



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
- Brett K. Harris, Esq., Board Member
- Michael J. Smith, Board Member
- Vacancy, Board Member

Staff

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

Board Member Brett Harris Resigns

Board Member Brett Harris recently submitted her resignation from the Board, to be effective at the close of business on September 2, 2022. Beginning on September 6th Ms. Harris will then take office as the Labor Commissioner in the Office of the Labor Commissioner, which is another division within the Department of Business & Industry. The Office of the Labor Commissioner helps collect unpaid and underpaid payrolls, oversees apprenticeship programs and sets prevailing wage rates for public sector construction projects, among other things.



BOARD MEMBER BRETT HARRIS, ESQ.

Ms. Harris was first appointed to the Board in 2019 by Governor Sisolak and was recently reappointed to the Board just a few months ago. After graduating from college at New York University, she then attended law school at the UNLV William S. Boyd School of Law, where she served as President of the Student Bar Association and received the Dean's Award at graduation for her service to the school and the community. She has practiced law since 2011, and had been managing her own practice since 2017, which she is now winding up. We at the EMRB congratulate Ms. Harris on her appointment and know that she will continue to serve well the citizens of Nevada.

The Governor's Office has been notified of the vacancy and is currently seeking qualified candidates to fill the vacancy, as well as the vacancy occasioned by the resignation of Gary Cottino. If you know of someone (or yourself) who would like to serve on the Board please contact our office and we will give you instructions on how to apply. Based on current Board membership the candidate may be from any political party but must reside in Southern Nevada, as the Board already has the maximum of two members from Northern Nevada. The candidate must also not be closely aligned with any entity subject to the jurisdiction of the Board.

Inside This Issue

- 1 **Boqrd Member Brett Harris Resigns**
- 2 **Annual Assessment Payments Now Past Due**
- 2 **Nevada Supreme Court Partially Reverses Board Decision**
- 3 **In the Queue**
- 3 **On the Horizon**
- 3 **Status of Filling Administrative Assistant II Position**
- 3 **Administrative Rules Updated and Codified**

List of Panels

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

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

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 most 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

Honors Academy of Literature
Nevada Preparatory Charter School

Other Local Governments

Carson City Airport Authority
Town of Amargosa

Nevada Supreme Court Partially Reverses Board Decision

A decision of the EMRB was reversed in part by the Nevada Supreme Court on August 18, 2022. Back in February 2021 the EMRB issued Order #870 in Case 2020-033; National Latino Peace Officers Association v. Las Vegas Police Protective Association Metro, Inc. & Las Vegas Metropolitan Police Department. The petitioner had filed a petition for declaratory order, asking whether it may act as a representative for bargaining unit employees who want to use their services in lieu of the LVPPA, who was the exclusive representative of the bargaining unit. The request was based in part that the petitioner purported to be a "non-rival organization." The Board responded, stating that the petitioner may not represent employees of the bargaining unit, relying on its prior order in Item No. 865, Nevada Highway Patrol Ass'n. v. State of Nevada (2020), which relied on and quoted extensively from a District Court decision. This prior order and Court decision listed a few exceptions to the rule, such as allowing a family member, friend or attorney not affiliated with a public sector union to represent the employee. None of these applied in this case.

Thereafter, LVMPD Officer Jordan Travers witnesses an officer-involved shooting and thus was required to attend an investigatory interview. Travers exercised his rights under NRS 289.090 to choose up to two individuals to represent him in an internal investigation. He chose an attorney covered by his FOP Plan and did not use a representative of the LVPPA. LVMPD denied his representation in that the attorney selected by him was from FOP, which is an employee organization but not the one recognized as the exclusive representative of the bargaining unit.

Travers thereupon filed for injunctive relief in District Court, which entered judgment in Travers' favor. LVPPA then sought to intervene but the District Court declined to permit intervention because a final judgment had already been entered. LVPPA then filed a writ petition to the Nevada Supreme Court, seeking relief to intervene in the case. The Nevada Supreme Court then denied the writ petition for the same reason; namely that the District Court already entered a final judgment in the case and thus the writ was untimely. The Nevada Supreme Court also denied the writ on the basis that the LVPPA was not a necessary party to the case.

The Court then discussed NRS 289.090 and the harmonization with NRS 288, which affords certain rights to the exclusive representative of a bargaining unit. Unlike the EMRB, which stated a peace officer could select whomever he/she wanted for representation, provided it was not from an unrecognized employee organization, here the Court gave preference to NRS 289.090, noting NRS 289 is a "distinct chapter affording separate rights to peace officers." The Court further acknowledged certain rights under NRS 288, including limiting to the exclusive representative the right to collectively bargain, including negotiating disciplinary procedures.

The Nevada Supreme Court case may be found at 138 Nev. Advance Opinion 59. It is unknown whether LVPPA will seek an *en banc* review of the Nevada Supreme Court panel. The takeaway is that peace officers, unlike other public sector employees, may seek representation from an attorney affiliated with another public sector union. It should also be noted that there was nothing in the decision prohibiting the recognized employee organization from also attending the meeting. Please contact our office if you would like a copy of the decision.

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:

November 1-3, 2022, In-Person in Reno and on WebEx

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

No other cases are waiting in the queue for a hearing date.

On the Horizon

The next Board meeting will be September 15, 2022 via WebEx. Panel C will deliberate on Case 2021-019, Service Employees International Union, Local 1107 v. Clark County. The employee organization alleges that Clark County committed a unilateral change through the adoption of various County policies without negotiating the terms of those policies. Clark County denies the allegations. The full Board will also deliberate on a motion to dismiss filed in Case 2022-010, AFSCME, Local 4041 v. State of Nevada et al. Finally, the full Board will also deliberate on a joint status report on four consolidated cases involving the City of Las Vegas and two of its employee organizations.

The following Board meeting will also be only one day, to be held on October 13, 2022 via WebEx. The agenda for this meeting has not yet been set.

Status of Filling Administrative Assistant II Position

We will soon be interviewing candidates for the vacant Administrative Assistant II position. Given all the news on how hard it is to recruit, we were pleasantly surprised to receive applications from 30 qualified candidates. We have now narrowed the list and are lining up interviews. If all goes well, we hope to present a candidate to the Board at its September 15th meeting. By law, the Board has the authority to hire all EMRB employees.

Administrative Rules Updated and Codified

The EMRB received in June the updated and codified administrative rules from the Legislative Counsel Bureau (LCB). Back in the spring of 2019 the legislature extended collective bargaining rights to certain State of Nevada Executive Branch employees. This necessitated a major revision to our agency's regulations, which were adopted by the Legislative Commission on December 30, 2019. The LCB has now officially incorporated those changes into our master set of regulations.

The updated and codified administrative rules may be found on our website (the website address is listed near the top of page 1). They may also be found on the LCB website. You may also call our office and we would be glad to send you the updated administrative rules.

"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.