



Government Employee- Management Relations Board

Nevada Department of Business and Industry

PLEASE NOTE THAT THE EMRB OFFICE IS CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. SERVICES WILL CONTINUE TO BE PROVIDED ONLINE, VIA TELEPHONE AND BY EMAIL.

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Call for Amicus Briefs

In last month's e-newsletter, we mentioned that the Board had received a petition from the Nevada Highway Patrol Association (NHPA), who had recently been 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.

On April 16, 2020, the Board issued an order, calling for interested government employers, labor organizations and employee organizations to voluntarily submit *amicus* briefs on the issue(s) raised in the Petition for Declaratory Order filed by NHPA. This issue potentially affects police agencies and peace officers. Specifically, it involves the interplay between NRS Chapter 288, which allows for labor organizations and employee organizations to be designated as the exclusive representative for a bargaining unit, and NRS 289.080, which provides that peace officers may designate two persons of their choosing to represent them in certain personnel matters.

If interested, your *amicus* brief, not to exceed 30 pages, would need to be filed with the EMRB no later than May 18, 2020. The Board will review all briefs submitted, as well as the other documents filed in this matter, and will then deliberate on the matter near the end of May.

Nevada Law Library on CD

The EMRB is proud to announce that the just released edition of the Nevada Library on CD now includes all EMRB decisions from its inception in 1969 through order #851, which is issued near the end of September 2019. The Nevada Library on CD, published by the Legislative Counsel Bureau and used by a number of law firms and governments, is searchable in many ways. For example, one can search all EMRB decisions for the word "political" within so many words of the word "discrimination."

During the past few years the EMRB has worked hard to include all of its decisions on this product. In fact, the EMRB is only one of a few State administrative agencies to have done so. The Nevada Law Library can be purchased from the LCB for \$395 and can be furnished either on a CD or a flash drive.

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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.

Discuss New Rules

On December 31, 2019, several existing provisions of the agency's administrative rules changed. Last month we discussed the changes to the content of the prehearing statements, which now require a statement as to 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 month we discuss changes to the timing rules for the filing of documents. Previously documents due 11 or more days out counted all the days on the calendar and then added 3 additional days for mailing, even if the document was e-mailed to the agency. Documents due in 10 days or less only counted days in which the EMRB was open and then added the 3 additional days for mailing, even if the document was e-mailed. Three changes have been made. First, calendar days are now exclusively used. Business days are no longer used. Secondly, the three days for mailing has been eliminated when e-mail is used, which is 99% of the documents filed with the agency. Lastly, all due dates are in multiples of 7 days. For example, answers and prehearing statements are due in 21 days while oppositions to motions and replies to oppositions are due in 14 days. Thus, a motion filed on a Tuesday will have an opposition due two Tuesdays later.

A Note on EMRB Operations During the COVID-19 Pandemic

The EMRB continues to operate during the COVID-19 pandemic. One of its three employees is always in the office Monday through Friday from 8am to 5pm while the other two employees currently telework from home. This telework is aided through use of Virtual Private Networks (VPNs), which enables staff to work from home as though they are in the office.

The EMRB office, though open to staff, is currently closed to the public. You may contact the EMRB through any of the means listed at the end of this newsletter. The EMRB receives almost all its documents via electronic transmission and these documents continue to be filed and processed. The Board recently met to take up many outstanding items and will meet two more times in the next month or so (see below). The only two things that the EMRB is not doing right now are settlement conferences and hearings – and we hope that these will be able to begin soon!

On the Horizon

The entire Board will be meeting April 28, 2020. This meeting will again be a teleconference meeting. At that time the Board and its various panels will deliberate on three 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](#).

The Board will also be meeting sometime near the end of May. This meeting will again be a teleconference meeting. At that time, the Board will deliberate on 2020-011, [Nevada Highway Patrol v. State of Nevada, Nevada State Law Enforcement Officers Association, Nevada Association of Public Safety Officers et al.](#) This is the case mentioned on page 1 of this e-newsletter. The Board's deliberation will include a review of the *amicus* briefs submitted pursuant to its April 16th call for such briefs. At this meeting, the Board is also scheduled to set the rates for both the State and the various local governments for the upcoming fiscal year. Invoices pursuant to those rates will be issued near the end of June.

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.

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)

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

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

2019-022, Veronica Howard v. Teamsters Local 14

Arbitrator and Mediator List Updated and Divided

The EMRB maintains on its website a list of individuals who are willing to serve as an arbitrator, mediator or fact-finder. Although many governments use the services of someone affiliated with the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA), there are certain instances in which a local government must apply for and receive a list specifically from the EMRB.

Over the past couple months, we have notified all the individuals on our list, asking for updated resumes and fee schedules. All this information has now been received and within the next week it will be uploaded to our website. This section of the website will also divide the existing one list into three separate lists: (1) those persons willing to serve as an arbitrator; (2) those persons willing to serve as a mediator; and (3) those persons willing to serve as a fact-finder. This new feature will enable you to solely focus on those persons who are willing to provide the service you might need.

Apart from using this service when required by NRS 288, we at the EMRB encourage you to consider using our lists for non-statutory needs, such as for grievance mediation and arbitration. These individuals have expressed an interest in helping governments and public sector unions resolve their conflicts here in Nevada and we believe you would be well-served by considering the use of these lists to meet your needs!

"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.