

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

_____,
Petitioner

PELRB No:

State or National Affiliation: _____
(If Applicable)

and

_____,
Respondent

**DECLARATION IN SUPPORT OF ELECTRONIC SIGNATURES USED IN SUPPORT
OF PETITION FOR INITIAL CERTIFICATION OF A NEW BARGAINING UNIT**

PELRB Form #03A (Revised 10/29/2020) – Instructions

The New Mexico Uniform Electronic Transaction Act (UETA) allows parties to submit electronic signatures in support of a showing of interest. However, the signatures will only be accepted and used to calculate percentages related to sufficiency of a showing of interest if the requirements set forth below are met.

A. Requirements for Acceptance of Electronic Signatures

An acceptable submission supported by electronic signature in support of a showing of interest must have the following elements to establish its authenticity and provide a mechanism for the Agency to investigate allegations of forgery or fraud where appropriate.

1. Submissions supported by electronic signature must contain the following:

- a. the signer's name;
- b. the signer's email address or other known contact information (e.g., social media account);
- c. the signer's telephone number;
- d. the language to which the signer has agreed (e.g., that the signer wishes to be represented by ABC Union for purposes of collective bargaining or no longer wishes to be represented by ABC Union for purposes of collective bargaining);
- e. the date the electronic signature was submitted; and,
- f. the name of the employer.¹

2. Declaration

A party submitting either electronic or digital signatures must submit a declaration identifying what electronic or digital signature technology was used and explaining how its controls ensure:

- a. that the electronic or digital signature is that of the signatory employee, and
- b. that the employee herself signed the document; and
- c. that the electronically transmitted information regarding what and when the employees signed is the same information seen and signed by the employees.²

¹ If an employee fails to name the petitioned-for employer in his/her electronic submission, then, at the time that the showing of interest is provided to the Agency, the petitioner shall attest, in writing, that the employee is currently employed by the petitioned-for employer.

² For example, a party submitting a simple electronic signature could submit a declaration explaining that electronic signatures were collected through a website set up by the organizers, and asserting that the organizers believe that the employee herself signed the showing of interest because the employee submitted her contact information to the website, and because the organizers sent a Confirmation Transmission as described in Paragraph 3 below. For illustrative purposes only, see Example 1, attached to this form. Similarly, a party submitting showings of interest collected via email could submit a declaration explaining that the submitter knows the showing was signed because the text of the email contains evidence that the employee acted with the intent to sign the showing of interest, and that the submitting party believes the employee herself signed the showing of

3. Confirmation Transmission

When the electronic signature technology being used does not support digital signatures that can be independently verified by a third party as in the example in the second paragraph of n.2, above, the submitting party must submit evidence that, after the electronic signature was obtained, the submitting party promptly transmitted a communication stating and confirming all the information listed in 1a through 1f above (the “Confirmation Transmission”)

- a. The Confirmation Transmission must be sent to an individual account (i.e., email address, text message via mobile phone, social media account, etc.) provided by the signer.³
- b. If any responses to the Confirmation Transmission are received by the time of submission to the PELRB of the showing of interest to support a petition, those responses must also be provided to the PELRB.

The requirements set forth above are more stringent than what is currently required for non-electronic signatures. Presently, signature lists are not required to contain any personal contact information. However, the contact information (email address, phone number or other social media account) is easy to obtain electronically from the signer and will enable the PELRB to promptly investigate forgery or fraud, where appropriate.⁴ Moreover, the Confirmation Transmission will allow an employee, who receives the notification but did not actually intend to sign the document, with the means to alert the Agency, the employer, a union, or others that he or she did not, in fact, electronically sign a showing of interest.

These additional requirements for electronic signatures should reassure those who expressed reservations about acceptance of electronic signatures, that the Agency takes seriously their concerns and is committed to ensuring the integrity of the process. I further stress that parties will not be required to submit electronic signatures in support of their showing of interest and can continue to submit written signatures on paper for all or part of their showing of interest. However, when parties choose to submit electronic signatures, it is important that the public, employees, and other parties have confidence in the process and in the PELRB’s ability to investigate potential forgery or fraud, when appropriate.

interest because (1) the email was sent from an address known to be used by the employee and (2) because the organizers sent a Confirmation Transmission as described in Paragraph 3 below. See Example 2.

Additionally, a party using digital signature technology based on public key infrastructure (“PKI”) could submit a declaration identifying this technology. Because commercially available PKI solutions allow for identity verification by an independent third party, a submitting party can rely on PKI technology when asserting that it knows that the electronic signature is that of the signatory employee, that the employee herself signed the document, and that what is being submitted is the same information seen and signed by the employee. Therefore, if these solutions are used, the Confirmation Transmission described in Paragraph III (A)(3) need not be sent.

³ For illustrative purposes only, a sample Confirmation Transmission to support an RC and RD petition are attached to this memorandum as Examples 3 and 4, respectively.

⁴ As is now the case with handwritten signatures, an electronic signature submitted in support of a showing of interest that meets the requirements set forth herein will be presumed to be valid absent sufficient probative evidence warranting an investigation of possible fraud. Mere speculation or assertions of fraud are not now, and will not in the future, be sufficient to cause the Agency to investigate.

B. How to Submit the Electronic Signature to the PELRB

If you wish to submit an electronic signature in support of a showing of interest, your submission must provide the information required in Section A, above. Additionally, your submission must meet all requirements set forth in the PELRB Rules (NMAC Title 11, Chapter 21).

The information you have establishing electronic signatures could be in different forms. For example, it could be an email sent soliciting information and support to which the signer replied or it could be a copy of a webpage soliciting information along with a spreadsheet showing data received after the electronic signer clicked a "Submit" button. The petitioner will retain ownership of the documents submitted pursuant to NMAC 11.21.1.21 and they will be returned to the petitioner when the file is closed.

Example 1

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

Public Workers Local 1,

Petitioner

PELRB No:

State or National Affiliation: _____
(If Applicable)

and

City of Centerville,

Respondent

**DECLARATION IN SUPPORT OF ELECTRONIC SIGNATURES USED IN SUPPORT
OF PETITION FOR INITIAL CERTIFICATION OF A NEW BARGAINING UNIT**

I, Margaret Alpha, under penalty of perjury under the laws of the State of New Mexico, hereby declare the following:

1. I am the Business Agent for Public Workers Local 1 (Union), the petitioner in *Workers Local 1 & City of Centerville*, which was filed concurrently with this Declaration.
2. Each individual employee interested in joining the Union organizing drive went to the website we set up. They filled out their names, email addresses, phone numbers and employer name on an online form containing language providing that they wished to be represented for collective-bargaining purposes by the Union and clicked on "I agree".
3. The electronic signatures we are providing identify the signing employee, because that is the information that they typed onto the form.
4. Upon receipt of the email, a Union agent sent a Confirmation Transmission to the employees' email accounts stating and confirming all the information that the employees sent and that the Union received in the employees' emails. We are also including any responses to the Confirmation Transmission that we received from signatory employees prior to the filing of this showing of interest.

Signature Date

Example 2

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

Public Workers Local 1,

Petitioner

PELRB No:

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(If Applicable)

and

City of Centerville,

Respondent

**DECLARATION IN SUPPORT OF ELECTRONIC SIGNATURES USED IN SUPPORT
OF PETITION FOR INITIAL CERTIFICATION OF A NEW BARGAINING UNIT**

I, Joseph Beta, under penalty of perjury under the laws of the State of New Mexico, hereby declare the following:

1. I am the Business Agent for Public Workers Local 1 (Union), the petitioner in *Workers Local 1 & City of Centerville*, which was filed concurrently with this Declaration.
2. The petitioner collected electronic signatures from unit employees for the purposes of its showing of interest in the following manner:

Agents of the Union directed each individual employee who wanted the Union to represent him or her for the purposes of collective bargaining to send an email to organizing@widgetworkers1.org. They included their name, email address, phone number and employer name in the email, with language indicating that they wished to be represented for collective-bargaining purposes by the Union. The electronic signatures we're providing identify the signing employees, because the employees sent the emails from email addresses that are known to be used by the employees.

Upon receipt of the email, a Union agent sent a Confirmation Transmission to the employees' email accounts stating and confirming all the information that the employees sent and that the Union received in the employees' emails. We are also including any responses to the Confirmation Transmission that we received from signatory employees prior to the filing of this showing of interest.

Signature Date

Example 3

To: jane.smith@gmail.com

Subject: Confirmation of Submission of Electronic Authorization to Public Workers Local 1 to Represent You for the purposes of collective bargaining

Dear Jane Smith:

This email is to confirm that Public Workers Local 1 received an electronic submission of authorization from you to represent you and other employees of The City of Centerville for purposes of collective bargaining.

The information that we received from you was as follows:

- a. **Name:** Jane Smith
- b. **Email address:** jane.smith@gmail.com
- c. **Telephone number:** (555) 555-5555
- d. **Language You Agreed To:** "I wish to be represented by Public Workers Local 1 for purposes of collective bargaining."
- e. **Date Submitted:** June 30, 2020
- f. **Employer Name:** City of Centerville

If you did *not* submit this authorization, please immediately reply to this email and let us know that you did not submit the authorization.

If you submitted the information and it is correct, you do not need to do anything. We will provide you with further information about our efforts to represent you.

If you submitted the information but you see there is an error in some of the information provided, please reply and provide the corrected information.

Thank you.

Public Workers Local 1

www.PWUlocal1.org

Example 4

To: jane.smith@gmail.com

Subject: Confirmation of Electronic Submission That You Do Not Want to be Represented by Public Workers Local 1

Dear Jane Smith:

This email is to confirm that I received an electronic submission from you stating that you do not wish to be represented by Public Workers Local 1 for purposes of collective-bargaining.

The information that I received from you was as follows:

- a. **Name:** Jane Smith
- b. **Email address:** jane.smith@gmail.com
- c. **Telephone number:** (555) 555-5555
- d. **Language You Agreed To:** “I do not wish to be represented Public Workers Local 1 for purposes of collective bargaining.”
- e. **Date Submitted:** June 30, 2020
- f. **Employer Name:** City of Centerville

If you did *not* submit this authorization, please immediately reply to this email and let me know that you did not submit the authorization.

If you submitted the information and it is correct, you do not need to do anything. I will provide you with further information about our efforts to no longer be represented by Widget Makers Local 123.

If you submitted the information but see there is an error in some of the information provided, please reply and provide the corrected information.

Thank you,
Oscar Organizer