



Government Employee-Management Relations Board

Nevada Department of Business and Industry

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Members of the Board

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

Staff

- Bruce K. Snyder, Commissioner
- Marisu Romualdez Abellar,
Board Secretary
- Chris Roske, Administrative Assistant II

Two Petitions for Declaratory Order Filed

Any government, labor organization or employee organization may file a petition for declaratory order with the Board. Such a petition requests that the Board declare as to the applicability of any statutory provision. In essence, these petitions request that the Board answer a question as to how the parties are to proceed with each other over a pending issue.

Recently, the Board received a petition from the Nevada Highway Patrol Association (NHPA), who was recently designated as the exclusive representative of Unit G-Category I Peace Officers. Since that designation at least one other labor organization representing peace officers has stated that NRS 289 allows such peace officers to have two representatives of their choosing to represent them in discipline and grievance matters. NHPA's petition requests that the Board determine whether a rival organization may represent employees within the bargaining unit, despite NHPA being designated as the exclusive representative. Thus, this case involves the tension between NRS 288 and NRS 289. Believing that this issue may affect many entities throughout the State, in the near future staff will be recommending to the Board that it issue a call for *amicus* briefs.

Also, the Clark County School District recently filed a petition as a counterclaim to a prohibited practice complaint, to resolve a tension between NRS 288.150, which lists subjects of mandatory bargaining, and NRS 388G.610, which allows local school precincts the authority to determine which staff may work within a local school building.

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List of Panels

- Panel A Eckersley, Masters, Harris
- Panel B Masters, Walker, Harris
- Panel C Walker, Cottino, Harris
- Panel D Eckersley, Walker, Cottino
- Panel E Eckersley, Masters, Cottino

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

Board Designates AFSCME as Exclusive Representative for State Blue Collar Workers

On February 26, 2020, the Board designated AFSCME, Local 4041 as the exclusive representative of Unit A, which consists of blue-collar employees who work for the State, including those who work for the Nevada System of Higher Education. In doing so, the Board found that AFSCME had exceed the 50% plus one threshold for recognition under NRS 288.520 without an election.

With this designation, the Board has now designated labor organizations as the exclusive representative for six of the 11 predefined State bargaining units.

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 859; Case 2020-006; In Re: Petition Filed by AFSCME, Local 4041 for Unit A. Pursuant to NRS 288.520, the Board designated AFSCME, Local 4041 as the exclusive representative for the employees in State bargaining unit A, which consists of blue collar employees, finding that the labor organization provided proof of support amounting to 50.03%, which exceeded the 50% plus one threshold for recognition without calling for an election.

Item 860; Case 2019-018; Annette Shaw v. Nye County Employees Association. The Board granted a motion to dismiss filed by the employee organization, finding that the allegations contained in the complaint were outside the jurisdiction of the EMRB as they related to internal union matters.

Content of Prehearing Statements Has Changed

On December 31, 2019, several existing provisions of the agency's administrative rules changed. From time-to-time we will highlight some of these changes. This month we discuss the changes to the content of the prehearing statements, which are typically filed 21 days after the answer is filed in a case. Previously the prehearing statements included (1) a plain and concise statement of the issues of fact and law to be determined by the Board; (2) a memorandum of law or points and authorities in support of the party's position; (3) a list of witnesses; and (4) an estimate of the time needed for presentation of the party's position.

The recent changes have added a fifth element; namely a statement of whether there are any pending or anticipated administrative, judicial or other proceedings related to the subject of the hearing and, if so, a description of the manner in which those proceedings may affect the hearing and an opinion concerning whether the hearing should be stayed pending the outcome of any such proceedings.

This change will provide useful information to the Board, including whether the case should be placed stayed pursuant to the limited deferral doctrine until such time as the other proceedings are first resolved.

On the Horizon

The entire Board will be meeting in a teleconference on Wednesday, April 15, 2020, at 8:15 a.m. The public may also attend the meeting by teleconference with the instructions to do so appearing on the notice and agenda for the public meeting. At that time the Board and its various panels will deliberate on a number of "more routine-type" items. This will include for stipulations to dismiss complaints, three other stipulations for various reasons, an uncontested motion, the review of two joint status reports for cases currently on hold, and other such business. Additionally, the Board will deliberate on a petition to intervene filed by the Education Support Employees Association in a case filed by the Clark County Education Association against the Clark County School District. Moreover, the Board will also deliberate on a recommendation by the Commissioner to call for the submission of amicus briefs on the legal issue in the petition for declaratory order filed by the Nevada Highway Patrol Association (see page 1 of this newsletter).

The entire Board will also be meeting near the end of April (date currently undecided). This meeting will again be a teleconference meeting. At that time the Board and its various panels will deliberate on four contested motions and will also deliberate on three cases in which the hearing has already been held and any post-hearing briefs have been filed. These three cases are 2018-031, Teamsters Local 14 v. Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE); 2019-011; IAFF, Local 5046 v. Elko County Fire Protection District; and 2019-014, Nevada Classified School Employees Chapter 5 v. Churchill County School District.

Please note that the Governor, pursuant to a declaration of emergency, issued Directive 006, waiving the requirement in NRS 241.023(1)(b), that there may a physical location designated for meetings of public bodies as long as there is a means for the public to attend and participate in the meetings, in order to mitigate the spread of COVID-19.

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 July 2020. There are no cases in the queue waiting for a hearing date.

May 12-14, 2020, in Las Vegas (Panel A)

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

May 27, 2020, in Las Vegas video-conferenced to Carson City (Panel B)

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

June 11, 2020, in Las Vegas (Panel D)

2019-022, Veronica Howard v. Teamsters Local 14

June 23-25, 2020, in Las Vegas (Panel D)

2019-016, City of Las Vegas v. Las Vegas Peace Officers Association

July 14-16 and July 28-30, 2020, in Las Vegas (Panel C)

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

The following cases, whose hearings were postponed, are awaiting new hearing dates:

2018-026, Jason Woodard v. Sparks Police Protective Association (second part of bifurcated hearing)

2019-003, Francis Davis v. Las Vegas Metropolitan Police Department & Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE)

Cam Walker's Term Expired

A few months ago, Cam Walker submitted his resignation from the Board, to be effective December 31, 2019 or upon appointment of his replacement, whichever is later, but in no case to extend beyond March 31, 2020. No successor has yet been appointed to replace him. We wish Cam well in his future endeavors!

On the prior page we noted a change to the content of the prehearing statements. The new regulations also had changes to the composition of the panels that the agency uses. Previously, if a particular member of a panel could not be present at a given meeting, or there was a vacancy on the panel due to a vacancy on the Board, then one of the other Board members not on that panel could be randomly selected to serve on the panel for that meeting, with the consent of the attorneys involved. The rules were changed to no longer require the consent of the attorneys involved in a case.

So, since a replacement for Mr. Walker has not yet been appointed, then whenever panels B, C or D need to meet in the future, the Commissioner will randomly appoint a person to serve on that panel until such time as a replacement is appointed by the Governor.

"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.