



STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
Minutes of Board Meeting held Saturday, January 16, 2021
at 1:30 p.m. via web conference. Marianne Bowers, presiding.

1. **Call to Order.** Chair Marianne Bowers called the meeting to order at 1:33 p.m. Members Mark Myers and Nan Nash were also present, so that a quorum was established.
2. **Approval of Agenda.** Chair Marianne Bowers moved to approve the agenda. Member Nash seconded the motion, and the agenda was unanimously approved upon a roll call vote.
3. **Approval of January 6, 2021 Meeting Minutes.** The Executive Director informed the Board that staff had received comments from Dina Holcomb regarding the January 6, 2021 draft minutes. Certain grammatical and typographical errors pointed out by Ms. Holcomb were accepted but the Director called upon his Administrative Assistant to address the more substantive comments. Member Nash asked whether minutes were required to be approved at this Special Meeting and Mr. Huchmala replied in the affirmative because the Open Meetings Act required approval of prior minutes at the next meeting where a quorum exists. Mr. Huchmala informed the Board that in addition to suggested adding title at the beginning of the quoted section in item No. 6. Also, she suggested that “for negotiations” be inserted after “ground rules”. Staff left that out because it is implied by “ground rules”. She also suggested adding “by the board” after “on a case-by-case basis” in the same agenda item. Again, “by the Board” is necessarily implied so Staff did not recommend making those suggested changes. In item 9 Staff corrected mis-lettering as requested by Ms. Holcomb. The Chair moved to approve the minutes with the changes recommended by staff. Member Nash seconded the motion and the motion carried unanimously upon a roll call vote.
4. **Hearing on Order to Show Cause and/or Judicial Enforcement of Temporary Restraining Order and Preliminary Injunction: *MCFUSE v. Gallup McKinley Schools*; PELRB 122-20.** After a brief discussion regarding a Motion to Recuse the Board Chair received the morning of the hearing, the Board declined to hear oral argument on the Motion and at 1:41 p.m. the Chair moved to go into closed executive session pursuant to NMSA § 10-15-1(H)(3) to discuss the motion. Member Nash seconded the motion and the motion carried unanimously by roll call vote. At 1:49 p.m. Chair Bowers moved to return to open session and stated that pursuant to NMSA § 10-15-1(I)(1) and § 10-15-1(J) the only matter discussed in the closed session was the Recusal Motion in PELRB 122-20. Member Nash seconded the motion and the motion carried unanimously by roll call vote. Member Nash moved to deny the Motion for Recusal. The Motion was seconded by Vice-Chair Myers and passed unanimously after a roll call vote. The Board then heard argument from counsel, Shane Youtz for the Union and A. Lynn Himes for the District on the Order to Show Cause and/or Judicial Enforcement of Temporary Restraining Order and Preliminary Injunction. At 2:05 p.m. the Chair moved to go into closed executive session pursuant to NMSA § 10-15-1(H)(3) to deliberate the matter; Vice-Chair Myers seconded the motion and the motion carried unanimously by roll call vote.

At 2:29 p.m. Chair Bowers moved to return to open session and stated that pursuant to NMSA § 10-15-1(I)(1) and § 10-15-1(J) the only matter discussed in the closed session was the Order to Show Cause and/or Judicial Enforcement of Temporary Restraining Order and Preliminary Injunction in PELRB 122-20. Member Nash seconded the motion and the motion carried unanimously by roll call vote. The Chair then moved that the Board find:

- A. On December 23, 2020, the Board efficiently and fairly held a hearing on the Motion for Preliminary Injunction.
- B. The School's argument that the Board cannot act fairly because of previous involvement with union labor activities is specious.
- C. The School violated the December 23, 2020 Order when it failed to adequately notify employees that the Remote Instruction Assurances for Quarter 1 of the 2020-21 School Year signed by employees authorizing the surveillance of employees is unenforceable.
- D. Clarification is necessary to explain how the School shall notify any teacher of the School's presence when any School staff is observing the teacher through the TEAMS software.

That further clarification is summarized as follows:

1. That the School email all employees, and to include Executive Director Thomas Griego (tom.griego@state.nm.us) and Board's legal counsel Lori Chavez (lchavez@nmag.gov), written notice that the Remote Instruction Assurances for Quarter 1 of the 2020-21 School Year signed by employees authorizing the surveillance of employees is unenforceable. The language in the notice should reflect the Board's previous Order. Written notice shall be emailed out to all employees and the Board no later than the close of business on January 22, 2021.
2. The School shall verbally announce when entering into TEAMS to observe teachers and teachers shall acknowledge the presence of the School. The School shall keep their camera on with School staff being visible to teachers at all times. Any time School staff is not visible on camera to teachers, that School staff member shall physically log out of TEAMS before leaving view of the camera. Keeping the camera on and being visually seen on the screen at all times then physically exiting out of TEAMS when no longer visible is sufficient notice to teachers that the School has left the class and that the teacher is no longer being observed by the School. The School shall email written formal procedures for entering, observing and exiting virtual classrooms in compliance with this Order to principals of all schools, and to include Executive Director Thomas Griego (tom.griego@state.nm.us) and Board's legal counsel Lori Chavez (lchavez@nmag.gov). Written formal procedures shall be emailed out to principals and the Board no later than the close of business on January 22, 2021.
3. Failure to comply with this Order shall result in the Board seeking an order of enforcement from the district court without further hearing.

4. The request that a sanction be imposed on the School and for judicial enforcement of the Board's December 23, 2020 Order is denied without prejudice to any future enforcement action that may be necessary to enforce this Order.

The Motion was seconded by Vice-Chair Myers and passed unanimously by roll call vote.

At 2:36 p.m. Chair Bowers moved to adjourn. Vice-Chair Myers seconded the Motion and the motion carried 3-0 on a roll call vote.