



# 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
- Gary Cottino, Board Member
- Brett K. Harris, Esq., Board Member
- Michael J. Smith, 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 No. 872; Case 2020-025; Nye County Law Enforcement Association v. Nye County.** The employee organization complained that the county interfered, restrained and coerced its members and Board members, and also dominated and interfered in the administration of the union on the eve of an election, by improperly sending out investigation notices identifying union members and Board members as the accusers of a bargaining unit member in a pending investigation and also by spying and monitoring their union activities. Part of the analysis of such a case is to balance an employee's protected rights against any substantial and legitimate business justification given by the employer. Here, the Board found that, given the totality of the circumstances and the unique nature of those circumstances, the employer justified its actions with a substantial and legitimate business reason and thus found in favor of the county.

**Item No. 873; Case 2021-006; Elena Konsolakis Garcia v. SEIU, Local 1107.** The Board granted the employee organization's motion to dismiss. In this breach of the duty of fair representation case, the Board held that the complaint was filed beyond the statutory six-month limitation period and that equitable tolling did not apply to extend the filing date.

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## Cases in the Courts

A losing party to a case at the EMRB has the right to file a petition for judicial review (PJR), which allows a court to review the agency's decision. The number of PJR's filed in recent years has trended downward. Additionally, one of the EMRB's goals is to prevail in 90% of the PJR's, which it has met. There are currently three cases in the courts:

EMRB Case 2018-014, IUOE, Local 501 v. Esmeralda County. The Board found in favor of the employee organization on a bad faith bargaining claim and improper withdrawal of recognition. The court granted the EMRB's motion to dismiss. Esmeralda County thereupon appealed to the Supreme Court. The parties are waiting either for oral argument to be set or for a decision without oral argument.

## List of Panels

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

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

(cont'd on the bottom of page 2)

## 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 31<sup>st</sup>. 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

Futuro Academy  
 Honors Academy of Literature  
 Learning Bridge Charter School  
 Nevada Connections Academy  
 Nevada Preparatory Charter School

### Other Local Governments

Las Vegas Valley Water District  
 Nye County  
 Reno-Sparks Convention and Visitors Authority  
 Reno-Tahoe Airport Authority

## Board Members Continuing in Office

The Board consists of five members appointed by the Governor for four-year terms. Due to the increase in the size of the Board from three members to five members back in 2017, along with two resignations since then, it just happens that four of the five Board members had terms ending June 30<sup>th</sup> of this year. These include Chair Brent C. Eckersley, Vice-Chair Sandra Masters, Board Member Gary Cottino and Board Member Michael J. Smith. Board Member Brett K. Harris' terms ends next year.

State law, though, provides that members may continue to serve on a board until such time as a successor has been appointed to fill the expired term. We hope to hear soon as to whether the existing Board members have been reappointed or whether there will be one or more successors appointed.

## Did you know that Labor Day became an official national holiday in 1894?

Labor Day, the first Monday in September, 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 website, it constitutes a yearly national tribute to the contributions workers have made to the strength, prosperity, and well-being of our country. Through the years the nation gave increasing emphasis to Labor Day. The first governmental recognition came through municipal ordinances. From these, a movement developed to secure state legislation. The first state bill to become law was passed by Oregon in 1887. By 1894, 23 other states had adopted the holiday in honor of workers, and on June 28 of that year, Congress passed an act making the first Monday in September of each year a legal holiday. So, no matter whether you are in management or a rank-and-file employee, we are all American – and Nevada – workers and we at the EMRB salute you for all you do to make our state a better place to live!

## Cases in the Courts (cont'd)

EMRB Case 2019-014, Nevada Classified School Employees Association v. Churchill County School District. The Board found in favor of the school district on a bad faith bargaining claim. The parties have agreed to stay the PJR pending the outcome of a pending arbitration.

EMRB Case 2020-008, Clark County Education Association v. Clark County School District plus two intervenors. The Board issued a declaratory order which held that NRS 388G did not conflict with NRS 288 and mandatory bargaining requirements. The parties stipulated to dismiss this action pending the resolution of a related case in District Court.

## 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 into September 2021.

### **September 15-16, 2021, via WebEx (Panel D)**

2021-003, International Association of Fire Fighters, #1265 v. City of Sparks

A hearing for one case has been vacated and will need to be rescheduled in the future. There are no other cases waiting for a hearing date.

## On the Horizon

The next Board meeting will be September 9, 2021. At that time Panel A will deliberate on a hearing previously held in Case 2020-030, AFSCME, Local 4041 v. State of Nevada et al. This case involves employees at the Thomas and Mack Center, who were placed on unpaid leave, due to the cancellation of events resulting from the pandemic. The labor organization alleges that UNLV committed a unilateral change and refused to bargain in good faith over the issue while the Respondent alleges that its actions fell within the scope of the State's emergency management powers in NRS 288.

Panel D will deliberate on a hearing previously held in Case 2020-034, AFSCME, Local 4041 v. State of Nevada, Department of Corrections, Warm Springs Correctional Center. The labor organization alleges the Respondents unilaterally changed a number of mandatory subjects of bargaining – employee shift lengths, the shift-bidding process, and how employees are classified in the bargaining unit – all without first bargaining with the Complainant.

The full Board will also deliberate on a motion to dismiss in Case 2020-012, Operating Engineers Local Union No. 3 v. Incline Village General Improvement District.

Panel D will also meet on September 15-16, 2021 to conduct a hearing in Case 2021-003, International Association of Fire Fighters, Local 1265 v. City of Sparks. Sparks implemented COVID-19 travel policies. The union claims that the City violated law by not bargaining over the travel policies. The City claims that it acted within its emergency powers in accordance with NRS 288.150(5)(b) due to the COVID pandemic.

## EMRB Office Open

This is just a reminder that our office is open to the public. When the office first reopened, we required that those visiting our office would need to make an appointment. That is no longer the case. There are only two remaining requirements. The first is a building wide mandate; namely that the public must wear a mask, irrespective of their vaccination status. The second requirement is that we are limiting the number of visitors to two at a time. This really should not be an issue as the EMRB does not get too many visitors to begin with.

### **“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.