

**TITLE 11      LABOR AND WORKERS COMPENSATION**  
**CHAPTER 21    LABOR UNIONS/LABOR RELATIONS**  
**PART 5        LOCAL BOARDS**

**11.21.5.1      ISSUING AGENCY:** Public Employee Labor Relations Board, 2929 Coors NW, Suite #303, Albuquerque, NM 87120, (505) 831-5422.  
[11.21.5.1 NMAC - N, 3/15/2004]

**11.21.5.2      SCOPE:** The scope of Part 5 of Chapter 21 applies to public employers and labor organizations as defined by the Public Employee Bargaining Act (1-7E-1 to 10 7E-26 NMSA 1978).  
[11.21.5.2 NMAC - N, 3/15/2004]

**11.21.5.3      STATUTORY AUTHORITY:** Authority for Part 5 of Chapter 21 is the Public Employee Labor Relations Act, Sections 1 through 26 (10-7E-1 to 1-7E-26 NMSA 1978).  
[11.21.5.3 NMAC - N, 3/15/2004]

**11.21.5.4      DURATION:** Permanent.  
[11.21.5.4 NMAC - N, 3/15/2004]

**11.21.5.5      EFFECTIVE DATE:** March 15, 2004, unless otherwise cited at the end of the section.  
[11.21.5.5 NMAC - N, 3/15/2004]

**11.21.5.6      OBJECTIVE:** The objective of Part 5 Chapter 21 is to provide procedures necessary for a public employer other than the state to comply with the provisions of Sections 10-7E-9 and 10-7E-10 NMSA 1978 (2020) for continued operation of a local labor board.  
[11.21.5.6 NMAC - N, 3/15/2004, A; 7/1/2020; A, 8/9/2022]

**11.21.5.7      DEFINITIONS:** **[RESERVED]**  
[11.21.5.7 NMAC - N, 3/15/2004]

**11.21.5.8      BIENNIAL AFFIRMATIONS:** Any local board approved pursuant to Subsection A above, shall submit the affirmation required by Subsection D of Section 10 of the Act between November 1, and December 31 of each odd numbered year. Affirmations shall be filed with the board in accordance with NMAC 11.21.1.10 and shall substantially conform with the form created for that purpose and posted on the board's website.  
[11.21.5.8 NMAC - N, 3/15/2004; A, 7/1/2020; A, 8/9/2022]

**11.21.5.9      [RESERVED]**  
[11.21.5.9 NMAC - N, 3/15/2004; Rn, 11.21.5.13 NMAC & A, 2/28/2005; A, 7/1/2020; Repealed 8/9/2022]

**11.21.5.10     CONTENTS OF APPLICATION FOR VARIANCE FROM BOARD APPROVED ORDINANCE, RESOLUTION, OR CHARTER AMENDMENT:**

**A.** In certain instances variances from the board approved ordinance, resolution or charter amendment may be required by the unique facts and circumstances of the relevant local public employer, to effectuate the purposes of the Act.

**B.** In such instances, an application for approval shall be submitted to the PELRB which specifies the particular facts and circumstances requiring such variance, and inform the board of any exclusive representing employees of the local public employer, and any other labor organizations believed by the public employer to be involved in attempting to organize any local public employees.

**C.** Upon receipt of an application for approval seeking variance from a board approved ordinance, resolution or charter amendment, the director shall hold 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 hearing, the director shall cause notice of the hearing to be issued in accordance with Subsection B of 11.21.1.16 NMAC of these rules. 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 in processing the application pursuant to these rules.  
[11.21.5.10 NMAC - N, 3/15/2004; Repealed 2/28/2005; N, 2/28/2005; A, 8/9/2022]

**11.21.5.11 SUBMISSION OF RULES:**

**A.** Each local board, shall submit a verified copy of the procedural rules enacted by the applying local board necessary to accomplish its functions and duties under the Act.

**B.** Any proposed changes to the procedural rules of a local board must be approved by the PELRB prior to being enacted by the local board using the procedure set forth in 11.21.5.9 NMAC for ordinances, resolutions, and charter amendments.

[11.21.5.11 NMAC – Rp, 11.21.5 NMAC, N, 7/1/2020; A, 8/9/2022]

**11.21.5.12 REVIEW OF LOCAL BOARD APPLICATIONS BY THE BOARD:**

**A.** Upon receiving an application for approval pursuant to 11.21.5.9 or 11.21.5.10 of these rules, the board shall conduct an administrative review of the application and, at a properly noticed public meeting or hearing, shall formally approve or disapprove the application. Public notice of such meetings or hearings shall be provided as required by law.

**B.** In considering such an application for approval, the board shall review all applications for approval in light of the requirements of Section 10 of the Act and 11.21.5 NMAC. The board shall require that the ordinance, resolution or charter amendment creating the local board be amended as necessary in order to meet the requirements of Section 10 of the Act and 11.21.5 NMAC.

**C.** Upon a finding that the application meets statutory and regulatory requirements, the board shall approve such application. If after approval pursuant to this rule a local board fails to act on or respond to a filing by an employee organization or public employer or public employee within a reasonable time, or otherwise acts in a manner inconsistent with Section 10-7E-9 NMSA 1978 (2020) the board shall exercise its jurisdiction over any matters then pending before the local board pursuant to Section 2 of the Act.

**D.** In the event an application demonstrates that the proposed change does not meet the standards of Section 10 of the Act and 11.21.5 NMAC, the application shall be rejected and returned to the public employer.

[11.21.5.12 NMAC - N, 3/15/2004; Rn, 11.21.5.14 NMAC & A, 2/28/2005; A, 2/11/2020; A, 7/1/2020; A, 8/9/2022]

**11.21.5.13 LOCAL BOARD REPORTING REQUIREMENTS:**

**A.** Following board approval of a local board, the local board or the public employer that created it shall file with the board any amendments to the ordinance, resolution, or charter amendment, creating the local board, or any procedural rules within 30 days of such changes, and timely respond to any inquiries by this board of its staff made pursuant to Sections 9 and 10 of the Act.

**B.** Each local board shall inform the board of any changes to the membership of the local board within 30 days of the resignation or appointment of any member of the local board. Such communications shall be in writing and filed with the board in accordance with NMAC 11.21.1.10.

[11.21.5.13 NMAC - N, 3/15/2004; Rn, 11.21.5.15 NMAC & A, 2/28/2005; A, 7/1/2020; A, 8/9/2022]

**11.21.5.14 REVOCATION OF APPROVAL OF LOCAL BOARD:** Upon the issuance of a final order of the board or judgment by a court of competent jurisdiction, finding that a local board is not in compliance with the Act, all matters theretofore pending before the local board shall be removed to and come under the jurisdiction of the board.

[11.21.5.14 NMAC - N, 3/15/2004; Rn, 11.21.5.16 NMAC & A, 2/28/2005; A, 7/1/2020]

**11.21.5.15 [RESERVED]**

[11.21.5.15 NMAC - N, 3/15/2004; A, 2/28/2005]

**11.21.5.16 [RESERVED]**

[11.21.5.16 NMAC - N, 3/15/2004; A, 2/28/2005]

**History of 11.21.5 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of public records-state records center and archives:

PELRB 5, Approval of Local Boards, filed 3/18/1993.

**History of Repealed Material:** 11 NMAC 21.5, Approval of Local Boards (filed 6/24/1996), repealed as a result of the internal duration of rule, stated as 7/1/1999.

**Other History:**

PELRB 5, Approval of Local Boards, filed 3/18/1993 was renumbered and replaced by 11 NMAC 21.5, Approval of Local Boards, filed 6-24-96.

11 NMAC 21.5, Approval of Local Boards, filed 6/24/1996, was replaced by 11.21.5 NMAC, Approval of Local Boards, effective 3/15/2004.