



Government Employee- Management Relations Board

Nevada Department of Business and Industry

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September 2022

Members of the Board

Brent C. Eckersley, Esq., Chair
Sandra Masters, Vice-Chair
Michael J. Smith, Board Member
Vacancy, Board Member
Vacancy, Board Member

Staff

Bruce K. Snyder, Commissioner
Marisu Romualdez Abellar,
Board Secretary
Isabel Franco, Administrative Assistant II

Two Board Positions Remain Vacant

As reported previously, the Governor's Office has been notified of two recent resignations from the Board and is currently seeking qualified candidates to fill the vacancies. The office knows of at least three individuals who have applied for the vacant positions and there may be more in the pipeline that we do not know about.

The Board currently meets once a month for up to three days at a time, depending on whether one or more hearings are scheduled for that month. In addition, Board members are required to review beforehand all the materials for a meeting.

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.

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List of Panels

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

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

We're Movin' On Up

The hit TV show from the 1970's, the Jeffersons, said they were movin' on up to the east side to a deluxe apartment in the sky. Well, our move will be a little more modest. Sometime after Thanksgiving the EMRB will be moving its office from the second floor of the Nevada State Business Center to the fourth floor of the same building. This will allow the Nevada Division of Insurance to expand its office by taking over our current area.

There we will have a large open area, two offices and a conference room. The conference room will be larger than our current one and will allow the Board to conduct meetings and hold some smaller hearings in that room. The large open area will provide a reception area staffed by our Administrative Assistant as well as the ability to better centralize all our records.

In addition, our office will be closer to the three centralized meeting rooms which are also on the fourth floor: Nevada Room, Tahoe Room, and Red Rock Room. Having the EMRB's office near the meeting rooms will allow the EMRB to better provide support services during Board meetings held in those rooms.

We look forward to the move and will provide a further update in next month's e-newsletter.

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 #880; Case 2019-017; Service Employees International Union, Local 1107 v. Clark County. Clark County installed forward facing cameras in several county vehicles under a pilot program with the goal of reducing its liability with respect to vehicle accidents. The employee organization alleged Clark County committed a unilateral change when it did so without bargaining. It also alleged Clark County directly sought the permission and consent from the affected employees without going through the employee organization.

To prevail on a unilateral change claim, a complainant must establish that: (1) the employer breached or altered the CBA or established past practice; (2) the employer's action was taken without bargaining with the exclusive representative over the change; (3) the change is not merely an isolated breach of contract, but amounts to a change in policy, i.e., the change has a generalized effect or continuing impact on the bargaining unit members' terms and conditions of employment; and (4) the change in policy concerns a matter within the scope of representation. Here, the Board found that element #3 had not been met as this was a pilot program. Moreover, element #4 was not met in that it is a management right for the county to manage its operations in the most efficient manner. NRS 288.150(6). In addition, the Board cited the management right of safety of the public. NRS 288.150(3)(d).

However, the Board did caution that nothing in the order "shall be construed as barring the Union from refiling its case before the EMRB in the event that the County uses its camera footage in any employee disciplinary proceedings or if there is any additional or further evidence of a change in policy in the use of the cameras in any such manner."

Administrative Assistant II Position Filled

On September 15th the Board approved the recommendation of the hiring committee and selected Isabel Franco to fill the vacant Administrative Assistant II position. Ms. Franco is a graduate of Bishop Gorman High School and has prior experience at a law firm plus administrative assistant experience at both the Nevada Board of Dental Examiners and the UNLV History Department. Ms. Franco will begin work on Monday, October 3rd.

We would like to take this opportunity to also express our gratitude to Management Analyst Angie Rojas, who oversees and provides support to the Nevada Commission on Minority Affairs. Ms. Rojas graciously served as the third person on the hiring committee (in addition to the Commissioner and Board Secretary) and in doing so offered many good insights on the candidates.

A Note on Our Docket

The EMRB currently has 20 open cases. This is one of the lowest levels of open cases since at least 2013. In years past the agency sometimes had more than 40 open cases at any given time.

Only 13 new cases have been filed since the beginning of the calendar year. In a typical year the agency would have received at least 24 new cases by mid-September.

Of the 20 open cases, only five are active while the other 15 are stayed pursuant to the limited deferral doctrine, which provides that any underlying grievances, arbitrations, or court cases should be resolved first. This means that there are only five active cases on the docket that require Board or staff action in the foreseeable future.

Below is a breakdown of the five active cases: one is awaiting approval of the draft final order; one has a hearing scheduled for just over a month from now; one is waiting for Board approval to schedule a hearing; one is waiting for an order on a motion to dismiss; and one is waiting for the filing of initial documents.

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

One case is waiting in the queue for a hearing decision: 2022-009, Nye County v. Nye County Sheriff's Supervisors Association

On the Horizon

The next Board meeting will be October 13, 2022. The meeting will be via WebEx. Much of the business will be routine in nature and will primarily consist of reviewing several joint status reports for cases that have been stayed pursuant to the limited deferral doctrine.

The following Board meeting will be November 1-3, 2022, in Reno and via WebEx. At that time the Board will conduct a hearing in Case 2022-002, Association of Professional-Technical Administrators v. Washoe County School District. The employee organization alleges bad faith bargaining, which is denied by the school district.

Thank You for Paying Your Annual Assessment

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. We are happy to report that all the governments except one have now paid their annual assessments. Thank you very much! The EMRB will be conducting a hearing on the one government who has yet to pay, which could include an additional assessment of a civil penalty for non-payment.

Look for Your Annual Report Forms

In just a few weeks from now the EMRB will be mailing annual report forms to each of the governments, both State and local, that are subject to collective bargaining. Additionally, annual report forms will also be mailed to every recognized labor organization and employee organization. The forms will be mailed to the official contact person as identified in the prior year's report unless in the interim the EMRB was notified in a change in the official contact person. The annual reports are due November 30th.

In addition to the annual report forms, each recognized labor and employee organization is required to file a current copy of its collective bargaining agreement, if such has changed in the past year, as well as any changes to its by-laws.

"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.