



The ABC's of Prosecuting a Claim

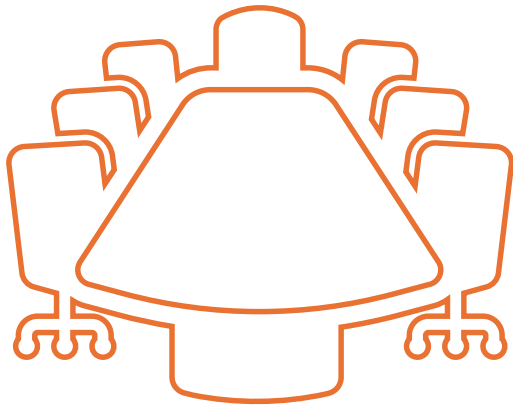
Government Employee-
Management Relations Board

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1: OVERVIEW OF THE EMRB

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD



The **Employee-Management Relations Act (EMRA)**, introduced by Senator Carl Dodge and enacted in 1969, established procedures for recognizing and negotiating with employee organizations, while prohibiting strikes and providing related penalties. Over time, the Act has evolved to permit collective bargaining for certain State employees. The **Employee-Management Relations Board** continues its mission to oversee and support the collective bargaining process, ensuring fair negotiations and resolving issues that arise between employees and management.

THE EMRB'S MISSION

The Employee-Management Relations Board (EMRB), a division of the Department of Business and Industry, supports and regulates the collective bargaining process between local governments and employee organizations. It assists in negotiations, provides guidance, and resolves disputes involving local governments and local government employees, the State of Nevada Executive Department and its labor organizations.



THE EMRB'S UNOFFICIAL MISSION



We make sure that local governments, the Executive Department, and the unions and employee organizations that represent their employees play fair in the sandbox.

EMRB FACTSHEET

1. The EMRB operates much like a court.
2. The agency's enabling statute is NRS 288 – the Employee-Management Relations Act, which was enacted on April 28, 1969.
3. The EMRB only has jurisdiction over public sector employers, certain employees of the Executive Department of the State of Nevada, and their unions.
4. The EMRB is the smallest state agency, a division under the Department of Business & Industry.
5. The five Board members are appointed by the Governor for 4-year terms.
6. The EMRB staff, including the Commissioner, the Executive Assistant and the Administrative Assistant, are appointed by the Board.
7. We serve approximately 170 local governments, 230 bargaining units, and approximately 93,000 local government employees and 18,000 State employees (as of June 2025).
8. The EMRB is 100% funded by an annual fee assessed on the local governments (NRS 288.139) and the Executive Department (NRS 288.475) and are due July 31. The Board sets the annual rate every year.
9. The Board typically meets once a month for 1-3 days and might hear one or more cases plus deliberates on various motions and other matters.
10. The Board is required to meet where the case originates from, or upon agreement, by virtual conference.

2. CASES BEFORE THE BOARD

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

But First ...

Types of
Issues We
DO NOT
Handle

THE EMRB DOES NOT HAVE JURISDICTION OVER:

- Workers' Compensation ([Division of Industrial Relations/WC](#))
- OSHA Violations ([Division of Industrial Relations/OSHA](#))
- Unemployment Compensation ([DETR](#))
- Wrongful Termination ([DETR/Nevada Equal Rights Commission](#))
- General Pay Disputes ([Office of the Labor Commissioner](#))
- Family and Medical Leave Act (FMLA) ([U.S. Department of Labor/FMLA](#))
- Americans With Disabilities Act ([U.S. Department of Justice/ADA](#))

We Also Do Not Handle:

- Collective Bargaining Disputes
 - Discipline Issues
 - Contract Interpretation Disputes
- This includes:
 - Internal grievance levels
 - Mediation of disputes
 - Binding arbitration of disputes
- We also do not get involved over bargaining of a new CBA unless bad faith bargaining is alleged.

Now For the Good Stuff

TYPES OF
ISSUES
WE DO
HANDLE

Most Common Prohibited Practice Claims Filed at the EMRB

- Unilateral Change Claims
- General Interference With a Protected Right
- General Bad Faith Bargaining
- End Run Bargaining / Direct Dealing
- Discrimination Based Upon Protected Class
- Discrimination Based Upon Protected Conduct
- Duty of Fair Representation

Petitions

- To Determine Whether a Group of Employees Should Be Recognized as a Bargaining Unit
- To Determine Who Should Represent a Bargaining Unit
- To Determine Whether a Current Bargaining Agent Should No Longer Represent a Bargaining Unit
- To Determine Whether Certain Job Classifications Should Be Excluded from a Bargaining Unit
- To Issue Declaratory Orders When Presented With Specific Questions on How to Proceed in a Given Situation

Prohibited Practices – Local Governments

NRS 288.270 Employer or representative; employee or employee organization.

1. It is a prohibited practice for a local government employer or its designated representative willfully to:

- (a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.
- (b) Dominate, interfere or assist in the formation or administration of any employee organization.
- (c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.
- (d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.
- (e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.
- (f) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.
- (g) Fail to provide the information required by NRS 288.180.

Prohibited Practices – Local Government Employees and Employee Organizations

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse to bargain collectively in good faith with the local government employer, if it is an exclusive representative, as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(c) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(d) Fail to provide the information required by NRS 288.180.

Prohibited Practices – Executive Department

NRS 288.620 Types of prohibited practices; certain conduct deemed not to be failure to negotiate in good faith; applicability of certain decisions of Board.

1. It is a prohibited practice for the Executive Department or its designated representative willfully to:
 - (a) Engage in any prohibited practice applicable to a local government employer or its designated representative set forth in subsection 1 of NRS 288.270, except paragraphs (e) and (g) of that subsection.
 - (b) Refuse to bargain collectively in good faith with an exclusive representative as required in NRS 288.565. Bargaining collectively includes the entire bargaining process, including, without limitation, mediation or arbitration.
 - (c) Failure to provide the information required in NRS 288.500.

Prohibited Practices – Executive Department Employees and Labor Organizations

NRS 288.620

2. It is a prohibited practice for an employee or for a labor organization or its designated agent willfully to:

(a) Engage in any prohibited practice applicable to a local government employee or a labor organization or its designated representative set forth in subsection 2 of NRS 288.270, except paragraphs (b) and (d) of that subsection.

(b) Refuse to bargain in good faith with the Executive Department, if it is an exclusive representative, as required in NRS 288.540. Bargaining collectively includes the entire bargaining process, including, without limitation, mediation or arbitration.

Prohibited Practices – Executive Department and Labor Organizations

NRS 288.620

3. The inclusion by the Governor in the biennial proposed executive budget of the State of an amount of money for the salaries, wage rates or any other form of direct monetary compensation for employees which conflicts with the terms of a collective bargaining agreement must not be construed as a failure of the Executive Department to negotiate in good faith.
4. To the greatest extent practicable, any decision issued by the Board before October 1, 2019, relating to the interpretation of, or the performance under, the provisions of NRS 288.270 shall be deemed to apply to any complaint arising out of the interpretation of, or performance under, the provisions of this section.



Statue of Limitations

NRS 288.110(4)

The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

3: THE BASICS OF THE BASICS

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

First, the Disclaimer: The EMRB Has Limited Jurisdiction

The Complaint must allege certain facts establishing jurisdiction.

It must allege that both the Complainant(s) and Respondent(s) are:

1. A local government employee;
2. An Executive Department employee covered under a CBA;
3. An employee organization or a State labor organization;
4. A local government employer; or
5. The State of Nevada.

Basics of a Complaint

The Complaint looks very much like a complaint filed in a court that will include:

- The name and contact information of the attorney in the top left corner of page 1.
- A caption.
- The title of the document.
- Paragraphs listing the alleged facts.
- Counts (this is preferred but not everyone does it).
- Remedy requests.
- A signature of the attorney or pro se complainant at the end of the document.
- A certificate of service.

Basics of Pleadings and Motions

NAC 288.231

Pleadings and written motions must:

- Be properly titled, signed by an authorized person, state the name of the parties;
- Set forth a clear and concise statement of the matters relied upon as a basis for the action or relief requested and an appropriate prayer;
- Not to exceed 30 pages, except with permission of the Board;
- If pleading is not electronically filed, documents must be on white, unglazed paper 8.5x11 inches in size;
- The type must be black and at least 11 characters per inch;
- One-inch margins with pages numbered at bottom of the page;
- No exhibits are allowed to be attached to a complaint.

Amendment of Pleadings

NAC 288.235

The Board may allow any pleading to be amended or corrected, or any omission in a pleading to be cured:

- If substantial rights of the parties will not be prejudiced;
- Will be liberally construed and any defects not affecting the substantial rights of any party may be disregarded by the Board.

4. FILING PROCEDURES, SERVICE AND EXTENSIONS OF TIME



GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

Time Computations

The EMRB uses Nevada Rules of Civil Procedure Rules 6(a) and 6(e) for the computation of when documents are due.

Example time deadlines:

- An answer is due 21 days after the service of a complaint. NAC 288.220
- Prehearing statements are due 21 calendar days after the answer is filed. NAC 288.250
- An opposition to a motion is due 14 calendar days after the filing of a motion. NAC 288.240(4)
- A reply to an opposition is due 14 calendar days after the filing of an opposition. NAC 288.280(4)

Filing Procedures

All documents for filing are to be submitted to emrb@emrb.nv.gov and attach the document you wish to file as a .pdf attachment to the e-mail.

After review, the document will be file-stamped and the file-stamped first page will be emailed back to you (unless requested that the entire document be emailed back).

If you are filing a new complaint, the file-stamped copy will also have the case number assigned to the new complaint.

Service of Documents



An initial complaint must be served on the Respondent(s) via certified mail within 7 days of the date of filing. NAC 288.080(5).



Within 24 hours of filing, the complainant provides the EMRB with a copy of the certified mail receipt tracking number. NAC 288.200(2)(b). This will allow the EMRB to independently track the receipt of the complaint and calculate the date when the answer is due.



For all other documents, you have the option of electronically serving the other parties to the case in lieu of serving by personal service or mail. NAC 288.070.



About 99% of all documents filed at the EMRB are both electronically filed and electronically served.

Assignment of Cases to a Panel

- The EMRB has five panels of three Board members each to hear cases.
- When a case is filed, up until the time the case is assigned to a Panel for a hearing, the Board will:
 - Hear all motions, including motions to dismiss;
 - Determine whether to send the case to a mandatory settlement conference;
 - Determine whether to grant a hearing for the case.

If the Board grants a hearing for a case, then the case is randomly assigned to a Hearing Panel, which conducts the hearing and decides the issues in the case, which culminate in the issuance of an order.

Extensions of Time

The Commissioner may extend the time for any document, including an answer, opposition or reply to a motion, by agreement of the other parties if the Commissioner determines that the extension of time will not delay any hearing on the matter.

This is usually done by the parties submitting an e-mail request to the Commissioner in lieu of a formal stipulation.

The Commissioner then issues a Commissioner's Order extending the deadline.

The filing of prehearing statements, however, may be extended at the Commissioner's discretion.

Not All Cases
Are Built the
Same



In What Ways Are They Not the Same?

In some cases, the EMRB allows for the intervention of any person claiming an interest in a dispute through the filing of a petition – very similar to that in court.

The EMRB allows for the consolidation of cases

The EMRB has a provision allowing for the filing of *amicus* briefs either by motion or by invitation of the Board

When it appears that the issues are substantially the same and

When the rights of the parties will not be prejudiced

Cases of Statewide Significance

- Upon the filing of a Complaint or Petition, the Commissioner can designate the case as one of statewide significance.
- This is done by the issuance of an order by the Commissioner to the Board and the parties to the case, stating the reasons for the designation.
- Cases of statewide significance are not assigned to a panel but instead are assigned to the Board sitting *en banc*.



5. MOTION PRACTICE



GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

When A Party Files a Motion

1. A motion directed at a complaint must be filed before the answer is due.
2. Parties usually file the motion first followed by the answer.
3. **The filing of a motion does not stay the requirement to file the answer.**
4. Filing of a motion usually results in the Commissioner notifying the parties that the filing of the prehearing statements are deferred until after the decision on the motion.
5. Exhibits are allowed on motions.
6. The Board (or panel) seldom allows for oral argument on motions.
7. The Board (or panel) decision results in the issuance of an order.

What Are These Motions?

- Motion to Dismiss
- Motion to Strike
- Motion for Deferral
- Motion for a More Definite Statement
- Motion for Summary Judgment (treated as a Motion to Dismiss)

Motion Practice

NAC 288.240

- Opposition to a motion is due within 14 days of the filing of the opposition.
- Reply to an opposition to a motion is due within 14 days of the filing of the opposition.
- Extensions of time can be granted as previously discussed.
- Once all documents are received then the motion is placed on the next calendar of the Board or assigned panel.
- If there are multiple motions affecting the same case then the Commissioner will wait until all documents are received on all the motions before the case is placed on a calendar.

6. THE PREHEARING STATEMENT

(Now We're Cooking)

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

Prehearing Statement Contents

1. A plain and concise statement of the issues of fact and law to be determined by the Board which have not been resolved by negotiation or otherwise;
2. A memorandum of law or points and authorities in support of the party's position, including a list of significant differences or close similarities of the issue or issues to any prior determinations of the Board;
3. A statement of 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;
4. A list of witnesses and their qualifications, including a brief summary of their expected testimony;
5. An estimate, to the nearest hour, of the time needed for the presentation of the party's position.

A Cautionary Word on Prehearing Statements

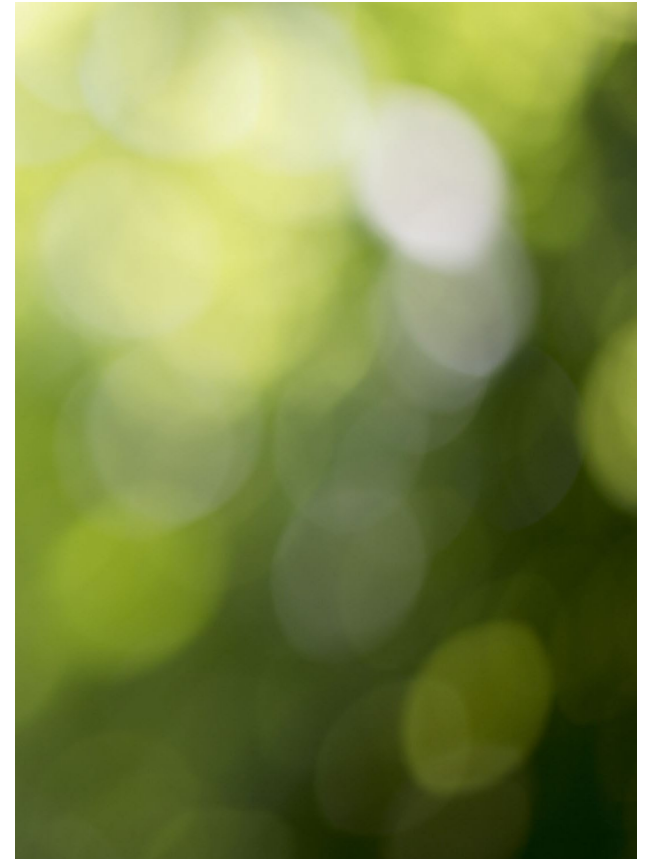
A statement that is missing any one of the prehearing statement contents will be returned to the filing party to be corrected, as necessary.

Examples of Issue Statements

Whether JJSA's agreement to modify Article 8, as embodied in the currently effective and ratified C BA, bars any claim that the County failed to bargain in good faith in violation of NRS 288.270(1)(e) with the JJSA over the same.

Whether NRS 288.225 (SB 241) requires a union claiming it funded union leave in prior contracts to provide evidence of the specific amount of the alleged financial concession.

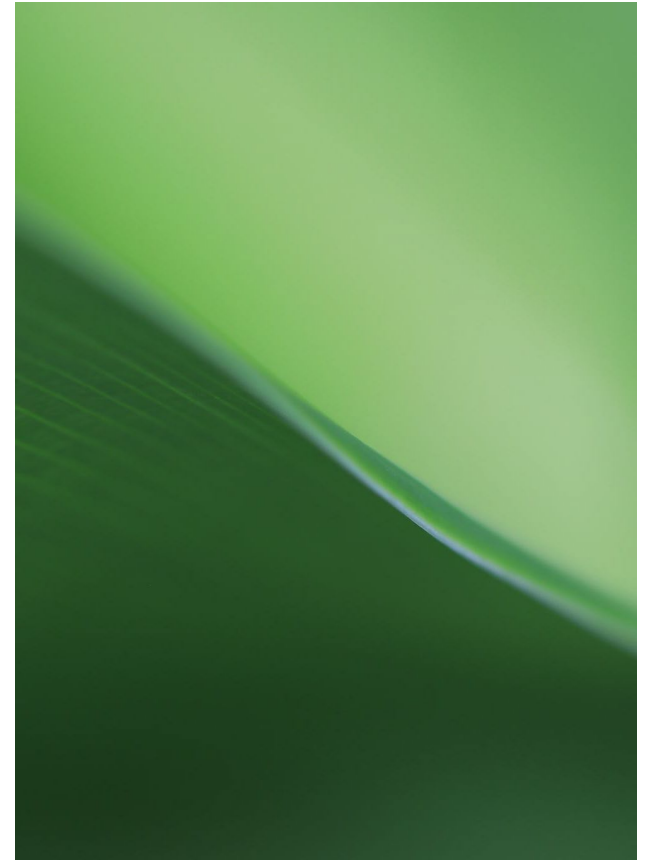
Whether the County's insistence on negotiating the union leave time provided in Article 8, to conform to the statutory requirement of NRS 288.225 (SB 241) constitutes bad faith bargaining in violation of NRS 288.270(1)(e).



Examples of Issue Statements

Whether LVMPD engaged in a prohibited practice, in violation of NRS 288.270(1)(e), by unilaterally changing the terms of the CBA Grievance Procedure article, when the person who met with Officer X and conducted the grievance hearing failed to issue a written decision.

Whether the Department unilaterally changed any term of the Collective Bargaining Agreement.



Legal Memorandum

The bulk of the prehearing statement usually consists of a legal memorandum, outlining the issues in the case and why that party's position is correct.

Tip:

A mere re-recitation of the facts contained in the complaint will not be enough. A good memorandum, backed by good and relevant law, will greatly assist the eventual hearing Panel in determining its decision on the case.

Example of NAC 288.250 (1) (c) Statement

- (Party) is not aware of any pending or anticipated administrative, judicial or other proceedings related to the subject of the hearing in this matter.

Or

- (Party) has filed a declaratory relief action in District Court regarding the XXXXXXXX. The case number is XXXXXXXX.

List of Witnesses

- The next part of the prehearing statement is a list of witnesses and their expected testimony.

IMPORTANT: The presiding officer generally will not allow someone to testify in a party's case-in-chief if that person has not been listed as a witness in a prehearing statement or a supplement to the prehearing statement.

Estimate of Time Needed

- This is done in hours (and is only an estimate).
- Most attorneys put down ½ day, 1 day, etc.
- The Board or a panel usually meets for three consecutive days – so that should be an indication of what the maximum time might be to hear a case.

7: THE PREHEARING CONFERENCE



GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

Prehearing Conference Law

NAC 288.273 Prehearing conference. (NRS 288.110)

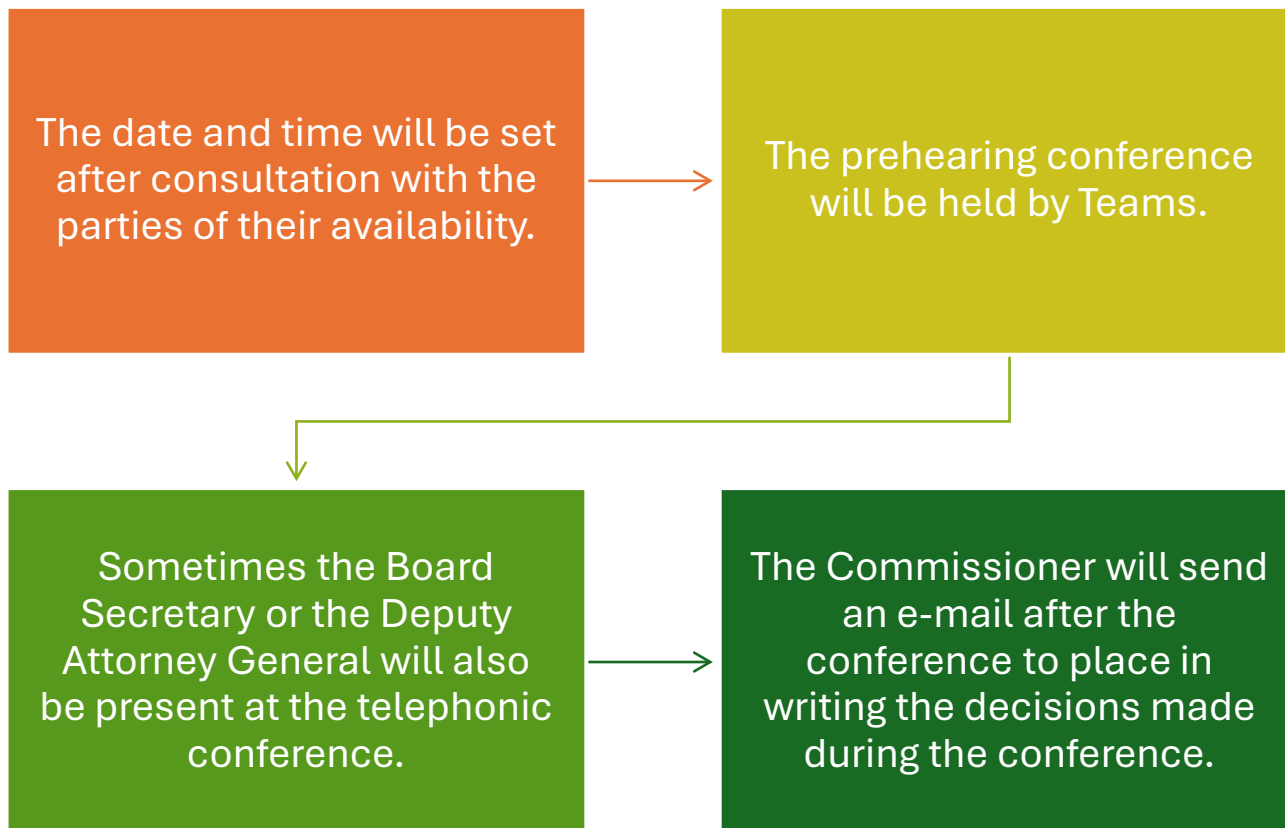
1. The Board or Commissioner may, upon written notice to all parties of record, hold a prehearing conference to:

- (a) Formulate or simplify the issues;
- (b) Obtain admissions of fact which will avoid unnecessary proof;
- (c) Discuss any proposed exhibits which were exchanged between the parties at least 5 days before the date of the prehearing conference;
- (d) Limit the number of witnesses; and
- (e) Establish any other procedure which may expedite the orderly conduct and disposition of the proceedings.

Prehearing Checklist

- The ERMB has a Prehearing Checklist, which is e-mailed to the attorneys of record on a given case at the time the Notice of Hearing is issued.
- This document is used as a reference both during the prehearing conference and by the attorneys and their staff prior to the hearing.
- Topics include:
 - Issues and Settlement
 - Admissions of Fact
 - Exhibits
 - Witnesses
 - Other Procedures

Prehearing Conference Itself



8: SETTLEMENT CONFERENCES

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

Settlement Conference Orders

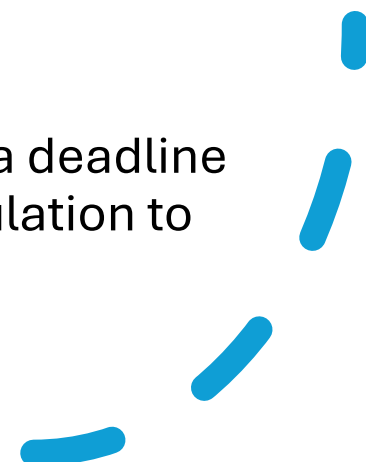
- NRS 288.255 is the regulation regarding Settlement Conferences.
- Either a party or the Board may order that a given case be sent to a mandatory settlement conference.
- This can only be done after the parties have submitted their prehearing statements.
- The order must be at least 60 days prior to any hearing on the matter. NAC 288.255(4)(b).
- After consulting the parties on a date and time for the settlement conference, the Commissioner sends out the order with the particulars of the settlement conference.

Settlement Conference Limitations

- Certain cases (basically non-prohibited practice cases) cannot be sent to a settlement conference.
- Parties cannot be required to submit additional statements or briefs for the conference.
- The Commissioner cannot establish guidelines that will impose any undue expense on a party.
- The settlement conferences are confidential, and the Commissioner cannot be called as a witness at a hearing as to what transpired during the conference.

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Settlement Conferences - Miscellaneous

- The settlement conferences are run by the Commissioner and follows the process of any other settlement conference.
 - Upon agreement and in consideration of logistics, the settlement conference can be held in person or virtually.
 - Since the inception of the program, approximately 50% of the conferences have resulted in a settlement.
 - Any case that settles then has a deadline for the parties to submit a stipulation to dismiss for Board approval.
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9: THE HEARING AND POST-HEARING BRIEFS

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

Board Deliberation on Granting a Hearing



Once the prehearing statements are received, the Board will review:

Complaint

Answer

Prehearing Statements



The Board will then determine whether to send the case to a mandatory settlement conference and/or whether to grant a hearing.



The Board may also postpone a hearing on the matter if there is a pending grievance or arbitration. This is known as the limited deferral doctrine.



If a hearing is granted, then the case is randomly assigned to a Hearing Panel.

Notice of Hearing

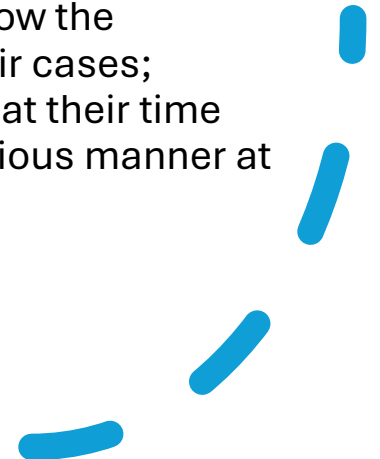
- Once a hearing is granted, the Commissioner will then issue a Notice of Hearing, containing:
 - Information on the Panel and the Presiding Officer
 - Date and Time of the Hearing
 - Location of the Hearing
 - Details Concerning the Hearing, including the court reporter and exhibits
 - Date and Time for the Prehearing Conference
 - List of the Issues as submitted by the parties in their prehearing statements

Notice of Hearing

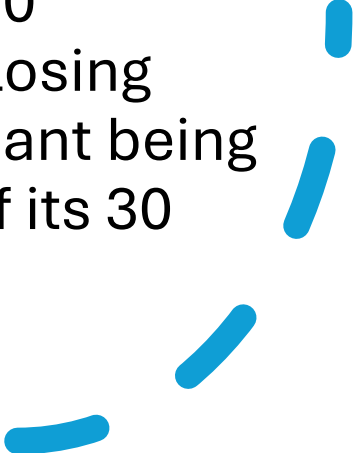
- The Notice of Hearing is mailed to the attorneys of record.
- A courtesy copy is e-mailed to the attorneys, along with the prehearing checklist.
- If all the parties are in Las Vegas, the hearing will be held in-person.
- If not all the parties are in Las Vegas, and upon agreement of the parties and the hearing panel, the hearing can be held virtually.

Hearing Procedure

- Presiding Officer makes introductory remarks
- Parties then offer any stipulations and motions related to the conduct of the hearing
- Examples include exclusion of witnesses, introduction of non-contested exhibits, etc.
- Opening Statements
- Complainant(s)
- Respondent(s)
- Complainant's Case in Chief, witness by witness
- Respondent's Case in Chief, witness by witness
- Complainant's Rebuttal Case
- As a general practice, the Board will allow the attorneys sufficient time to present their cases; however, the attorneys are reminded that their time should be used in a judiciously expeditious manner at all times



Oral Closing Arguments

- The Board prefers oral closing arguments in lieu of written briefs.
 - If oral arguments are made, the Board usually allows the attorneys time to prepare and in the interim the Board conducts other business, if any.
 - The Board usually allows 30 minutes per side for oral closing arguments, with Complainant being allowed to reserve some of its 30 minutes for rebuttal.
- 

Written Briefs

- If written briefs are granted (usually because there are significant legal issues needing briefing) then the Board usually sets the briefs due 30 days upon EMRB receiving the transcript of the hearing from the court reporter.



Hearings – Miscellaneous Issues

After the attorneys conclude with each witness, the Board then can ask questions of the witness.



The Board generally follows the rules of evidence but can – and does – depart from them, usually on the issue of hearsay, which is allowed in administrative hearings.



The Board expects all attorneys to be civil and generally dislikes argumentative behavior.

Case Deliberations

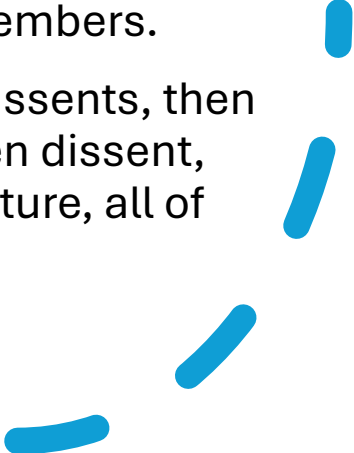
Upon conclusion of the hearing (or upon receipt of the briefs, if allowed) the Board will then deliberate on the case.

The Board must render a decision within 120 days of the conclusion of the hearing.

Pursuant to the EMRB's enabling statute, the Board has the right to deliberate in closed session – and always does so. Upon reaching a decision, the Board will then return to open session, at which time a motion is made and voted upon.

The Deputy Attorney General will then draft the order, based upon the motion, and after the draft is reviewed, commented upon, and approved, staff then affixes the signatures of the members.

If a member of the Board or Panel dissents, then that member may also draft a written dissent, which is placed above his/her signature, all of which is included in the order.




10: APPEALS PROCESS



GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

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3 Options

1. Petition for Rehearing -
NAC 288.360
 2. Petition for Reconsideration
(if there is a split decision) –
NAC 288.2718
 3. Petition for Judicial Review
(filed with the District
Court)
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Petition for Rehearing (NAC 288.360)

- Must be filed within 15 days after service of a final decision.
- An answer to the petition for rehearing is not allowed.
- The Board must make its decision at least 5 days before the deadline to file a Petition for Judicial Review.
- If granted, then the other party may file a response. The Board, in its order granting a rehearing, may request the submission of additional evidence and/or briefs on the issues granted.
- At a rehearing, the Board may abrogate or modify the original order if it believes that order to be unjust, unwarranted, unlawful or in need of change.

Petition for Reconsideration

- If the case is heard by a panel and the panel had a split decision on one or more of the issues, then the party who was in the minority may file a petition for reconsideration.
- A petition for reconsideration requests that the entire Board reconsider the decision of the panel in the hopes that the two members not on the panel would instead side with the dissenting panel member and thus, in effect, reverse the decision of the panel.
- The party who lost on the issue(s) files a petition for reconsideration, explaining why the decision was incorrect. The two members of the Board not on the panel then read the petition, and if one or more of the two members, signs off on the petition then the entire Board will reconsider the matter.
- Reconsideration consists of the two members not on the panel reviewing the administrative record. Oral argument is then made by the attorneys, followed by deliberation by the Board.

Petition for Judicial Review

- Once a final decision is rendered by the EMRB (Board or Panel) and
- A petition for rehearing was not made or, if made, has been resolved and
- A petition for reconsideration was not made or, if made, has been resolved:

Any party may file a Petition for Judicial Review in District Court under the Nevada Rules of Civil Procedure to appeal the Board's final order.



That's A Wrap!

GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

Questions?

We would love to hear from you:

Marisu Romualdez Abellar, Commissioner:

mabellar@emrb.nv.gov

(702) 486-6157



**Government Employee-
Management Relations Board**

Nevada Department of Business and Industry