



Government Employee-Management Relations Board

Nevada Department of Business and Industry

3300 W. Sahara Avenue Suite 490 • Las Vegas • NV • 89102
emrb.nv.gov • emrb@business.nv.gov • (702) 486-4505

July 2023

Members of the Board

- Brent C. Eckersley, Esq., Chair
- Michael J. Smith, Vice-Chair
- Sandra Masters, Board Member
- Tammara M. Williams, Board Member
- Michael A. Urban, Esq., Board Member

Staff

- Bruce K. Snyder, Commissioner
- Marisu Romualdez Abellar,
Board Secretary
- Isabel Franco, Administrative Assistant II

Board Elects Officers for Fiscal Year 2024

On July 19th the Board unanimously elected Brent C. Eckersley, Esq. as the Chair for the current fiscal year which runs until June 30, 2024. The Board also unanimously elected Michael J. Smith as Vice-Chair. Mr. Eckersley has held the position of Chair since July 2017. Ms. Masters, who had been Vice-Chair since 2017, will continue her service on the Board as a regular member. Congratulations to both Mr. Eckersley and Mr. Smith on their recent appointments!



Chair Brent Eckersley



Vice-Chair Michael Smith

Inside This Issue

- 1 **Board Elects Officers for Fiscal Year 2024**
- 1 **Regulations Workshop Set for August 10th**
- 2 **Payments on Annual Assessments Due July 31st**
- 2 **Recent Decisions**
- 2 **Regulations Workshop (cont'd)**
- 3 **In the Queue**
- 3 **On the Horizon**

List of Panels

- Panel A Eckersley, Masters, Williams
- Panel B Smith, Masters, Williams
- Panel C Smith, Masters, Urban
- Panel D Eckersley, Smith, Urban
- Panel E Eckersley, Williams, Urban

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

Regulations Workshop Set for August 10th

The EMRB will be conducting an initial workshop to begin the process of changing the agency's regulations, which have not changed since December 2019. The workshop notice was e-mailed to everyone on the EMRB's mailing lists on July 20th and is also posted on the agency's website and on the Nevada Legislature's website. The workshop will be held August 10, 2023, at 2:00 p.m. in the Carl Dodge Conference Room, located within the office of the EMRB in Las Vegas. The workshop will also be held virtually using WebEx. Instructions for logging into WebEx are included in the notice. This workshop notice includes the agenda for the meeting.

Materials for the meeting explaining the proposed changes were also e-mailed to everyone with the aforementioned e-mailed notice. These materials may also be found on our website.

(cont'd on page 2)

Payments on Annual Assessments Due July 31st

The EMRB is a self-funded agency, receiving all its operating funds through local governments paying \$3.00 for each of their employees and the State government paying \$6.00 per employee. The EMRB does not receive any general fund revenues. The EMRB mailed the annual invoices on June 23rd. The invoices were mailed to the official contact person at each government. You should have already received the invoice, which is payable by July 31st.

Many of the governments have already paid their invoice – and to them we say, “Thank you.” If you have not yet received the invoice, please call our office immediately. If you have received the invoice, please forward it to the appropriate person or section that approves invoices for payment. If, because of your government's bill approval process you need extra time to remit the payment, please call our office and we will work with you. Governments who do not pay by July 31st and who have not made other arrangements as described in the prior paragraph will be contacted by telephone and e-mail beginning in early August.

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 #869-B; Case 2020-008; Clark County Education Association and Davita Carpenter v. Clark County School District with Intervenor Education Support Employees Association and Clark County Association of School Administrators and Professional-Technical Employees. In December 2020 the Board had issued an order with respect to the Petition for Declaratory Order filed by CCEA which sought to harmonize both NRS 288 and NRS 388G.610. The Board later issued a clarifying order at the request of the CCASAPE. The case was then stayed pending a parallel case in both the Eighth Judicial District and at the Nevada Supreme Court, which in the end held likewise to that of the EMRB. Upon a recent joint status report the parties requested that the Board's prior order be turned into a final order. This order is the final order as requested by the parties.

Item #886; Case 2022-002; Association of Professional-Technical Administrators v. Washoe County School District. The school district filed a motion to disqualify Complainant's attorney on the basis that he would be a necessary witness in the proceedings. The Board then applied a four-part test used to determine when an administrative body is acting judicially and found that the four conditions had been met for the Board to have the authority to determine whether to disqualify counsel. The Board then analyzed Nevada RPC Rule 3.7 and held that the attorney should be disqualified as counsel at the hearing but that nothing would preclude counsel from performing tasks either pretrial or post-trial.

Item #887; Case 2022-009; Nye County v. Nye County Association of Sheriff's Supervisors and David Boruchowitz Including Counterclaim. A dispute arose during bargaining over a successor collective bargaining agreement as to whether Captain Boruchowitz could legally be a member of the employee organization, arguing in an amended complaint that he was a supervisor under NRS 288.138(a) or (b). Respondents denied he met the criteria of a supervisor and filed a counterclaim for bad faith bargaining. The criteria for a supervisor under subsection (b) is more stringent, including making budgetary decisions and being consulted on decisions related to collective bargaining, among other things. Per statute such supervisors cannot be a member of a bargaining unit. The Board found that Captain Boruchowitz met such criteria as thus could not be a member of NCASS, and thus could also not serve as its President nor bargain on behalf of NCASS. The Board also found that it was thus reasonable for Nye County to refuse to bargain given the presence of Boruchowitz on the bargaining team and thus held that there was no bad faith bargaining on the part of Nye County.

Regulations Workshop (cont'd)

The workshop will have three primary emphases in possibly changing the agency's regulations. First, Executive Order 2023-003 asked all State agencies to develop a list of ten regulations to remove and to rank those ten recommendations in descending order. Secondly, Executive Order 2023-003 also asked all State agencies to develop a list of other regulations which could be streamlined, clarified or otherwise improved. The EMRB has come up with a list of four recommendations. Thirdly, Executive Order 2023-008 asks all State agencies to amend their regulations due to the recent adoption of new laws.

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 following cases are scheduled for a hearing:

August 14-15, 2023, In-Person in Las Vegas and via WebEx

2022-019, International Union of Operating Engineers, Local 501 v. University Medical Center of Southern Nevada

September 18-20, 2023, In-Person in Carson City and via WebEx

2022-002, Association of Professional-Technical Administrators v. Washoe County School District

October 17-19, 2023, In-Person in Las Vegas and via WebEx

Consolidated Case 2023-007, North Lyon Firefighters Association v. North Lyon County Fire Protection District et al. & North Lyon County Fire Protection District v. North Lyon Firefighters Association

December 12-14, 2023, In-Person in Las Vegas and via WebEx

2022-018, International Union of Elevator Constructors, Local 18 v. Clark County

The following cases are waiting in the queue for a hearing date:

2023-009; Clark County Education Association v. Clark County School District with Intervenor Education Support Employees Association

2023-010; Clark County Education Association v. Clark County School District

2023-014; Clark County Education Association v. Clark County School District

On the Horizon

The next Board meeting will be August 14-15, 2023, to be held in-person in Las Vegas and via WebEx. At that time Panel E will hear case 2022-019, International Union of Operating Engineers, Local 501 v. University Medical Center of Southern Nevada. The employee organization alleges the employer refused to provide relevant information for collective bargaining, failed to negotiate in good faith and made a unilateral change by refusing to bargain with the exclusive representative on a change to the call-out policy. The employer alleges that the information was not relevant but also burdensome; that there was no change to the policy but instead was enforcement of an existing policy; and that the employee organization did not exhaust its contractual remedies.

The full Board will also consider granting hearings in four cases, including three cases involving the Clark County Education Association and the Clark County School District. With respect to these latter three cases, the Board will also consider whether some or all of these cases should be consolidated for purposes of the hearing.

The full Board will also deliberate on a motion to dismiss case 2023-013, Rosa Myers v. City of Reno & Reno Fire Department. Finally, the Board will receive a briefing on the comments made at the August 10th regulations workshop and then deliberate on whether some of the proposed changes should be altered.

The next Board meeting after August's meeting will be held September 18-20, 2023, in Carson City and via WebEx.

"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.