



# Government Employee-Management Relations Board

Nevada Department of Business and Industry

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**EMRB PROVISIONAL GUIDANCE**

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## Members of the Board

Brent C. Eckersley, Esq., Chair  
Sandra Masters, Vice-Chair  
Gary Cottino, Board Member  
Brett K. Harris, Esq., Board Member  
Vacant, Board Member

### Staff

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

## Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

**Item 852-A; Case 2019-020; Eric Gil v. City of Las Vegas.** The Board issued an order on the first part of a bifurcated hearing. The Board first found that Gil received unequivocal notice when he received a letter notifying him that he was not selected to move forward in the recruitment process and that his complaint was filed more than six months after this date. However, the Board further found that the doctrine of equitable tolling applied in this case. Equitable tolling focuses on whether there was excusable delay in the filing of a complaint. In analyzing whether the doctrine applies, the Board is required to weigh the claimant's diligence, knowledge of the relevant facts, reliance on misleading authoritative statements or conduct, and any prejudice to the employer. Among the various factors, the Board specifically found that Gil did not discover the differential treatment until months after his receipt of the letter from the City of Las Vegas, but that he did file the complaint within six months of discovering this vital fact.

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## Upcoming Legislative Session

It is hard to believe but the upcoming Legislative Session begins in just over four months. Already bill draft requests (BDRs) are being submitted in advance of the session, which begins February 1, 2021. Of the 460 BDRs submitted so far, two of them touch on public sector collective bargaining. They are:

BDR 84 Requested by Sen. Kieckhefer

Revises provisions relating to collective bargaining. The content of this request is currently unknown.

BDR 370 Requested by the City of Las Vegas

Revises provisions governing collective bargaining by local government employers. This proposal seeks to raise the percentage of ending fund balance not subject to collective bargaining from 16.67% to 25%.

In addition, the EMRB, like other State agencies, has submitted its proposed budget to the Governor's Finance Office. The EMRB's proposed budget is flat for the next two years, which is in accordance with guidance issued to this effect.

Each month we will provide you with updates on preparations for the 2021 legislative session.

### List of Panels

Panel A Eckersley, Masters, Harris  
Panel B Masters, Harris, Vacant  
Panel C Cottino, Harris, Vacant  
Panel D Eckersley, Cottino, Vacant  
Panel E Eckersley, Masters, Cottino

Note: The first person listed for each panel is the Presiding Officer.

## On the Horizon

The Board is scheduled to meet September 29, 2020 through October 1, 2020. The only major item of business is a hearing to be held by Panel A in case 2019-007, Nye County Management Employees Association and Ronni Boskovich, Daniel Young and Patrick Ferguson v. Nye County. There are two main issues in this case. First, NCMEA alleges that Nye County bargained in bad faith when it agreed to place the Deputy District Attorneys into the NCMEA bargaining unit with certain modifications to the current NCMEA contract and then refused to ratify the agreement which its representatives negotiated; and also failing and/or refusing to recognize the Deputy District Attorneys as a separate bargaining unit represented by the NCMEA when it refused to ratify the agreement which its representatives negotiated. Secondly, the amended complaint alleges that Nye County then terminated three Deputy District Attorneys after they testified before the EMRB in support of representation by the NCMEA and placement in the existing NCMEA bargaining unit, and refusing to bargain over the discharge and disciplinary procedures to be utilized in connection with their firings with the NCMEA in any manner regardless as to whether the Deputy District Attorneys were to be placed in the existing NCMEA bargaining unit or were to be in their own bargaining unit. Nye County denies the allegations and moreover claims there were valid reasons for the employees' terminations.

The Board is also scheduled to meet October 13, 2020 to conduct various non-hearing business. Major items include a motion to set aside an entry of default in Case 2020-018, AFSCME, Local 4041 v. State of Nevada et al., as well as final deliberations on the second part of a bifurcated hearing in Case 2018-026, Jason Woodard v. Sparks Police Protective Association.

## Look for Your Annual Report Forms

In just a few weeks from now the EMRB will be mailing annual report forms to each of the governments, State and local, that are subject to collective bargaining. Additionally, annual report forms will also be mailed to every recognized labor organization and employee organization. The forms will be mailed to the official contact person as identified in the prior year's report unless in the interim the EMRB was notified in a change in the official contact person. The annual reports are due November 30<sup>th</sup>.

## Board Spot Still Open

Cam Walker submitted his resignation to be effective at the end of December 2019, but he agreed to stay on no later than the end of March of this year if a replacement was not appointed by that time. Well, Mr. Walker served until March 31, 2020. Since then there has been no further word on a replacement Board member. So, if you know someone who you believe might be a good person to serve on the Board, please encourage that person to submit an application by going to the Governor's page on the State of Nevada website, which is [www.nv.gov](http://www.nv.gov). Once on the Governor's page, you will see information about Board openings and how to complete the application process.

The qualifications for a Board member include not being closely allied with any employee organization, any labor organization, the Executive Department, or any local government employer. Additionally, not more than three of the members of the Board may be members of the same political party; and that at least three of the members must reside in southern Nevada. However, given the makeup of the current Board, the latter two qualifications are not at issue with this vacancy.

The term of office of each member is four years. Although not required, it would help if you could notify the office if you know of someone who has applied. Thank you! Meanwhile, former Board Member Philip Larson has offered to fill the vacancy in the interim until such time as the vacancy is filled. No word has yet come back from the Governor's Office on this offer.

## 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 scheduled cases through January 2021.

### September 29-October 1, 2020, via WebEx (Panel A)

2019-007, Nye County Management Employees Association & Boskovich et al. v. Nye County

### October 27-October 29, 2020, via WebEx (Panel C)

2019-010, Leonard Cardinale v. City of North Las Vegas

### November 17-19, 2020, via WebEx

This meeting will be used as an overflow in case either or both above two hearings need additional time to complete.

### December 1-3, 2020, via WebEx (Panel C)

2020-008, Clark County Education Association & Davita Carpenter v. Clark County School District plus Intervenors Education Support Employees Association and Clark County Association of School Administrators and Professional-Technical Employees

### December 15-17, 2020, via WebEx (Panel D)

2020-001, AFSCME, Local 4041 v. State of Nevada et al.

### January 11-12, 2021, via WebEx (Panel B)

2019-020, Eric Gil v. City of Las Vegas (second part of bifurcated hearing)

### January 26-28, 2021, via WebEx (Panel E)

2020-002, AFSCME, Local 4041 v. State of Nevada et al.

The following cases are in the queue, waiting for both the Board to grant a hearing and to assign it a hearing date:

2020-017, Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department

2020-021, Robert Ortiz v. SEIU, Local 1107

## Board Appoints Hearing Officers

In late August, the Board appointed five persons as hearing officers to potentially hear prohibited practice complaints at the State level. The use of hearing officers is a unique feature that does not apply to prohibited practice complaints at the local government level. All five appointees are attorneys who either hear cases or prosecute cases for other divisions within the Department of Business & Industry. Though appointed, it will be up to the Board when granting a hearing in a specific case to determine whether the Board will hear the case or whether the case will be heard by a hearing officer. To this end, several Board members commented that they view this option as a "safety valve" for situations in which the Board's calendar may get backlogged, further commenting that it is important for the Board to remember that these are cases affecting real people and not just names on a sheet of paper.

### "About the EMRB"

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