

# Local Government Employee-Management Relations Board E-Newsletter

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## Members of the Board

Brent C. Eckersley, Esq., Chair  
Sandra Masters, Vice-Chair  
Philip E. Larson, Board Member  
Cam Walker, Board Member  
Gary Cottino, Board Member

## Staff

Bruce K. Snyder, Commissioner  
Marisu Romualdez Abellar,  
Board Secretary

## On the Horizon

The next meeting of the Board, which will be held in Las Vegas, will be Monday, March 19<sup>th</sup> through Wednesday, March 21<sup>st</sup>. The agenda for that meeting will be issued on March 12<sup>th</sup>. At that time the Board is scheduled to hear 2017-024, [IAFF, Local 1607 v. City of North Las Vegas](#). North Las Vegas stopped bi-monthly uniform allowances to the firefighters once the collective bargaining agreement expired on June 30, 2017. The City claims that this was to be in compliance with the terms of SB 241, adopted in 2015, which prohibits certain increases in payments after a CBA has expired. IAFF, Local 1607 disagrees, claiming that the City is misinterpreting SB 241.

The Board is also expected to conclude deliberations on two cases previously heard. The first is case 2017-011, [SEIU, Local 1107 v. Southern Nevada Health District](#). This case involves whether three job classifications should be exempt from the bargaining unit for various reasons.

The second is case 2017-010, [Kerns & Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department](#). Sgt. Kerns faced discipline over actions related to a vehicle pursuit. In lieu of facing discipline he instead retired. About a month after he retired LVMPD placed an Adjudication of Complaint in his personnel file. Kerns alleges that LVMPD committed a number of prohibited practices, including unilateral changes to the discipline process, whether LVMPD interfered with or restrained him in the exercise of his rights under the law, and whether it bargained in bad faith prior to implementing mandatory subjects of bargaining. LVMPD denies the allegations and also claims that Kerns does not have standing as he was not a local government employee at the time of his having filed a complaint in that he had already retired.

Finally, in March the Board is scheduled to set five hearing dates and randomly assign cases to those five dates.

## Status of Proposed Regulations

As reported in last month's e-newsletter, the Board approved proposed regulation R074-17 on January 10<sup>th</sup>. We are now waiting for (hopefully) final approval by the Legislative Commission at its next meeting. No date has yet been set for the Legislative Commission to meet, but we understand that it may be in the next couple weeks. Regulation R074-17 would allow for the establishment of panels of Board members to hear cases, in addition to setting up an expedited system to hear cases involving allegations under the Nursing Mothers Accommodation Act.

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**Please note our office will be closed on Monday, February 19<sup>th</sup> in observance of Presidents' Day. Any filings e-mailed on this day will be dated the day they are received in our e-mail inbox.**

## Questions and Answers on the Formation of Panels

While the agency hopefully awaits final approval of its regulations by the Legislative Commission, we will be including in the next few e-newsletters questions and answers about the use of panels to decide cases at the EMRB. SB 460 would allow the agency to use panels to decide certain matters, via a panel of three of the five Board members. The Q&A below address the formation of the panels. Next month's e-newsletter will address the assigning of cases to specific panels. Much of the answers below are quotes from the proposed regulation. These are presented for educational purposes.

### What is a panel?

A panel means any three members of the Board present at a meeting who are authorized to exercise the power and authority of the Board, excepting for certain decisions which may only be exercised by the full Board.

### Who establishes the panels and decides how many panels to create?

The Commissioner may establish one or more panels as the Commissioner deems necessary.

### Who assigns the Board members to the various panels?

The Commissioner shall assign each member of the Board to a panel or panels. However, each member of the Board must be assigned to the same number of panels as every other Board member.

### How many panels will be established?

Five. Therefore each Board member will serve on three of the five panels.

### How many members of the panel must attend a panel meeting in order for the panel to legally meet?

According to a legal opinion, all three members of the panel must be in attendance or else the panel will need to postpone its meeting.

### May a panel substitute another Board member for an absent member so that the panel will continue to have three members and thus be allowed to meet?

Yes. If the absence of one or more members of a panel would otherwise require the postponement of a hearing, the Commissioner may, with the written consent of all the parties to the hearing, randomly assign another member or members of the Board to the panel for the purposes of the hearing and disposition of the matter.

### Which of the three panel members is to preside over a panel meeting?

1. If the Chair is a member of a panel, then he or she shall serve as the presiding officer.
2. If the Chair is not a member of a panel, then the Vice Chair, if he or she is on that panel, shall serve as the presiding officer.
3. If neither the Chair nor the Vice Chair is a member of a panel, then the Board member with the most seniority shall serve as the presiding officer.

### Can someone substitute as the Presiding Officer for a given panel meeting?

The Commissioner may designate any member of a panel as the Acting Presiding Officer for a meeting of the panel with the consent of the Presiding Officer and the person to be designated as the Acting Presiding Officer.

### Based on all the above, what are the panels and who will be the presiding officer for each panel?

Panel	Presiding Officer	Member	Member
Panel A	Eckersley	Masters	Larson
Panel B	Masters	Larson	Walker
Panel C	Larson	Walker	Cottino
Panel D	Eckersley	Walker	Cottino
Panel E	Eckersley	Cottino	Masters

### Who determines when a given panel shall meet?

The Commissioner shall schedule the meetings of each panel in consultation with the members of the panel.

### How often will a given panel meet?

Each panel is anticipated to meet quarterly for up to three days at a time. However, it is also anticipated that there may periodically be the need for a panel to telephonically meet for a short Board meeting between in-person meetings should business for that panel so warrant. Based on the above it is expected that the EMRB will conduct about 67% more meetings per year (20 vs. 12), thus reducing the time for a given case to be granted a hearing.

## In the Queue...

Once initial pleadings, including prehearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through April 2018.

### **March 19-21, 2018 in Las Vegas**

2017-024, IAFF, Local 1607 v. City of North Las Vegas

### **April 10-12, 2018 in Las Vegas**

2017-017, Teamsters Local 14, Williams & Davis v. Las Vegas Metropolitan Police Department

The following cases are in the queue, waiting for potential hearing dates:

2017-020, Juvenile Justice Supervisors Association & Juvenile Justice Probation Officers Association v. Clark County

2017-026, City of Elko v. Elko Police Officers Association

2017-027, O'Neill et al. v. Las Vegas Metropolitan Police Department

2017-031, Darin Welsh v. Police Protective Association Civilian Employees

2017-036, Holloway & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2017-037, SEIU, Local 1107 v. Southern Nevada Health District

2017-038, SEIU, Local 1107 v. Las Vegas Convention and Visitors Authority

## A Hearty Thank You

We wish to report that all of the outstanding reports have now been filed by each local government and employee organization. We thus send a hearty thank-you to everyone. The spreadsheets with details from the reports have now been posted to our website and we are in the process of posting of the CBA's.

## Commissioner Snyder to Present CLE Class

On March 22<sup>nd</sup> Commissioner Snyder will be presenting a continuing legal education class to about 20 attorneys at the Clark County Law Library. The class is entitled "The ABC's of Prosecuting a Claim Before the EMRB" and will cover the entire process, from the filing of a complaint all the way through the issuance of the Board's decision. If you are an attorney and would be interested in attending, please e-mail the EMRB and we will send you a flyer. The EMRB will post the PowerPoint presentation and handouts on our website in late March.

## A Note on Union Leave

SB 241, approved in 2015, requires that union business leave be paid for by a union, either directly or via concessions. The Board ruled, and the District Court upheld, that SB 241 becomes effective for a particular union on the expiration of the first collective bargaining agreement after June 1, 2015. Although there are still some multi-year CBA's in effect that are not yet subject to this requirement, most are now subject to this requirement.

### **"About the EMRB"**

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.