

# 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

## Good News for Local Governments

At its most recent meeting, the Board set the annual fee to be paid by each local government. Per State law the rate is set per employee and the rate can be as high as \$10.00 per employee.

For the past several years the fee had been set at \$6.75 per employee. Well, here is the good news! The fee just set by the Board for fiscal year 2019 has been reduced to \$6.00 per employee, which will save local governments across the state about \$61,500. Invoices will be mailed in late June. Watch for the invoice in your mailbox!

## On the Horizon

The next meeting of the Board, which will be held in Las Vegas, will be Tuesday, May 8<sup>th</sup> through Thursday, May 10<sup>th</sup>. The agenda for that meeting will be issued on April 30<sup>th</sup>. At that time Panel C is scheduled to hear two cases. The first is 2017-035, Danser v. City of North Las Vegas & North Las Police Officers Association. This is the first part of a bifurcated hearing in which the sole issue for this first part of the hearing is whether equitable tolling should be allowed as an exception to the six-month limitations period.

The second hearing involves case 2017-036, Holloway & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department. The Complainants allege that LVMPD made a unilateral change to the collective bargaining agreement when the person hearing the grievance was not the person who issued the ruling on the grievance. LVMPD denies there was a unilateral change.

If either of the above two cases settles, then there is a backup case that would be heard: 2017-023, Nicholas & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department.

The Board will also be ruling on a motion to dismiss in 2018-006, Charles Ebarb v. Clark County and the Clark County Water Reclamation District.

This meeting in early May will be the agency's first Board meeting in which a panel will be sitting in lieu of the full Board – all due to the passage of SB 460 last year as well as the recent approval of the agency's regulations on the formation and procedure applicable to panels.

## Inside This Issue

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### List of Panels

Panel A Eckersley, Masters, Larson  
Panel B Masters, Larson, Walker  
Panel C Larson, Walker, Cottino  
Panel D Eckersley, Walker, Cottino  
Panel E Eckersley, Masters, Cottino

Note: The first person listed is the Presiding Officer of that panel.

## Outline for Petitions for Rehearing and Reconsideration

This is the third of three articles on the EMRB's new panels. The EMRB recently created a document to explain the step-by-step procedures for both petitions for rehearing and petitions for reconsideration, when each option may be applicable, and how such petitions are resolved. This procedural outline is provided for informational purposes only.

### I. WHEN A CASE IS INITIALLY HEARD BY A PANEL

#### A. When There is a Unanimous Decision of the Panel

1. No petition for reconsideration by the full Board is available (Sec. 6(1)), because a majority of the Board (i.e., the 3-member panel) has already ruled and a split decision of a panel has not resulted.

2. A unanimous decision is a final decision for the purposes of judicial review unless a timely petition for rehearing is filed with the panel. (NAC 288.360(3)) Rehearing by a panel is available on the same basis as rehearing by the full Board under existing regulations. (NAC 288.360-288.368 (governing rehearing by "the Board") and Sec. 12 of this regulation (definition of "Board" amended to include a panel, if panels are established))

(a) If no timely petition for rehearing is filed with the panel or if such a petition is made and denied by the panel, the panel's decision is a final decision for purposes of judicial review. (Cf. NRS 233B.130(4) ("If the petition is *granted*, the final order shall be deemed the final order for the purpose of judicial review") and see NAC 288.360(3)).

(b) If a timely petition for rehearing is filed with and granted by the panel, the PJR process is effectively stayed at least until the subsequent "modifying order" is entered by the panel. (NRS 233B.130(4); NAC 288.368(2))

(1) If the modifying order of the panel is again unanimous, that order is a final decision for purposes of judicial review (NAC 288.368, as amended by Sec. 19(2)) and reconsideration of the modifying order is not available (Secs. 3 and 6(1)).

(2) If the modifying order of the panel is a split decision, reconsideration may be sought from the full Board. (Secs. 3, 6(1) and 19(2)) If reconsideration is granted, the Board's subsequent order is the final decision for purposes of judicial review (NRS 233B.130(4)); if reconsideration is denied, the panel's decision is the final decision of the Board for purposes of judicial review. (Cf. NRS 233B.130(4) and see Sec. 8(2)(b))

#### B. When There is a Split Decision of the Panel

1. A split decision is a final decision for purposes of judicial review unless a timely petition for rehearing by the panel (NAC 288.360(3)) or reconsideration by the full Board (Sec. 6(3)) is filed as described below.

2. Again, a petition for rehearing by the panel is available on the same basis as a rehearing by the full Board under existing regulations.

(a) If no timely petition for rehearing is filed with the panel or if such a petition is made and denied by the panel, the panel's decision is a final decision of the Board for purposes of judicial review (cf. NRS 233B.130(4) ("If the petition is *granted*, the final order shall be deemed the final order for the purpose of judicial review") and see NAC 288.360(3)) unless a timely petition for reconsideration is thereafter filed.

(b) If a timely petition for rehearing is filed with and granted by the panel, the PJR process is effectively stayed at least until the subsequent modifying order is entered by the panel. (NRS 233B.130(4); NAC 288.368(2))

(1) If the modifying order is unanimous, the order is a final decision of the Board for purposes of judicial review. (Sec. 19(2))

(2) If the modifying order is again a split decision, reconsideration may be sought from the full Board (see below); if reconsideration is granted, the Board's subsequent order is the final decision for purposes of judicial review. (NRS 233B.130(4))

3. A petition for reconsideration by the full Board is available.

(a) If no timely petition for reconsideration is filed with the full Board (Sec. 6(3)) or if such a petition is made and denied by the full Board (Sec. 8(2)(b)), the panel's decision is a final decision of the Board for purposes of judicial review.

(b) If a timely petition for reconsideration is filed with and granted by the full Board, the PJR process is effectively stayed at least until the subsequent decision of the Board. (NRS 233B.130(4))

### II. WHEN A CASE IS HEARD BY THE FULL BOARD, WHETHER INITIALLY OR UPON THE GRANTING OF A PETITION FOR RECONSIDERATION

1. The decision of the full Board, whether unanimous or not, is a final decision for purposes of judicial review unless a timely petition for rehearing is made to and granted by the Board. (NRS 233B.130(4))

(a) If a timely petition for rehearing is filed with and granted by the Board, the PJR process is effectively stayed until the subsequent modifying order is entered by the Board. (NRS 233B.130(4))

(b) The modifying order, whether unanimous or not, is a final decision for purposes of judicial review. (NAC 288.368(2))

## 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 July 2018.

### **May 8-10, 2018 in Las Vegas (Panel C)**

2017-035, Chuck Danser v. City of North Las Vegas & North Las Vegas Police Officers Association  
 2017-036, Holloway and Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department  
 2017-023, Nicholas and Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department  
 (backup case)

### **May 22-24, 2018 in Las Vegas (Panel A)**

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

### **June 12-14, 2018 in Las Vegas (Panel D)**

2017-027, O'Neil et al. and Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

### **July 10-12, 2018 in Elko (Panel E)**

2017-026, City of Elko v. Elko Police Officers Association  
 2017-038, SEIU, Local 1107 v. Las Vegas Convention & Visitors Authority (backup case)

### **July 31-August 2, 2018 in Las Vegas (Panel B)**

2017-034, Cook, Burt & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

The following cases are in the queue, waiting for potential hearing dates: None

## EMRB to Offer Class on Prosecuting a Claim

Mark your calendars! The EMRB will be offering a class entitled "The ABC's of Prosecuting a Claim Before the EMRB." However, the class will be as equally valuable to those defending a claim filed by others. Topics will include:

Types of Claims That Can / Cannot Be Filed  
 Filing Procedures and Extensions of Time  
 Drafting a Complaint  
 Motion Practice  
 Drafting a Prehearing Statement

The Prehearing Conference  
 Mandatory Settlement Conferences  
 The Hearing and Post-Hearing Briefs  
 EMRB's Decision and Order and What To Do  
 If You Lose

Although attorneys are more than welcome, the class will also be informative for HR professionals, union officials, and the paralegals and legal secretaries who assist attorneys. Also consider your junior attorneys who might not have yet practiced before the agency. The class will take place on Thursday, June 7<sup>th</sup> from 1:00 to 3:00 p.m. at the address below and will be video-conferenced to the Department of Business and Industry's Director's Office Conference Room, 1830 E. College Parkway, Suite 100, Carson City, Nevada 89706. Please call to reserve your seat!

### **"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.