



**STATE OF NEW MEXICO**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**  
**Minutes of Board Meeting held Tuesday October 5, 2021**  
**at 9:00 a.m. via web conference. Mark Myers, presiding.**

1. **Call to Order.** Chair Mark Myers called the meeting to order at 9:00 a.m. Vice-Chair Nan Nash and Member Marianne Bowers were in attendance so that a quorum was present.
2. **Approval of Agenda.** Charles Kolberg informed the Board that the request for Board review in Item 9a of the draft agenda, regarding PELRB 106-21, had been withdrawn and he would like the agenda to be amended to reflect that fact. The administrative assistant stated that although the review need not take place, a report of the Hearing Officer's Recommended Decision should occur. Vice-chair Nash moved to approve the agenda with after changing Item 9a to Item 8b. Member Bowers moved to approve the agenda as amended. The Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote.
3. **Chairperson Rotation pursuant to NMAC 11.21.1.33.** The administrative assistant stated that as a result of recent rulemaking, the Chair serves a one-year term as Chair, upon the completion of which, the Vice-Chair becomes the Chair, the third member becomes the Vice-Chair, and the Chair becomes the third member. So now, Mr. Myers is the Chair, Ms. Nash the Vice-Chair and Ms. Bowers the third member.
4. **Approval of August 17, 2021 Meeting Minutes.** Vice-Chair Nash moved to approve the August 17, 2021 Minutes. Member Bowers seconded the motion and the motion carried upon a unanimous roll call vote.
5. **Public Comments.** Charles Kolberg introduced himself as the new counsel for the ABCWUA and gave a brief presentation to the Board of the history and current status of collective bargaining at the Water Authority. The Board thanked him for providing the information.
6. **Assumption of Jurisdiction Over Doña Ana County Labor Relations Matters.** The administrative assistant informed the Board that due to a vacancy lasting longer than 60 days, the Doña Ana County Labor Management Relations Board had ceased to exist pursuant to Section 10(F) of the PEBA and that the Board would assume jurisdiction over labor relations matters involving employees of the county. PELRB staff had requested any pending case files, but there appear to be none so there would be no immediate effect on the PELRB.
7. **Results of Representation Election.**
  - a. **NEA-Turquoise Trail & Turquoise Trail Charter School, PELRB 302-21.** The administrative assistant informed the Board that a representation election had been conducted in this case on August 20, 2021 pursuant to the Consent Election Agreement that had been previously approved by the Board. The election results were: 58 ballots cast out of a total of 76 eligible voters. Therefore, more than 40% of the eligible voters cast ballots. 30 ballots, a majority of those cast, were in favor of representation by the Union. 26 ballots were cast for "No Representation". One

ballot was not returned. Vice-Chair Nash moved to ratify the results of the election and certify the petitioner as the exclusive representative. Member Bowers seconded the motion and the motion carried upon a unanimous roll call vote.

8. **Hearing Officer's Report and Recommended Decision**

- a. ***Mesa Vista Fed. of Teachers v. Mesa Vista Schools*; PELRB 105-21.** The administrative assistant informed the Board that a Hearing Officer's Report and Recommended Decision had been issued in the case, and that the time to request Board review had passed without any such request having been made, so the decision was now binding on the parties. No action was taken by the Board.
- b. ***AFSCME 3022 v. ABCWUA*; PELRB 106-21.** The administrative assistant informed the Board that a Hearing Officer's Report and Recommended Decision had been issued in the case and reminded the Board that as Mr. Kolberg had informed them earlier, a request for Board review had been filed, but subsequently withdrawn, so the decision was now binding on the parties. No action was taken by the Board.

9. **Requests for Board Review**

- a. ***AFSCME 3022 v. ABCWUA*; PELRB 106-21.** Withdrawn. See Item 2, *supra*
- b. ***AFSCME 3022 v. ABCWUA*; PELRB 107-21.** The Chair introduced the item and asked counsel for the parties if they would like to address the Board to which they replied in the affirmative. The Chair then invited Mr. Kolberg, counsel for the ABCWUA to speak first, as the ABCWUA was the party requesting review. After hearing from Mr. Kolberg, the Chair invited Stephen Curtice, counsel for the Union, to address the Board. After hearing from both parties, the Chair suggested that the Board go into executive session after Item 11 and discuss all matters requiring deliberation in one closed session. The other members of the Board indicated their approval of this proposal. After returning from closed session (see Item 11a, *infra*), the Chair moved to adopt the Hearing Officer's Report and Recommended Decision without modification; the Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote.
- c. ***AFSCME 3022 v. ABCWUA*; PELRB 108-21.** After introducing the matter, the Chair invited Mr. Curtice to speak first because the union had requested the review in this case. After hearing from Mr. Curtice, the Chair invited Jamie Dawes, counsel for the ABCWUA to address the Board. After returning from closed session (see Item 11a, *infra*), the Chair moved to adopt the Hearing Officer's Report and Recommended Decision without modification and invited further discussion from the other members. Member Bowers stated that it is her position that the Water Authority refused to bargain mandatory subjects of bargaining and she would reject the recommended decision. Vice-Chair Nash then seconded the Chair's motion to adopt the Recommended Decision without modification. The motion carried upon a 2-1 vote with Ms. Bowers casting the negative vote.

10. **Clarification of Order**

- a. ***UE & UNM*; PELRB 307-20.** The parties requested that the Board clarify whether their previous order in this case (66-PELRB-2021, August 17, 2021) was a final order that is subject to appeal to the District Court under Rule 1-074 NMRA. Mr. Curtice, counsel for the union, and Dina Holcomb, counsel for UNM, stated that it was the view of both parties that it was not a final order. All three members of the Board agreed that the Order was an interim order and not a final order.

## 11. Interlocutory Appeal

- a. ***UHPNM & SRMC; PELRB 306-21.*** After introducing the matter, the Chair invited Thomas Stahl, counsel for SRMC to address the Board first. After hearing from Mr. Stahl, the Chair invited Shane Youtz, counsel for the union, to address the Board, which he did. The Chair then moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss PELRB cases 107-21, 108-21 and 306-21; the Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote. The time was 10:14 a.m. At 10:25 a.m. the Chair moved that the Board go back into regular session, and pursuant to sections 10-15-1(I)(l) and 10-15-1(J), the only matters discussed in the closed executive session were PELRB cases 107-21, 108-21 and 306-21; the Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote. After announcing the Boards decisions in the matters before the Board for review in PELRB 107-21 and 108-21 (see Items 9b and 9c, *supra*), the Chair moved to adopt the Hearing Officer's Report and Recommended Decision without modification. The Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote. Mr. Stahl the requested clarification from the Board about whether this order would be a final order that is subject to appeal to the District Court under Rule 1-074 NMRA. After hearing from both parties and the Board's counsel, Vice-Chair Nash requested they go back into executive session to discuss the matter. The Chair then moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss PELRB 306-21; the Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote. The time was 10:35 a.m. At 10:56 a.m. the Chair moved that the Board go back into regular session, and pursuant to sections 10-15-1(I)(l) and 10-15-1(J), the only matter discussed in the closed executive session was PELRB case 306-21; the Vice-Chair seconded the motion and the motion carried upon a unanimous roll call vote. Member Nash then moved to rescind the Board's previous adoption of the Report and Recommended Decision without modification and approve the Recommended Decision after amending it to include language indicating the interlocutory nature of the appeal and that this is an interim decision of the Board. Member Bowers seconded the motion and the motion carried upon a unanimous roll call vote.

## 12. Voluntary Dismissals.

- a. *AFSCME, Local 3022 v. ABCWUA*; PELRB 110-21
- b. *AFSCME, Local 3022 v. ABCWUA*; PELRB 112-21 & 115-21
- c. *AFSCME v. Torrance County*; PELRB 116-21 & 304-21
- d. *AFSCME, Local 3022 v. ABCWUA*; PELRB 117-21
- e. *AFSCME, Local 3999 v. Santa Fe*; PELRB 118-21
- f. *Belen FSE v. Belen Consolidated Schools*; PELRB 119-21

The administrative assistant informed the Board that the complaints, and in one case a petition, were all withdrawn by the complainants (and petitioner) prior to hearing. The Chair invited any interested parties to address the Board and Mr. Curtice informed the Board that he was counsel to the complainant or petitioner in all of the cases and that they had indeed been withdrawn. No action was taken by the Board

13. **Summary Dismissal.** The administrative assistant informed the Board that the Executive Director had dismissed the petition in *AFSCME & Santa Fe County*, PELRB 307-21 on procedural grounds and that no request for Board review of the dismissal had been filed. No action was taken by the Board.

#### 14. Settlement on Damages

- a. ***AFSCME v. Santa Fe; PELRB 106-20.*** The administrative assistant informed the Board that pursuant to their directive in Order 3-PELRB-2021, the parties had come to an agreement on damages and that they now seek the Board's approval of their settlement. After hearing from counsel for both parties (Mr. Curtice for the union and Christopher Ryan for the City of Santa Fe), Vice-Chair Nash moved to approve the settlement agreement. Member Bowers seconded the motion carried upon a unanimous roll call vote. The Chair directed staff to monitor compliance with the agreement update the Board with any developments.

#### 15. Director's Reports

- a. ***Goodenough v. CYFD; A-1-CA-39777; PELRB 106-19.*** The administrative assistant informed the Board that the Court of Appeals had denied the petition for a writ of certiorari and the time to petition the Supreme Court for a writ had passed, so all avenues of appeal had been exhausted and the file could be closed. The Chair directed staff to close the file.
  - b. ***AFT-NM v. Peñasco ISD; PELRB 108-20.*** The Board was informed that the District Court had issued an order on September 10, 2021 upholding the decision of the Board to the extent that it did not apply the 2020 amendments to the PEBA retroactively, but the deadline to petition for writ of certiorari was not until October 10, 2021. Staff was instructed to monitor the case for compliance with the decision if there is no appeal.
  - c. ***AFSCME v. Bernalillo County; PELRB 101-21.*** The Board was informed that the Board's order in this case (65-PELRB-2021) had not been appealed and that staff was monitoring the case for compliance. Mr. Curtice, counsel for the union informed the Board that the parties were working together to comply with the portion of the decision that required the posting of a Notice.
  - d. ***Amendment of the Per Diem and Mileage Act impact on Board budget.*** Agency CFO, Tanya Montoya-Ramirez informed the Board that an amendment to the Per Diem and Mileage Act allows for a *per diem* of \$45 for attendance of virtual meetings, but that all three members of the Board had waived payment, so there would be minimal, if any, impact on the budget.
  - e. ***Audit update.*** The CFO informed the Board that the FY21 financial audit was proceeding as planned; all necessary documentation had been submitted and that the data testing and virtual field work had been completed; the audit should be complete before the next meeting.
  - f. ***Reversion Notification submitted August 31<sup>st</sup>.*** The CFO informed the Board that some funds from FY21 had been reverted mainly due to an overestimate of charges incurred for IT services from the Department of Information Technology.
  - g. ***FY23 budget report.*** The CFO reported that the FY23 Budget had been submitted on time and the Executive director had presented it to the Legislative Finance Committee. The Board thanked Ms. Montoya-Ramirez and commended for her exemplary work.
16. **Adjournment.** Vice-Chair Nash moved to adjourn the meeting; Member Bowers seconded the motion and the motion passed unanimously upon a roll call vote. The time was 11:20 a.m.