

This is an amendment to 11.21.5 NMAC, Sections 12 and 13 effective 2/11/2020.

Statute citations throughout the rule were corrected to conform to correct legislative styles.

11.21.5.12 REVIEW OF LOCAL BOARD APPLICATIONS BY THE BOARD:

A. Upon receiving an application for approval of a local board ordinance, charter amendment, or resolution the board shall conduct an administrative review of the application and, at a properly noticed public meeting or hearing, shall formally approve or disapprove the application. Public notice of such meetings or hearings shall be provided as required by law.

B. In considering an application for approval of a local board ordinance, charter amendment, or resolution, the board shall review all applications for approval of ~~[local boards]~~ such ordinance, charter amendment or resolution, in light of the requirements of Section 10 of the Act and 11.21.5 NMAC. The board shall require that the ordinance, resolution or charter amendment creating the local board be amended as necessary in order to meet the requirements of Section 10 of the Act and 11.21.5 NMAC, and to be approved.

C. Upon a finding that the application for the local board ordinance, charter amendment, or resolution meets statutory and regulatory requirements, the board shall approve such application and remand to the local board once it is duly appointed, any proceedings held in abeyance. The PELRB retains jurisdiction over all matters abated pursuant to 11.21.5.11 NMAC until such time as a local board created pursuant to an approved ordinance, resolution or charter amendment is duly appointed and functioning. If within 60 days following approval of an application under this rule the local board is not duly constituted or, if after being duly constituted fails to meet regarding any remanded issues or to promulgate rules necessary to accomplish and perform its functions as established in Section 11 of the Act, or if it fails to act on or respond to a filing by an employee organization or public employer or public employee within a reasonable time, or otherwise acts in a manner inconsistent with the precedent of the public employee labor relations board, the board's approval shall be revoked in accordance with 11.21.5.14 NMAC below and this board shall exercise its jurisdiction over any matters that, but for the application, would be subject to the Act. The decisions and findings of the board in any such matter shall be binding on the local board, the public employer, the employee organization or public employee consistent with the provisions of Subsection A of Section 10 of the Act.

D. In the event ~~[that]~~ an application demonstrates that the local board ordinance, charter amendment, or resolution does not meet the standards of Section 10 of the Act and 11.21.5 NMAC, the application shall be rejected and returned to the public employer. Thereupon, the public employer shall have a period of the balance of the 45 calendar days, or an additional 10 days from receipt of notice of rejection, whichever is later, in which to make such changes as are necessary to qualify for approval and resubmit its application. After the expiration of time in which an application may be resubmitted any matters then pending before the board relevant to that public employer shall be processed in accordance with the board's procedures.

[11.21.5.12 NMAC - N, 3/15/2004; Rn, 11.21.5.14 NMAC & A, 2/28/2005; A, 2/11/2020]

11.21.5.13 POST APPROVAL REPORTING REQUIREMENTS: Following board approval of a local board, the local board or the public employer that created it shall file with the board ~~[and]~~ any amendments to the ordinance, resolution, or charter amendment, creating the local board and timely respond to any inquiries by this board or its staff made pursuant to Section 9 of the Act. Upon a finding by the board that the local board no longer meets the requirements of Section 10 of the act, the local board shall be so notified and be given a period of 30 days to come into compliance or prior approval shall be revoked.

[11.21.5.13 NMAC - N, 3/15/2004; Rn, 11.21.5.15 NMAC & A, 2/28/2005; A, 2/11/2020]