

**RULES AND REGULATIONS
OF THE
LABOR-MANAGEMENT RELATIONS
BOARD**



CITY OF ALBUQUERQUE

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LABOR-MANAGEMENT RELATIONS BOARD**

RULES AND REGULATIONS

I. PURPOSE

1.1 Statement of Purpose. The purpose of these rules is to implement and clarify the City of Albuquerque Labor-Management Relations Ordinance (Sec. 3-2-1 et seq., ROA 1994) and to establish fair and expeditious procedures that further the purposes of that Ordinance, which are: (1) to guarantee public employees the right to organize and bargain collectively with the employers; (2) to promote harmonious and cooperative relationships between public employers and public employees; and (3) to protect the public interest by assuring, at all times, the orderly and uninterrupted operation and functions of the City government. These rules should be interpreted consistently with the Labor-Management Relations Ordinance (hereinafter the Ordinance) as presently written or as later amended. In the event of any conflict or inconsistency, the language of the Ordinance shall control.

1.2 Authority. These rules are enacted pursuant to powers stated in Section 2-6-1-4(C)(1), ROA 1994. A current version of these rules shall be maintained at the offices of the Clerk of the City of Albuquerque.

II. NOTICE

2.1 General Notice/Meeting Requirements.

At the first meeting, after these rules and regulations are adopted, and each year thereafter, at the first meeting of the reconstituted Labor Management Relations Board (Board), the Board shall

pass a resolution determining the schedule and reasonable public notice of Board meetings. For the purposes of regular meetings, notice requirements are met if notice of the date, time, place and agenda is posted in the lobby on the first floor of the Albuquerque/Bernalillo County government Center, Albuquerque, New Mexico and by informing the public how to obtain a copy of the agenda.

2.2 Open Meetings

All meetings of a quorum of the Board shall be open to the public. The Board may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(H) of the State of New Mexico Open Meetings Act.

III. QUORUM

3.1 All three members of the Board are required to be present to constitute a quorum.

IV. HEARINGS

4.1 Record of Proceedings.

All meetings of the Board shall be audio-recorded. The Board shall keep audio tapes of rulemaking, unit determination, and prohibited practices hearings for a period of at least three years following the close of the proceeding in which the hearing is held, or three years following the close of the last judicial or Board proceeding (including any appeal or request for review) related to the case in which the hearing is held, whichever is later, or such longer period as may be required by law. Minutes of Board meetings shall be permanent records and shall be maintained in the City Clerk's office.

4.2 Notice to Parties

The Board secretary shall provide to each party notice of the date time and place of all

scheduled hearings.

4.3 Representation of a Party

A party may represent himself or be represented by counsel or other representative. Any representative of a party shall file with the Board a signed notice of appearance, stating the name of the party, the title and case number in which the representative is representing the party, and the name, address, and telephone number of the representative. The filing of a pleading containing the above information is sufficient to fulfill this requirement.

4.4 Ex Parte Communications

Parties shall not attempt to contact Board members in the absence of, or without the knowledge of, the opposing party.

4.5 Discovery

Upon written request by any party, the Board shall order either party to produce for inspection and copying any relevant records, papers, documents or other tangible evidence in the possession of or available to that party. The parties shall have a right to discovery limited to depositions, interrogatories, requests for production, and requests for admission. Failure to comply with discovery orders shall result in sanctions proportional to the offense, including, but not limited to, limitation of defense and dismissal of action.

4.6 Motions

Any non-dispositive defense, objection, or request that can be determined prior to the hearing on the merits may be raised by filing a written motion at least fifteen calendar days prior to the hearing on the merits. Any response to such motion shall be filed within ten calendar days after the filing of the motion. The Board shall rule on all non-dispositive motions as soon as practicable.

Any motion that raises an issue that may be dispositive of the case shall be filed within thirty days of the time when the movant knew or should have known of the issue, or within thirty days of the filing of the answer to the complaint, whichever is later.

4.7 Witnesses

(a) All witnesses must be identified in writing to the Board and the opposing party at least five calendar days prior to the hearing. Witnesses not designated in accordance herewith shall not be permitted to testify except at the discretion of the Board for good cause shown.

(b) City employees designated by either party as witnesses shall appear at scheduled hearings and shall be relieved from their normal duties for a period of time necessary to testify. The issuance of a subpoena for the appearance of city employees to testify during normal work hours is not required.

4.8 Subpoenas

(a) Any party to a proceeding in which a notice of hearing has issued may file a written request with the Board for the issuance of a subpoena for witness testimony or a subpoena for the production of documents to procure testimony or documents at the hearing. A subpoena request shall state the name and number of the case and be submitted to the Board no later than ten days before the hearing. The request shall identify the person(s) or documents sought and state the general relevance to an issue in the case of the testimony or documents sought. The Board may refuse to issue a subpoena where the request fails to meet these requirements, or where it appears that the documents or testimony sought are not relevant to issues in the case.

(b) The Board may issue subpoenas on its own initiative, in which case a showing of relevance is not required, and a notice of hearing need not have been issued.

(c) Any applicable witness and travel fees and costs associated with service of process shall be the responsibility of the party requesting the subpoena. The Board may require these fees and costs be presented in advance of the issuance of any subpoena.

4.9 Evidence Admissible.

Hearings shall operate in accordance with the common law evidentiary standards applicable to administrative hearings. Hearings shall be conducted in an orderly and informal manner without adherence to the technical rules of evidence required in judicial proceedings. The Board may admit and give probative effect to any evidence, including affidavits, as the Board deems appropriate.

4.10 Burden of Proof

(a) No party shall have the burden of proof in a representation or fact-finding proceeding. The Board shall have the responsibility of developing a fully sufficient record for a determination to be made, and may request any party to present evidence or arguments in any order.

(b) In a unit clarification proceeding, a party seeking any change in an existing appropriate unit, or in the description of such a unit, shall have the burden of proof and the burden of going forward with the evidence.

(c) In a prohibited practices proceeding, the complaining party has the burden of proof and the burden of going forward with the evidence.

4.11 Decision

(a) A final written decision by the Board shall be issued as soon as practicable. A copy of the Board's final decision shall be maintained at the offices of the Clerk of the City of Albuquerque. Copies shall also be sent via 1st Class mail to the parties.

(b) In the event a Board decision orders an employee's reinstatement of employment, the employee shall be reinstated within ten (10) calendar days of the date of the Board's decision. In the event the Board's order includes back pay, the employee shall provide the City with a sworn statement of gross earnings and unemployment compensation received since the effective date of the dismissal. The City shall be entitled to offset earnings and unemployment compensation received during the period covered by the back pay award against the back pay due. The City shall tender any back pay awarded to an employee within seven (7) calendar days of the date of receipt of the employee's sworn statement.

(c) An appeal of an adverse decision shall be filed in the State District Court within thirty calendar days of the Board's decision.

4.12 Decorum.

(a) The Chair of the Board is responsible for the control and decorum of the hearing or proceeding. The Chair may limit any public comment to the Public Comments Section of the hearing or proceeding. The Chair may establish time limitations on speakers.

(b) The Board may exclude or expel from the hearing or proceeding any person, whether or not a party, who engages in violent, threatening, disruptive, or unduly disrespectful behavior. In the event of such exclusion or expulsion of a person for misconduct, the Board shall explain on the record the reasons for the exclusion or expulsion and may either proceed in the absence of the excluded person or recess such proceeding and continue at another time, as may be appropriate.

(c) After notice and hearing, the Board may suspend from practice before the Board any person who engages in violent, threatening, disruptive, or unduly disrespectful behavior. Upon a majority vote of the Board, the suspension shall be ordered for a period of time determined by the

Board.

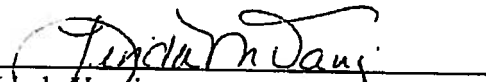
4.13 Compensation of Board Members. The Board may require the costs of hearings provided for in Section 3-2-14(E), ROA 1994 to be paid in advance of any hearing.

V. GENERAL RULES

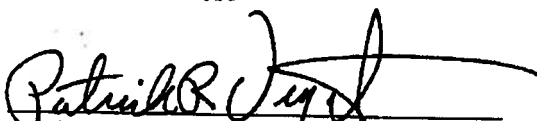
Any matter not covered by these rules shall be governed by Robert's Rules of Order (latest edition), or, if not covered by Robert's Rules of Order, by a decision of the Chair, subject to the right of appeal.

PASSED AND ADOPTED THIS 8TH DAY OF MAY, 2001 BY A VOTE
OF: 3 FOR 0 AGAINST.

LABOR BOARD MEMBERS:


Linda Vanzi


Deborah Lattimore


Patrick Vigil