



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

Recommendation on Hearing Officers

Senate Bill 135, which extended collective bargaining rights to certain classified State Executive Department employees, also had a unique feature of allowing the Board to appoint a hearing officer to hear a prohibited practice complaint at the State level. This provision does not apply, and has never applied, at the local government level.

As the Commissioner, I will be recommending to the Board at its August 25-27, 2020 meeting that the EMRB take advantage of this alternative to hearing cases. Doing so will allow for added flexibility in scheduling cases as hearings involving hearing officers could be more readily scheduled and would need not to be slotted into an existing open Board meeting. Also, the use of hearing officers can act as a safety valve to ensure cases are timely held. The recommendation will include the naming of up to five individuals to serve in this capacity.

Again, in recommending this, it must be kept in mind that this feature only involves prohibited practice complaints at the State level. Currently there are four such cases in the pipeline compared to an overall caseload of 25 cases. This alternative cannot be used, even at the State level, for representation cases or bargaining unit determination cases.

Please note that the hearing officer only makes a recommended decision for a given case. The hearing officer compiles the administrative record for the hearing and then drafts the proposed findings of fact, conclusions of law and a recommended decision. This whole set of documents is then forwarded to both the Board and the parties. Each party would then have 14 days to file any objections. The Board would then consider all the documents, including the objections, before rendering the final decision.

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Board Elects Officers for Fiscal Year

Pursuant to law, each year the Board is required to elect a Chair and Vice-Chair. This year the Board elected to retain Brent C. Eckersley, Esq. as the Chair and Sandra Masters as the Vice-Chair. Congratulations to the two of them!

The Chair presides over three of the five panels plus the Board when it sits *en banc*. Also, the Chair is responsible for reviewing and signing the more routine orders as well as approving the issuance of subpoenas. Moreover, the Chair provides general oversight over the office and staff functions. The Vice-Chair presides over one of the five panels and conducts the duties of the Chair in his absence.

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 will next meet on August 25-27, 2020 via WebEx. At that time, Panel E will hear case 2018-026, Jason Woodard v. Sparks Police Protective Association. This is the second half of a bifurcated hearing. The Complainant alleges that his employee organization violated its duty of fair representation when it decided not to initially take his case to arbitration, and then when he independently did so and won, then refused to reimburse him his expenses. Panel D will also hear case 2019-022, Veronica Howard v. Teamsters Local 14. Ms. Howard alleges that her employee organization breached its duty of fair representation when it had her sign a last chance agreement under the false promise that it would take her grievance to arbitration. Both employee organizations deny the allegations.

The full Board is also slated to deliberate and decide all outstanding issues with respect to case 2018-006, Charles Ebarb v. Clark County & Clark County Water Reclamation District, which has had two hearings and a pending motion. Finally, the full Board is also scheduled to appoint five persons to a list of hearing officers (see page 1 for details).

The Board will also be meeting on September 15, 2020 to decide pending motions to dismiss in case 2020-001, AFSCME, Local 4041 v. State of Nevada et al. and case 2020-002, AFSCME, Local 4041 v. State of Nevada et al. Should the motions to dismiss be denied in whole or in part, then staff will be recommending the appointment of hearing officers for the two cases. Originally this meeting was to have been three days long. However, the case scheduled to be heard at this meeting recently settled.

Annual Assessment Payments Now Past Due

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. Payment on the annual assessments was due by July 31st. Since then the agency has contacted those entities that did not pay on time and about half of those who did not pay on time have since paid. The following is a list of those local governments who have yet to pay. If your local government is on the list please take appropriate steps to make payment as soon as possible. Those who do not soon pay may be subject to a civil penalty imposed by the Board.

Charter Schools

Doral Academy of Northern Nevada
Mater Academy of Nevada
Mater Academy of Northern Nevada
Nevada Connections Academy
Nevada Preparatory Charter

Signature Preparatory
Silver Sands Montessori Charter
Somerset Academy of Las Vegas
Sports, Leadership and Management Academy

Other Local Governments

City of Reno
Humboldt General Hospital
North Lyon County Fire Protection District

Pershing County School District
Truckee Meadows Regional Planning Agency

Did you know

that Labor Day became an official national holiday in 1894? Labor Day is a creation of the labor movement and is dedicated to the social and economic achievements of American workers. According to the Department of Labor, it constitutes a yearly national tribute to the contributions workers have made to the strength, prosperity, and well-being of our country.

The first recognition came through municipal ordinances passed during 1885 and 1886. From these, a movement developed to secure state legislation. The first state law was passed by Oregon in 1887. By 1894, 23 other states had adopted the holiday in honor of workers. Later that year it also became a federal holiday. We at the EMRB thus salute all the government workers in Nevada this Labor Day!!

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 October 2020.

August 25-26, 2020, via WebEx (Panel E)

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

August 27, 2020, via WebEx (Panel D)

2019-022, Veronica Howard v. Teamsters Local 14

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

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

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

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. 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 Phillip 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.

"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.