

10-7E-9. Board; powers and duties.

A. The board or a local board shall promulgate rules necessary to accomplish and perform its functions and duties as established in the Public Employee Bargaining Act, including the establishment of procedures for:

- (1) the designation of appropriate bargaining units;
- (2) the selection, certification and decertification of exclusive representatives; and
- (3) the filing of, hearing on and determination of complaints of prohibited practices.

B. The board or a local board shall:

- (1) hold hearings and make inquiries necessary to carry out its functions and duties;
- (2) conduct studies on problems pertaining to employee-employer relations; and
- (3) request from public employers and labor organizations the information and data necessary to carry out the board's or the local board's functions and responsibilities.

C. The board or a local board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence or documents relating to the matter in question. The board or a local board may prescribe the form of subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The board or a local board may administer oaths and affirmations, examine witnesses and receive evidence.

D. The board or a local board shall decide issues by majority vote and each shall issue its decisions in the form of written orders and opinions.

E. The board or a local board may hire personnel or contract with third parties as each deems necessary to assist it in carrying out its functions and each may delegate any or all of its authority to those third parties, subject to final review of the board or local board.

F. The board or a local board each has the power to enforce provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the board or local board.

G. Local board rules shall conform to the rules adopted by the board and shall not be effective until approved by an order of the board. On good cause shown, the board may approve rules proposed by a local board, which rules vary from rules of the board. All rules promulgated by a local board shall comply with state law. A rule promulgated by the board or a local board shall not require, directly or indirectly, as a condition of continuous employment, a public employee covered by the

Public Employee Bargaining Act to pay money to a labor organization that is certified as an exclusive representative.

H. The board shall maintain current versions of its rules and current versions of the rules of each local board on a publicly accessible website. That website shall also include a current listing of the members of the board and the members of each local board. Each local board shall notify the board, within thirty days of revisions of its rules or changes in its membership, of any such revisions of its rules or changes in its membership.

History: [Laws 2003, ch. 4, § 9](#); [2003, ch. 5, § 9](#); [2020, ch. 48, § 4](#).

ANNOTATIONS

The 2020 amendment, effective July 1, 2020, provided certain powers and duties to local labor boards, and revised certain powers and duties of the public employee labor relations board; added "or a local board" or "and local board" after each occurrence of "board" throughout the section; in Subsection E, after "functions", added "and each may delegate any or all of its authority to those third parties, subject to final review of the board or local board"; in Subsection F, after "administrative remedies", added "actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the board or local board"; in Subsection G, added the first three sentences of the subsection, and deleted "The issue of fair share shall be left a permissive subject of bargaining by the public employer and the exclusive representative of each bargaining unit."; and added Subsection H.

Retroactive application of statute of limitations. — The six-month limitation period enacted by 11.21.3.9 NMAC, effective March 15, 2004, did not apply retroactively to bar the plaintiff's claim of breach of the plaintiff's union's duty of fair representation that the plaintiff first became aware of in 2002 and which the plaintiff filed on March 22, 2004. *Akins v. United Steel Workers of Am.*, [2009-NMCA-051](#), [146 N.M. 237](#), [208 P.3d 457](#), *aff'd*, [2010-NMSC-031](#), [148 N.M. 442](#), [237 P.3d 744](#).