



STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
Minutes of Special Board Meeting held Friday, May 28, 2021
at 1:00 p.m. via web conference. Marianne Bowers, presiding.

1. **Call to Order.** Chair Marianne Bowers called the meeting to order at 1:00 p.m. Vice-Chair Mark Myers and Member Nan Nash were in attendance so that a quorum was present.
2. **Approval of Agenda.** Chair Bowers moved to approve the agenda the motion was seconded by Member Nash and the motion carried upon a unanimous roll call vote.
3. **Approval of March 22, 2021 Meeting Minutes.** Chair Bowers moved to approve the agenda the motion was seconded by Member Nash and the motion carried upon a unanimous roll call vote.
4. **Public Comments.** There were no requests from those in attendance to make a public comment.
5. **Correction of Procedural Error in Motions from May 22, 2021 Meeting**
 - a. **In re: San Juan College; PELRB 205-20** The Executive Director informed the Board that since the last meeting, staff had received a set of revised rules on May 28, 2021 that had been reviewed and staff had found no material variations from the Board's rules, but the local board had not yet adopted them. Steven Carroll addressed the Board on behalf of the local board and stated that the local board was going to meet on June 30, 2021 to approve adopt the rules. Chair Bowers moved to approve the rules on the condition that the rules as submitted on May 27, 2021 were adopted by the local board no later than June 30, 2021. Member Nash seconded the motion and the motion carried upon a unanimous roll call vote.
 - b. **In re: Sandoval County; PELRB 210-20** The Executive Director informed the Board that since the last meeting, staff had received a set of revised rules on May 28, 2021 that had been reviewed and staff had found no material variations from the Board's rules, but the local board had not yet adopted them. Cori Strife appeared on behalf of the local board and stated that the local board would be meeting in June to adopt the rules as submitted May 28, 2021. Chair Bowers moved to approve the rules on the condition that the rules as submitted on May 27, 2021 were adopted by the local board no later than June 30, 2021. Vice-Chair Myers seconded the motion and the motion carried upon a unanimous roll call vote.
 - c. **In re: City of Albuquerque; PELRB 220-20** The Executive Director informed the Board that the city had submitted rules May 27, 2021 that had adapted the Board's rules to the local context, but staf had identified several instances where the proposed rules had removed deadlines for the processing of complaints and as a result staff were not recommending approval. Leigh Brunner appeared on behalf of the local board and stated that she had conferred with the Executive Director and had agreed to make appropriate changes, but the changes had not yet been made. The Executive Director recommended the Board deny approval at this time. Ms. Brunner stated that the local board had two meeting scheduled for June and the rulemaking would occur at one of those. Chair Bowers moved to deny approval until such time as the defects had been cured, but no later than June 30, 2021. Member Nash seconded the motion and the motion carried upon a unanimous roll call vote.
 - d. **In re: Los Alamos County; PELRB 213-20** The Executive Director informed the Board that a hearing had been conducted pursuant to the Board's direction at the May 22, 2021

and suggested the Board adopt the following findings of fact from his Report and Recommended Decision:

1. After timely submission of proposed rules, PELRB staff comment and revision of the rules based on those comments, two issues remained for hearing: 1) whether the March 29, 2021 amended rules adoption of PELRB's rules' reference to the date June 30, 1999 in the definition of "Certification of incumbent bargaining status" (proposed rule 1.4(D)) meant that the rule did not conform to the PELRB's rules; and 2) whether good cause exists for approving a variance in proposed rule 2.6(A) whereby the proposed rule contains a 5-day deadline in which a Petitioner in a representation proceeding may submit additional showing of interest, whereas the PELRB's rule are silent as to how much time will be allowed leaving that to the Board's discretion as it may deem to be reasonable on a case-by-case basis.
2. The Los Alamos County labor board met on May 25, 2021 to consider PELRB staff comments and recommendations following submission of their March 29, 2021 proposed rules and expressed willingness to replace the reference to June 30, 1999 in its proposed rule 1.4(D) with the date of their revised ordinance March 16, 2021.
3. Amendment of proposed rule 1.4(D) as in Finding 2 above would satisfy PELRB staff concerns about that section removing them as an impediment to this Board's approval.
4. As Ms. Orth testified, she has served as a member of the Los Alamos County labor board for approximately 10 years.
5. Ms. Orth participated in revision of the local board's rules to conform with the 2020 amendment to the State's Public Employee Bargaining Act. One of the discussions involved revision of the 5-day deadline for submitting additional showing of interest as appears in proposed rule 2.6(A) that has existed in prior versions of the Los Alamos County board's rules for "at least 10 years if not 15 years" preceding the deadline for submitting conforming rules mandated by Section 10-7E-10(C) of the Act, without objection or challenge.
6. During her tenure on the board it presided over three Petitions for Certification of Collective Bargaining Units and 5-day deadline did not pose any problems in any of those cases. She is not aware that the deadline has ever posed a problem in any case before the board.
7. According to Rule 1.6 of the County's March 29 proposed rules, any party seeking an extension of time in which to file "any required or permitted document" with the Los Alamos County labor board may do so by filing a written request for an extension at least three days prior to the due date. The local board may grant an extension of time for good cause shown, thereby providing it discretion to afford relief from a strict adherence to the 5-day deadline with which the PELRB staff was concerned. Therefore, good cause exists to grant the variance from our rules appearing in Los Alamos County's proposed rule 2.6(A) submitted on March 29, 2021.

The Executive Director recommended that the Board adopt the findings in this report, grant the variance in proposed rule 2.6(A) and conditionally approve the rules submitted March 29, 2021 by Los Alamos County's labor board on the condition that Los Alamos County labor board votes to replace the reference to June 30, 1999 in its proposed rule 1.4(D) with March 16, 2021, the date their revised ordinance was enacted, and that it does so before June 30, 2021. Ms. Thwaites stated that she agreed with the Executive Directors presentation. Chair Bowers moved

to adopt the findings in the Director's Report and conditionally approve the rules submitted March 29, 2021 by Los Alamos County's labor board on the condition that Los Alamos County labor board votes to replace the reference to June 30, 1999 in its proposed rule 1.4(D) with March 16, 2021, the date their revised ordinance was enacted, and that it does so before June 30, 2021. Member Nash seconded the motion and the motion carried upon a unanimous roll call vote.

6. **Adjournment.** After a brief discussion of the necessity for a meeting on June 1, 2021, Chair Bowers moved to adjourn and the meeting adjourned at 1:31 p.m.