

**CITY OF LAS VEGAS
LABOR/MANAGEMENT RELATIONS BOARD**

RULES AND REGULATIONS

GENERAL PROVISIONS

1.1 Definitions. The following terms shall have the meaning set forth below:

a. "amendment of certifications" means a procedure whereby an incumbent labor organization certified by the Board to represent a unit of public employees or a public employer may petition the Board to amend the certification to reflect a change such as a change in the name or the affiliation of the labor organization or a change in the name of the employer.

b. "certification of incumbent labor organization" shall mean a procedure whereby a labor organization petitions the Board to be recognized as the exclusive representative in an existing bargaining unit under the Board's jurisdiction.

c. "challenged ballot" means the ballot of a voter in a representation election whose eligibility to vote is questioned either by a party to the representation case or by the Board or designee.

d. "Board" means the City of Las Vegas Labor/Management Relations Board.

e. "complainant" means an individual, organization, or public employer, that has filed a prohibited practices complaint.

f. "document" means any writing, photograph, film, blueprint, microfiche, audio or video tape, data stored in electronic memory, or data stored and reproducible in visible or audible form by any other means.

g. "probationary employee" means a regular employee who has been employed less than one (1) year.

h. "prohibited practice" means a violation of the Labor Relations Ordinance or a collective bargaining agreement in effect.

i. "quorum" means two members of the Board. Telephone participation shall be available in accordance with NMSA 10-15-1(C).

j. "regular employee" means an employee who has been hired to work by the public employer, including part time employees, but shall not include casual employees or temporary employees as those terms are defined by City of Las Vegas Labor **Relations** Ordinance.

k. "representation case" or "representation proceeding" means any matter in which a petition has been filed with the Board requesting a certification or decertification election, or an amendment of certification, or unit clarification_

l. "respondent" means a party against whom a prohibited practices complaint has been filed.

m. "Rules" means the Rules and Regulations of the Board (these rules), including any amendments to them.

n. "unit accretion" means the inclusion in an existing bargaining unit of employees who do not belong to any existing bargaining unit and who share a community of interest with the employees in the existing unit and whose inclusion will not render the existing unit inappropriate.

o. "Unit clarification" means a proceeding in which a party to an existing lawful collective bargaining relationship petitions the Board to change the scope and description of an existing bargaining unit; to consolidate existing bargaining units represented by the same labor organization where the Board finds the unit as clarified to be an appropriate bargaining unit and no question concerning representation arises.

p. "unit inclusion or exclusion" means the status of an individual or a job classification as being within or outside of an appropriate bargaining unit based on factors such as supervisory, confidential, or managerial status, the absence thereof, or job content.

1.2 **Computation of Time.** When these Rules state a specific number of days in which some action must or may be taken after a given event, the day of the given event is not counted in computing the time, and the last day of the period is deemed to end at close of business on that day. Saturdays, Sundays and state recognized legal holidays shall not be counted when computing the time. When the last day of the period falls on a Saturday, Sunday or legal holiday, then the last day for taking the action shall be the following business day. A party seeking an extension of time in which to file any required or permitted document may file with the Board a written request for an extension. Such a request shall be filed at least three days prior to the due date and shall state the position of all other parties, or that the filing party was unable to reach another party. The Board may grant an extension for good cause shown and, in granting an extension, may shorten the time requested.

1.3 **Filing with the Board.** To file a document with the Board, the document may be either hand-delivered to the Chairperson's designated address during its regular business hours, or sent to the Chairperson's address by United States Mail, return receipt requested.

A document will be deemed filed when it is received by the Board. Documents sent to the Board via facsimile ("fax") transmission will be accepted for filing as of the date of transmission only if an original is filed by personal delivery or deposited in the mail no later than the first work day after the facsimile is sent. The option of facsimile ("fax") transmission will be available only if and when the Board acquires a facsimile machine.

1.4 Representation of a Party. A Party may represent his, her, or itself, or be represented by counsel or other representative. Any representative of a party who is not an employee of the party shall file with the Board a signed notice of appearance, stating the name of the party; the title and official number (if available) of the case 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.

1.5 Ex Parte Communications. Except as otherwise provided in this rule, no party to a pending representation, prohibited practices, or fact-finding proceeding shall attempt to influence a hearing officer assigned to the case, or a Board member, concerning any issue in the case. It shall not be a violation of this rule to communicate concerning the status of a case, or to communicate concerning such procedural matters as the location or time of a hearing, the date in which documents are due, or the method of filing. It shall not be a violation of this rule for a party to communicate with the Board during the investigatory phase of a representation, prohibited practices, or impasse resolution proceeding. It shall not be a violation of this rule for a party to communicate with anyone concerning any rule making proceeding of the Board, or to communicate with a mediator, fact finder, or Board member at the mediator's, fact finder's or member's request.

1.6 Disqualification. No Board agent or member shall decide or otherwise participate in any case or proceeding in which he or she (a) has a financial interest in the outcome; (b) is indebted to any party, or related to any party or any agent or officer of a party by consanguinity within the third degree; (c) has acted on behalf of any party within two years of the commencement of the case or proceeding; or (d) for some other reason or prejudice, he or she cannot fairly or impartially consider the issues in the proceeding.

1.7 Motion to Disqualify.

(a) A motion to disqualify a Board agent or member in any matter, based upon the foregoing criteria, shall be filed with the Board, with copies served on all parties, prior to any hearing or the making of any material ruling involving the pending issues.

(b) Such motion shall set out the basis for the disqualification and all facts in support thereof.

(c) If the Board finds such motion meritorious upon due inquiry, it shall disqualify the Board agent or member and he or she shall withdraw from the proceeding. If the motion is denied, the Board shall so rule and the matter shall proceed.

1.8 Records of Proceedings. All meetings of the Board (whether general, special, or emergency) and all rule making, unit determination, and prohibited practice hearings before the Board or hearing officer of the Board shall be audio-recorded, or, upon order of the Board may be transcribed, except that Board meetings or portions thereof lawfully closed shall not be recorded or transcribed, unless so directed by the Board. Following the Board's approval of the minutes of a meeting of the Board, the minutes shall become the sole official record of the meeting, and the audio tape of the meeting may be erased. The Board shall keep the audio tapes of rule making, unit determination, and prohibited practices hearings for a period of at least one year following the close of the proceeding in which the hearing is held, or one year 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. No recording shall be made of any mediation proceeding, settlement discussion, or alternative dispute resolution effort except by agreement of all parties and participating officials. The Board's recording or transcript shall be the only official record of a hearing.

1.9 Notice of Hearing.

(a) Upon setting a hearing in a representation, prohibited practices, or impasse resolution case, the Board shall cause a notice of hearing to be served on all parties, stating the name and number of the case, the general nature of the hearing, and the time and place of the hearing. The notice shall be served by certified mail, return receipt requested, at least ten days prior to the commencement of the hearing.

(b) Upon setting a rule making hearing, the Board shall cause a notice of hearing to be issued setting forth the nature of the rule making proceeding, the time and place of the hearing, the manner in which interested persons may present their views, and the manner in which interested persons may obtain copies of proposed rules. Notices of rule

making hearings shall be sent to all parties that request notice of such hearings and shall be published in a newspaper of general circulation in the County at least thirty (30) days prior to the hearing.

(c) A party to a representation, prohibited practices, or impasse resolution case in which a hearing is scheduled may request postponement of the hearing by filing a written request with the Board, and serving the request upon all other parties at least five (5) days before the commencement of the hearing. The requesting party shall state the specific reasons in support thereof. Upon good cause shown, the Board shall grant a postponement to a date no more than 20 days later than the previously set hearing date. Only in extraordinary circumstances may the Board grant a further postponement, or a postponement to a date more than 20 days after the previously set date.

1.10 Evidence Admissible.

(a) Evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their serious affairs shall be admissible at hearings.

(b) Irrelevant, immaterial, unreliable, unduly repetitious or cumulative evidence, and evidence protected by the rules of privilege (such as attorney-client, physician-patient or special privilege) shall be excluded upon timely objection.

(c) The Board may receive any evidence not objected to, or may, upon the Board's own initiative, exclude such evidence if it is irrelevant, immaterial, unreliable, unduly repetitious, cumulative or privileged.

(d) Evidence may be tentatively received by the Board, reserving a ruling on its admissibility until the issuance of a report or decision.

1.11 Misconduct. The hearing officer or body conducting a hearing or official conducting any other proceeding, 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 hearing officer, body or official 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.

1.12 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 three days before the hearing. The request shall identify the person(s) or document(s) sought; and state the general relevance to an issue in the case of the testimony or document sought. The Board may refuse to issue a subpoena where the request fails to meet these requirements, or where it appears to the Board that the documents or testimony sought is not relevant to issues in the case. Otherwise, the Board shall immediately issue a subpoena to the requesting party.

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

(c) A person upon whom a subpoena is served may move to quash the subpoena. A motion to quash shall be filed a reasonable time after service of the subpoena and, if feasible, before the hearing. If filed before the hearing the motion to quash shall be filed with the hearing officer or body.

(d) Any applicable witness and travel fees shall be the responsibility of the subpoenaing party.

1.13 Exchange of Documents and Lists of Witnesses. No later than five (5) days before the commencement of a hearing, each party shall serve upon all other parties all documents it intends to introduce at the hearing and a list of all witnesses it intends to call, along with a brief statement of the subjects about which each witness is expected to testify. No party may compel discovery except as provided in this rule and Rule 1.12 (Subpoenas) or as a specific order of the Board upon good cause shown. The Board may permit the admission in evidence of witness testimony or of documents not timely supplied under this rule if in the Board's judgment, there was sufficient reason for the failure to timely supply the names or documents.

1.14 Ownership and Confidentiality of Showing of Interest. Evidence of a showing of interest submitted to the Board in support of a representation petition shall remain the property of the party submitting such evidence; shall not become property of the Board; shall be kept confidential by the Board; and shall be returned to the party that submitted the same upon the close of the case.

1.15 Burden of Proof.

(a) **Except in unit clarification proceedings, no party shall have the burden of proof in a representation proceeding. Rather, the Board (in the investigatory phase) 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. 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.

(b) In a prohibited practices proceeding or any issue before the Board, the complaining or moving party has the burden of proof and the burden of going forward with the evidence.

1.16 Motions and Responses to Motions.

(a) All motions and responses to motions, except those made at a hearing, shall be in writing and shall be served simultaneously upon all parties to the proceeding. All written motions, in order to be considered at a hearing, shall be filed and served on all parties at least three days before the hearing. Motions and responses made at hearings may be made orally.

(b) If a party decides to file a response to a written motion, the response shall be filed and simultaneously served within ten days after service of the motion.

1.17 Service. Service of papers upon parties may be made by personal delivery or by depositing in United States Mail, return receipt requested, or by both facsimile ("fax") transmission and, by the next scheduled work day after sending a fax, either personally delivering the document or depositing it in first class mail, in which case the date of the "fax" transmission shall be the date of service. Each document served shall be accompanied by a signed certification stating the name and address of each person served and the date and method of service. The certification may be placed in the document served.

1.18 Testimony of Board Agents. Agents of the Board, whether employees of the Board or contractors, may not be compelled to testify in Board proceedings.

1.19 Form of Papers. All papers required or permitted to be filed with the Board shall be on an official form prepared by the Board, if available, or on 8 1/2 by 11 white paper, double spaced. All papers shall show at or near the top of the first page the case name and, if available, the case number, and shall be signed.

1.20 Closing of Cases. The Board shall close a case following completion of all administrative and judicial proceedings related to the case. The Board may, after notice to the parties, summarily close any case in which the moving party has taken no action within the previous sixty (60) calendar days, unless the delay is caused by factors beyond the party's control.

1.21 Publication of Board Decisions. At the times and in the manner prescribed by the Board, the Board shall make copies of Board decisions available to the public.

1.22 Time Limits for Board Actions. Wherever these Rules set forth a period of time within which the Board must take any action, the Board may, for good cause, extend for a reasonable time, the date by which such action must be taken, unless the date is controlled by the local ordinance policy.

II. REPRESENTATION PROCEEDINGS

2.1 Commencement of Case. A representation case is commenced by filing a representation petition with the Board. The petition shall include, at a minimum, the following information: the Petitioner's name, address, phone number, state or national affiliation, if any, and representative, if any; a description of the proposed appropriate bargaining unit and any existing recognized or certified bargaining unit; the geographic work locations, job classifications, and estimated numbers of employees in the proposed and any existing bargaining unit; a statement of whether or not there is a collective bargaining agreement in effect covering any of the employees in the proposed or any existing bargaining unit and, if so, the name, address and phone number of the labor organization that is party to such agreement; a statement of what action the petition is requesting; and a signed declaration by the person filing the petition that its contents are true and correct to the best of his or her knowledge. In addition, a petition seeking a certification or decertification election, shall be supported by a thirty percent showing of interest in the existing or proposed bargaining unit. A petition shall contain signed declaration by the person filing the petition that its contents are true and correct to the best of his or her knowledge and, in the case of a decertification petition that he or she is a member of the labor organization to whom the decertification petition applies.

2.2 Service of Petition. Upon filing a petition, the petitioner shall serve it upon the employer and any incumbent labor organization. Within ten days of the filing of a petition,

11, the Board shall cause notice of the filing of the petition to be posted in a manner conspicuous to the affected employees.

2.3 **Filing of Collective Bargaining Agreement.** Along with a representation petition, the petitioner shall file with the Board a copy of any collective bargaining agreement, then in effect or recently expired, covering any of the employees in the petitioned-for unit.

2.4 **Showing of Interest.** With the petition and at the same time the petition is filed, the petitioner shall deposit with the Board a showing of interest consisting of signed, dated statements, which may be in the form of cards or a petition, by at least thirty percent of the employees in the proposed unit stating, in the case of a petition for certification election, that each such employee wishes to be represented for the purposes of collective bargaining by the petitioning labor organization, and, in the case of a petition for decertification election, that each such employee wishes a decertification election. Each signature shall be separately dated. No signature that is dated more than nine months before the filing of the petition shall be counted toward the showing of interest. So long as it meets the above requirements, a showing of interest may be in the form of signature cards or a petition or other writing, or a combination of written forms. No showing of interest need be filed in support of a petition for amendment of certification or unit clarification.

2.5 **Information Requested of Parties.**

(a) Within ten (10) days of the filing of a representation petition, the Board shall by letter request the public employer involved and any incumbent labor organization, its position with respect to the appropriateness of the bargaining unit petitioned for, a statement of any issues of unit inclusion or exclusion that the party believes may be in dispute, and any other issue that could affect the outcome of the proceeding.

(b) From the public employer the Board, within ten (10) days of the filing of a representation petition, shall also request a current list of the employees who would be eligible to vote if the petitioned-for unit were found to be appropriate. The public employer shall be instructed to file such list within ten (10) days of the Board's request. The Board shall make the list available to all parties.

2.6 **Initial Investigation of Petition.** After a petition has been filed, the Board or its agent shall investigate the petition. The investigation shall include the following steps and shall be completed within thirty (30) days of the filing of the petition.

(a) The Board shall check the showing of interest (if applicable) against the list of eligible employees in the proposed unit filed by the public employer to determine whether the showing of interest has been signed and dated by a sufficient number of employees and that the signatures are sufficiently current. If signatures submitted for a showing of interest meet the requirements set forth in these rules, they shall be presumed valid unless the Board is presented with clear and convincing evidence that they were obtained by fraud, forgery or coercion, In the event that evidence of such fraud, forgery or coercion is presented to the Board, the Board shall investigate the allegations as expeditiously as possible and shall keep the showing of interest confidential during the investigation. The Board shall dismiss any petition supported by an improper or insufficient showing of interest, consistent with Rule 2.14, and shall explain in writing the basis of the dismissal.

(b) The Board shall determine the facial validity of the petition, including the facial appropriateness of the petitioned-for unit and may request the petitioner to amend a facially inappropriate petition. In the absence of an appropriate amendment, the Board shall dismiss a petition asking for an election in, or a clarification to, a facially inappropriate unit, or that is otherwise facially improper, in which case it shall explain its reasons in writing.

(c) The Board shall determine whether there are significant issues of unit scope; unit inclusion or exclusion; labor organization; a bar to the processing of the petition; or other matters that could affect the proceedings.

2.7 Notice of filing of Petition. Unless the Board has determined that there is need for a representation hearing pursuant to rule 2.11, then within thirty (30) days of receipt of a petition, the Board shall issue a notice stating that the petition has been filed, naming the petitioner, stating the unit petitioned-for, and stating the procedures for intervention as set forth in Rule 2.8, below, including the date by which an intervenor must file its petition and showing of interest. The Board shall issue sufficient copies of the notice to the employer, and the employer shall post such copies in places where notices to employees are normally posted. The notices shall remain posted continuously for at least five days.

2.8 Intervention.

(a) At any time within ten (10) days after the employer's posting of the notice of filing of petition, a labor organization other than the petitioner may file with the Board an intervenor's petition seeking to represent some or all of the employees in the petitioned-

for unit. The intervenor's petition shall contain the same information set forth in Rule 2.1 above.

(b) The intervenor's petition shall be accompanied by a showing of interest showing that at least ten percent (10%) of the employees in the petitioned-for unit wish to be represented by the intervenor for purposes of collective bargaining. The showing of interest shall otherwise meet the requirements set forth in Rule 2.4, above.

(c) An intervenor that has presented a sufficient showing of interest in the unit found to be appropriate shall be placed on the ballot and shall be considered a party to the proceeding.

(d) Upon application, an incumbent labor organization shall have automatic intervenor status if it is not the petitioner.

2.9 Consent Election. Where the parties are in agreement on all issues required to be resolved in order to proceed to an election, and the Board or its agent is satisfied that the issues so resolved, including unit scope, are acceptable, the Board or its agent shall draw up a consent election agreement to be signed by all parties and by the Board or its agent. The parties shall proceed to an election on the basis of the agreement.

2.10 Notice of Hearing. In the absence of a consent election agreement, the Board shall issue a notice of hearing within forty-five (45) days of the posting of the notice of filing of petition. A hearing concerning unit composition, where the parties are in dispute on that issue, shall be set for a date not later than 30 days following the Board's notice of hearing or the Board's receipt of notice of the dispute, whichever is sooner.

2.11 Representation Hearing.

(a) In the absence of a consent election agreement, and where there are significant unit issues that, in the Board's view, should be resolved in a hearing, the Board shall issue a notice of hearing.

(b) The Board shall take evidence sufficient to make a full and complete record on all unresolved unit issues and any other issues necessary to process the petition. Details such as the time, date and place of the election, and whether there will be manual or mail ballots or a combination, shall not be resolved through the hearing process, but shall be resolved instead through the pre-election conference process described in Rule 2.16.

(c) The Board may examine witnesses, call witnesses, and call for the introduction of documents.

2.12 Briefs. If any party requests permission to file a post-hearing brief, the Board shall permit all parties to file briefs and shall set a time for the filing of briefs which normally shall be no longer than ten (10) days following the close of the hearing. Briefs shall be filed with the Board and copies shall be served on all parties.

2.13 Board Reports. The Board shall issue its report following the close of the hearing. Except in extraordinary circumstances, which shall be set forth in the report, the report shall be issued no longer than fifteen (15) days following the close of the hearing or the submission of post-hearing briefs, whichever is later. The report shall make findings of fact, conclusions of law, and recommendations for the determination of issues, and shall adequately explain the Board's reasoning.

2.14 Opportunity to Present Further Showing of Interest. In the event that the Board determines that a unit other than the unit petitioned for is appropriate and it appears to the Board that the showing of interest filed by the petitioner or an intervenor is insufficient in the unit found appropriate, the Board shall notify the petitioner or intervenor and give such party ten (10) days in which to file an additional showing. If the party fails to file a sufficient showing within that time, the Board shall dismiss the petition or deny intervenor status.

2.15 Eligibility to Vote.

(a) Employees in the bargaining unit shall be eligible to vote in the election if they were employed during the last payroll period preceding date of the consent election agreement or the direction of election issued by the Board, and are still employed in the unit on the date of the election.

(b) Employees in the bargaining unit who are eligible to vote but who will be absent on the day of voting because of hospitalization, temporary assignment away from normal post of duty, leave of absence, vacation at a location more than 50 miles distant from the polling place, or other legitimate cause, may request an absentee ballot from the Election Supervisor. Such a request must be received by the Board at least 10 days before the election, in which case the Board, after preliminarily determining the employee's eligibility to vote, shall provide the employee with a ballot to be subrified to the Election Supervisor by mail. To be counted, an absentee ballot must be received by the Election Supervisor at least one day before the ballot count. The Election Supervisor shall establish procedures to permit an absentee ballot to be challenged.

(c) The employer shall submit to the Board and to all other parties a list of all employees eligible to vote in the election not later than ten (10) days before the commencement of the election balloting. Employees whose names do not appear on the list but who believe they are eligible to vote may cast ballots through the challenged ballot procedure set forth in Rule 2.21 below.

2.16 Pre-election Conference. At a reasonable time at least fifteen (15) days before the election, the Board or its agent shall conduct a pre-election conference with all parties to resolve such details as the polling location(s), the use of manual or mail ballots or both, the hours of voting, the number of observers permitted, and the time and place for counting the ballots. The Board shall notify all parties of the time of place of the pre-election conference, at least five (5) days in advance of the conference. The conference may proceed in the absence of any party. The Board will attempt to achieve agreement of all parties on the elections details, but in the absence of agreement, shall determine the details. In deciding the polling location(s), the use of manual or mail ballots or both, and the hours of voting, the primary criterion shall be an attempt to maximize the opportunity for participation in the election by employees in the bargaining unit. There shall be a strong preference for on-site balloting.

2.17 Notice of Election.

(a) The Board shall issue and serve on the parties a notice of election setting forth all of the details of the election, as described in Rule 2.16 above, no later than ten (10) days before the election. The notice of election shall also describe the bargaining unit whose members are eligible to vote and shall describe the challenged ballot procedure. The notice shall include a sample ballot.

(b) The Board shall provide a sufficient number of copies of the notice of election to the employer so that the employer may post a notice of election in all lounges or common areas frequented by unit employees and in all places where notices to employees are commonly posted. The employer shall post the notices in all such areas at least seven (7) days before the election and shall take reasonable measures to assure that they are not removed, covered, altered or defaced.

2.18 Ballots and Voting.

(a) All voting shall be by secret ballot approved by the Board. Position on the ballot shall be determined randomly. Ballots in an initial election shall include a choice of "no representation".

(b) All elections shall be conducted by the Board or its agent.

(c) Any voter who arrives at a polling area before the polls close will be permitted to vote.

(d) Employees in the voting unit shall be allowed sufficient time away from their duties to cast their ballots, and employees who have been selected as election observers shall be allowed sufficient time away from their duties to serve as observers. This rule does not impose on the employers an obligation to change the work schedule of employees to accommodate voting hours.

2.19 Electioneering. No electioneering shall be permitted within 50 feet of any room in which balloting is taking place.

2.20 Observers. Each party shall be entitled to an equal number of observers to observe and assist in each polling area, and to witness the counting of ballots. The Board has complete discretion to determine the number of observers. Representatives of the parties in addition to the observers may observe the counting of the ballots. Observers shall not be supervisory or managerial employees or labor organization employees.

2.21 Challenged Ballots.

(a) Any party to an election, through its observer, or the Board or election supervisor, may challenge the eligibility to vote of any person who presents himself or herself at the polls, and shall state the reason for the challenge. The Board or election supervisor shall challenge any voter whose name does not appear on the list of employees eligible to vote.

(b) The Board or election supervisor shall furnish "challenge envelopes". On the outside of each challenge envelope, the Board or election supervisor shall write the name and job classification of the challenged voter, the name of the party making the challenge, and the reason for the challenge.

(c) Following the voting and before the votes are counted, the Board or election supervisor shall attempt to resolve the eligibility of challenged voters by agreement of the parties. The ballots of challenged voters who are agreed eligible shall be mixed with the ballots and counted.

(d) Challenged ballot envelopes containing unresolved challenged ballots shall not be opened, and the challenges shall not be investigated, unless, after the other ballots are counted, the challenged ballots could be determinative of the outcome of the election.

(e) If the challenged ballots could be determinative of the outcome of the election, the Board or election supervisor shall declare the vote inconclusive; shall, as soon as possible, investigate the challenged ballots to determine voter eligibility; and shall issue a report thereon or a notice of hearing within fifteen (15) days of the election. Any party may request Board review of the Election Supervisor's report.

(f) Following resolution of determinative challenged ballots, the Board or election supervisor shall count the ballots of voters found to be eligible, adding the results to the results of the earlier count and issuing a revised tally of ballots.

2.22 Tally of Ballots. Immediately following the counting of ballots, the Board or election supervisor shall serve a tally of ballots upon one representative of each party. The tally shall show the number of votes cast for each labor organization listed on the ballot, the number of votes cast for no labor organization, the number of challenged ballots, and the percentage of employees in the unit who cast ballots. The tally shall also state whether the results are conclusive, and, if so, what the conclusive vote is. If the tally shows that fewer than sixty percent (60%) of the employees in the unit voted, or that the choice of "no representation" received 50% or more of the valid votes cast, then the tally shall reflect that no collective bargaining representative was selected.

2.23 Run-off Elections. In an election where there are three or more choices on the ballot, if no ballot choice receives a majority of the valid votes cast, and at least sixty percent (60%) of eligible voters voted, the Board shall set a run-off election in which voters will be permitted to cast ballots for the two choices that received the highest number of votes. A new tally shall be issued and served following the counting of the votes of a re-run election. A run-off election must be conducted within the fifteen (15) day policy period following completion of the initial election.

2.24 Certification. If no objections are filed pursuant to Rule 2.25, below, then within ten (10) days following service of the final tally, the Board shall issue a certification of representative, showing the name of the labor organization selected and setting forth the bargaining unit, or a certification of results, showing that no labor organization was selected as bargaining representative.

2.25 Objections. Within five (5) days following the service of a tally of ballots, a party may file objections to conduct affecting the results of the election. The Board shall

schedule a hearing on the objections within thirty (30) days of the filing of such objections. The hearing shall follow the same procedures set forth in Rule 2.11 (b), Rule 2.12, and 2.13 above. If the Board finds that the objections have merit and that conduct improperly interfered with the results of the election, then the results of the election may be set aside. The Board may order a new election to be held. In that event, the Board in its discretion may retain the same period for determining eligibility to vote as in the election that was set aside, or may establish a new eligibility period for the re-run election.

2.26 Amendment of Certification. A petition for amendment of certification may be filed at any time by an exclusive representative or an employer to reflect such a change as a change in the name of the exclusive representative or of the employer, or a change in the affiliation of the labor organization. The Board shall dismiss such a petition within thirty (30) days of its filing if the Board determines that it raises a question concerning representation. If the Board finds sufficient facts to show that the amendment should be made, after giving all parties notice and an opportunity to submit their views, the Board shall issue an amendment within thirty (30) days of certification.

2.27 Unit Clarification.

(a) Where the circumstances surrounding the creation of an existing collective bargaining unit are alleged to have changed sufficiently to warrant a change in the scope and description of that unit, or a merger or realignment of previously existing bargaining units represented by the same labor organization, either the exclusive representative or the employer may file with the Board a petition for unit clarification.

(b) Upon the filing of a petition for unit clarification, the Board shall set the matter for hearing within thirty (30) days of the filing of the petition. In the hearing, the Board shall determine whether a question concerning representation exists and, if so, shall dismiss the petition.

(c) If the Board determines that no question concerning representation exists and that the petitioned-for clarification is justified by the evidence presented, the Board shall issue a report within thirty (30) days of the hearing clarifying the unit. If the Board determines that a question concerning representation exists, it shall dismiss the petition.

2.28 Accretion.

(a) The exclusive representative of an existing collective bargaining unit, or the employer, may petition the Board to include in the unit employees who do not belong, at the time the petition is filed, to any existing bargaining unit, who share a community of

interest with the employees in the existing unit, and whose inclusion in the existing unit would not render that unit inappropriate.

(b) If the number of employees in the group sought to be accreted is less than ten percent (10%) of the number of employees in the existing unit, the Board shall presume that their inclusion does not raise a question concerning representation requiring an election, and the petitioner may proceed by filing a unit clarification petition under these rules. Such a unit clarification petition, to be processed, must be accompanied by a showing of interest demonstrating that no less than sixty percent (60%) of the employees in the group sought to be accreted wish to be represented by the exclusive representative as part of the existing unit. No group of employees may be accreted to an existing unit without an election if the Board determines that such group would constitute a separate appropriate bargaining unit.

(c) If the number of employees in the group sought to be accreted is greater than ten percent (10%) of the number of employees in the existing unit, the Board shall presume that their inclusion raises a question concerning representation, and the petitioner may proceed only by filing a petition for an election under these rules. Such a petition, in an accretion situation, must be accompanied by a showing of interest demonstrating that no less than sixty percent (60%) of the employees in the group sought to be accreted wish to be represented by the exclusive representative as part of the existing unit.

2.29 Petition Withdrawal. The petitioner in a representation proceeding may request permission of the Board to withdraw the petition at any time prior to an initial election. The Board may grant such a withdrawal request only after soliciting the positions of all parties and, in its discretion, may decline to approve the withdrawal request.

III. PROHIBITED PRACTICES PROCEEDINGS

3.1 Commencement of Case.

(a) A prohibited practices case shall be initiated by filing with the Board a complaint. The complaint shall set forth, at a minimum, name, address, and phone number of the public employer, labor organization, or employee against whom the complaint is filed (the respondent) and of its representative if known; the specific section of the ordinance claimed to have been violated; the name address, and phone number of the complainant; a concise description of the facts constituting the asserted violation; and a declaration that the information provided is true and correct to the knowledge of the

complaining party. The complaint shall be signed and dated, filed with the Board, and served upon the respondent.

(b) When an individual employee files a prohibited practices complaint alleging a violation of Section 16 or Section 17 of the Labor Management Relations Ordinance an interpretation given to the collective bargaining agreement by the employer and the exclusive representative shall be presumed correct.

3.2 Limitation Period. Any complaint filed more than sixty (60) days following the conduct claimed to violate the Labor Management Relations Ordinance, or more than sixty (60) days after the complainant either discovered or reasonably should have discovered such conduct, shall be dismissed.

3.3 Filing of Answer. Within fifteen (15) days after service of a complaint, the respondent shall file with the Board and serve upon the complainant its answer admitting, denying or explaining each allegation of the complaint. For purposes of this rule, the term "allegation" shall mean any statement of fact or assertion of law contained in a complaint. No particular form is required either to state allegations or to answer them. **If a** respondent in its answer admits or fails to deny an allegation of the complaint, the Board may find the allegation to be true. If a respondent fails to file a timely answer the Board shall serve on the parties a determination of violation by default based upon the allegations of the complaint and any evidence submitted in support of the complaint.

3.4 Screening and Hearing.

(a) Upon receipt of a complaint, the Board shall screen the complaint for facial adequacy. If the complaint is facially deficient, the Board shall advise the complainant of the deficiency and give the complainant an opportunity to amend the complaint within five (5) days. Absent an amendment curing a basically deficient complaint, the Board shall dismiss the complaint, stating the reasons in writing and serving the dismissal on the parties.

(b) After screening a complaint, the Board shall dismiss the complaint or set a hearing within thirty (30) days of the filing of the complaint. A hearing shall be scheduled within forty-five (45) days of the filing of the complaint. If a hearing is scheduled, the Board shall serve notice on the parties. At the Board hearing the complainant shall have the burden of proof and the burden of going forward with the evidence. The complainant may withdraw the complaint at any time prior to hearing without approval by the Board. After commencement of the hearing, the complaint shall not be withdrawn or settled

without the approval of the Board. The Board, in its discretion, may examine witnesses, call witnesses, or call for the introduction of documents. The Board shall issue their decision within twenty (20) days of the hearing.

(c) If a complainant fails timely to produce evidence in support of its complaint pursuant to the Board's request, or fails to produce evidence that in the Board's opinion is sufficient to support the allegations of the complaint, the Board shall request the complainant to withdraw the complaint within five (5) days and, absent such withdrawal, the Board shall dismiss the complaint stating the Board's reasons in writing and serving the dismissal on all parties.

3.5 Briefs. The filing of post-hearing briefs may be permitted on the same basis as provided by Rule 2.12 above for briefs in representation cases.

3.6 Administrative Agency Deferral. Where the Board becomes aware that a complainant had initiated another administrative or legal proceeding based on essentially the same facts and raising essentially the same issues as those raised in the complaint, the Board may take any of the following actions, at the Board's discretion:

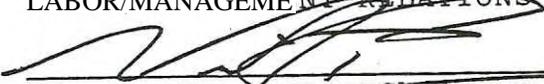
(a) The Board may hold the proceedings under the policy in abeyance pending the outcome of the other proceeding.

(b) The Board may go forward with its own proceeding. In so doing, the Board may request that the other proceedings be held in abeyance pending outcome of the Board proceeding.

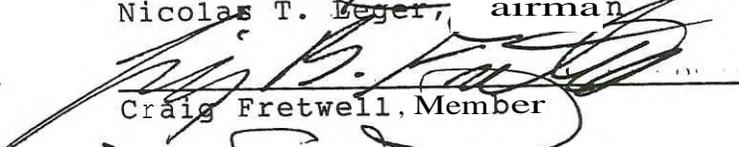
(c) In the event that the resolution of the proceedings in such other forum is contrary to the policy, or all issues raised before the Board are not resolved, the Board may proceed under the provisions of Part 111 of these rules.

Adopted this 30, day of August, 1995.

LABOR/MANAGEMENT RELATIONS BOARD:



Nicolas T. Leger, airman



Craig Fretwell, Member



Gilbert ESTITEZIT Member

Purchase Req. No. F4-0056"/
Account No. 167C

NOTICE OF PUBLIC HEARING AND
INTENT TO ADOPT LABOR/MANAGEMENT RELATIONS BOARD
RULES AND REGULATIONS

Notice is hereby given that the Labor/Management Relations Board of the City of Las Vegas, NM, will conduct a public hearing on Wednesday, August 30, 1995 at 9:00 a.m. in the City Council Chambers, 1700 North Grand Avenue to consider public input and determine whether to adopt The Labor/Management Relations Board Rules and Regulations. Due to the length of the Rules and Regulations, only the title and sub-section titles are published herein. The complete Rules and Regulations are available for inspection in the Office of the City Clerk, 1700 North Grand Avenue during regular business hours.

LABOR/MANAGEMENT RELATIONS BOARD
RULES AND REGULATIONS

Sub-sections and Titles:

- I. GENERAL PROVISIONS
 - 1.1 Definitions
 - 1.2 Computation of Time
 - 1.3 Filing with the Board
 - 1.4 Representation of a Party
 - 1.5 Ex Parte Communications
 - 1.6 Disqualification
 - 1.7 Motion to Disqualify
 - 1.8 Records of Proceedings
 - 1.9 Notice of Hearing
 - 1.10 Evidence Admissible
 - 1.11 Misconduct
 - 1.12 Subpoenas
 - 1.13 Exchange of Documents and Lists of Witnesses
 - 1.14 Ownership and Confidentiality of Showing Interest
 - 1.15 Burden of Proof
 - 1.16 Motions and Responses to Motions
 - 1.17 Service

- 1.18 Testimony of Board Agents
- 1.19 Form of Papers
- 1.20 Closing of Cases
- 1.21 Publication of Board Decisions
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11. REPRESENTATION PROCEEDINGS

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- 2.25 Objections
- 2.26 Amendment of Certification
- 2.27 Unit Clarification
- 2.28 Accretion
- 2.29 Petition Withdrawal

III. PROHIBITED PRACTICES PROCEEDINGS

- 3.1 Commencement of Case

- 3.2 Limitation Period
- 3.3 Filing of Answer
- 3.4 Screening and Hearing
- 3.5 Briefs
- 3.6 Administrative Agency Deferral

CITY OF LAS VEGAS:


Carmen Gonzales, Clerk

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