 days but still far below 2012's average of 142 days, and well within the statutorily required 180 days.
Percent of determinations of approval of local labor relations boards within 100 days of request to approval	100%	There were four petitions for approval of local boards filed during the reporting period. One is pending and on track to be completed well within our 100 day statutory deadline. The average time to completion was 33 days.
Percent of petitions for bargaining unit recognition processed within 180 days of filing	100%	A total of seven petitions for recognition and one petition for decertification were processed by the Board during the reporting period with one pending. All eight of those were completed, including conducting the election and certifying the unit, within 180 days. The pending case is on track to be completed well under 180 days. The average time in which the Board processed Representation Petitions was 98 days, down from 110 days in 2013 and 169 days in 2012. The board also processed a disclaimer of interest in 63 days.

ALL CASES FILED WITH THE PELRB 2014

Table B

Type of Respondent	Type of Cases					TOTAL
	PPCs	Representation Petitions	Decertification Petitions	Related to Approval of Local Board	Impasse	
State	3	-	-	-	-	3
State Agency	4	-	-	-	-	4
County	6	5	-	-	-	11
Municipality	11	3	-	2	-	16
Public School	6	-	-	2	-	8
Higher Education	-	-	-	-	-	
Medical Facility	-	-	-	-	-	
Other	3		-	-	-	3
Court	-	-	-	-	-	
Union	-	-	1	-	-	1
Individual	-	-	-	-	-	
Local Labor Board	-	-	-	-	-	
TOTAL	33	8	1	4	-	46

Table C

2013

Type of Petitioner	Type of Cases				Impasse	TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Related to Approval of Local Board		
AFSCME Council 18	4	4	-	-	-	8
AFT-NM	-	1	-	-	-	1
Carpenters Industrial Council	-	-	-	-	1	1
FOP	-	1	-	-	-	1
NEA-NM	7	1	-	-	-	8
NMCP SO	-	7	-	-	-	7
Teamsters Local 492	1	4	-	-	-	5
County	-	-	-	-	-	
Individual	2	-	-	2	-	4
School District	-	-	1	1	-	2
TOTAL	14	18	1	3	1	37

Table D

2014

Type of Petitioner	Type of Cases				Impasse	TOTAL
	PPCs	Representation Petitions	Petitions for Decertification	Related to Approval of Local Board		
AFSCME Council 18	13	6	-	-	-	19
AFT-NM	2	-	-	-	-	2
CWA	3	-	-	-	-	3
FOP		1	-	-	-	1
IAFF	2	-	-	-	-	2
NEA-NM	4	-	-	-	-	4
NMCPSO	2	-	-	-	-	2
Teamsters Local 492	-	1	-	-	-	1
Individual	7	-	1	-	-	8
School District	-	-	-	2	-	2
Municipality	-	-	-	2	-	2
TOTAL	33	8	1	4	-	46

Table E

2014

TOTAL PPC'S FILED		33
TOTAL PPC'S CARRIED OVER FROM 2013		6
Sustained (In whole or in part)	-	
By Hearing Examiner (w/o Board review)	-	
After Board Review	-	
After Review by Court	-	
Dismissed – no violation found		1
By Hearing Examiner (w/o Board review)	2 ¹	
After Board Review	-	
After Review by Court	-	
Summarily Dismissed		5
Dismissed after preliminary review (NMAC 11.21.3.12)	5	
Dismissed after Motion	-	
Deferred to Agency	-	
Deferred to Arbitration	-	
Dismissed on collateral estoppel grounds	-	
Remanded to local board	-	
Withdrawn and/or Settled		17
Withdrawn upon receipt of notice of facial inadequacy	-	
Withdrawn in favor of alternate venue	1	
Withdrawn as moot	-	
Settled prior to hearing	15 ²	
Pending		10
Being processed at the PELRB	10	
Stayed or deferred for various reasons	-	
Matter is before the courts	-	

¹ In one of these two cases the Hearing Examiner granted a partial directed verdict at the conclusion of complainant's case in chief. Thereafter the parties settled the remaining claim and so it is not counted as having been settled prior to hearing.

² One of these 15 cases settled after the first day of convening the merits hearing and taking evidence, but before a decision was rendered. Therefore, it is not technically settled prior to the hearing being *convened* but was settled before the hearing *concluded*.

Table F

JUDICIAL APPEALS 2014³
STATISTICS*

TOTAL PELRB DECISIONS APPEALED¹	-	2
Appeals pending	2 ⁴	
Appeals withdrawn	-	
Appeals dismissed for lack of prosecution	-	
Appeals dismissed on jurisdictional or venue grounds	-	
Decisions affirmed	-	
Decisions reversed	-	
Decisions affirmed in part, reversed in part	-	
FINAL BOARD DECISIONS NOT APPEALED FURTHER	-	
BOARD DECISIONS FOR WHICH TIME TO APPEAL HAS NOT YET RUN	-	

³ Statistics compiled as of 12/31/14

⁴ These cases were appealed to District Court during the reporting period. However, they were originally filed with the PELRB in 2013.