

This is an amendment to 11.21.1 NMAC, Section 7 effective 8/9/2022.

11.21.1.7 DEFINITIONS:

A. Statutory definition: The terms defined in Section 10-7E-4 NMSA 1978, shall have the meanings set forth therein.

B. Additional definitions: The following terms shall have the meanings set forth below.

(1) “**Act**” means the New Mexico Public Employee Bargaining Act, Sections 10-7E-1 through 10-7E-26 NMSA 1978 including any amendments to that statute.

(2) “**Amendment of certification**” 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.

(3) “**Certification of incumbent bargaining status**” shall mean a procedure whereby a labor organization recognized by a public employer as the exclusive representative of an appropriate bargaining unit on June 30, 1999 petitions the board for a declaration of bargaining status under Subsection B of Section 10-7E-24 NMSA 1978. or after a local board certifying the representative ceases to exist by operation of Section 10-7E-10 NMSA 1978 (2020).

(4) “**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 director.

(5) “**Challenged card**” means a card or other showing of interest submitted pursuant to Sections 11 or 23 of 11.21.2 NMAC, that the director or a party to the case alleges does not meet the requirements of 11.21.2.11 NMAC.

~~(5)~~ **(6)** “**Complainant**” means an individual, labor organization, or public employer that has filed a prohibited practices complaint.

~~(6)~~ **(7)** “**Delivering a copy**” as it pertains to service or filing of pleadings or other documents means: (1) handing it to the board, to its agent(s), to opposing counsel or unrepresented parties; (2) sending a copy by facsimile or electronic submission in accordance with 11.21.1.10 NMAC or 11.21.1.24 NMAC; (3) leaving it at the board’s, opposing attorney’s or party’s office with a clerk or other person in charge thereof; or (4) if the attorney’s or party’s office is closed or the person to be served has no office, leaving it at the unrepresented person’s dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

~~(7)~~ **(8)** “**Director**” means the director of the public employee labor relations board.

~~(8)~~ **(9)** “**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.

~~(9)~~ **(10)** “**Electronic submission**” means the filing of a pleading or other document with the board using the electronic system established by the PELRB, service by the parties, or email communications.

~~(10)~~ **(11)** “**On a form prescribed by the director**” as used in these rules pertaining to the filing of documents with the board, shall include the electronic data submitted by use of any interactive form posted for that purpose on the board’s website.

~~(11)~~ **(12)** “**Probationary employee**” for state employees shall have the meaning set forth in the State Personnel Act and accompanying regulations; for other public employees, other than public school employees, it shall have the meaning set forth in any applicable ordinance, charter or resolution, or, in the absence of such a definition, in a collective bargaining agreement; provided, however, that for determining rights under the PEBA non-state employees a public employee may not be considered to be a probationary employee for more than one year after the date of hire by a public employer. If otherwise undefined, the term shall refer to an employee who has held that position, or a related position, for less than six months.

~~(12)~~ **(13)** “**Prohibited practice**” means a violation of Section 10-7E-19, 10-7E- 20 NMSA 1978 or Subsection A of Section 10-7E-21 NMSA 1978.

~~[(13)]~~ **(14)** “**Representation case**” or “**representation proceeding**” means any matter in which a petition has been filed with the director requesting a certification or decertification election, or an amendment of certification, or unit clarification.

~~[(14)]~~ **(15)** “**Respondent**” means a party against whom a prohibited practices complaint has been filed.

~~[(15)]~~ **(16)** “**Rules**” means the rules and regulations of the board (these rules), including any amendments to them.

~~[(16)]~~ **(17)** “**Unit accretion**” means the inclusion in an existing bargaining unit of employees who do not belong to any existing bargaining unit, who share a community of interest with the employees in the existing unit, and whose inclusion will not render the existing unit inappropriate.

~~[(17)]~~ **(18)** “**Unit clarification**” means a proceeding in which a party to an existing lawful collective bargaining relationship petitions the board to change the scope or description of an existing bargaining unit; a change in union affiliation; to consolidate existing bargaining units represented by the same labor organization; or to realign existing bargaining units of employees represented by the same exclusive representative into horizontal units, where the board finds the unit as clarified to be an appropriate bargaining unit and no question concerning, representation arises.

~~[(18)]~~ **(19)** “**Unit inclusions or exclusions**” means the status of an individual, occupational group, or group of public employees in clear and identifiable communities of interest in employment terms and conditions and related personnel matters, as being within or outside of an appropriate bargaining unit based on factors such as supervisory, confidential or managerial status, the absence thereof, job context, principles of efficient administration of government, the history of collective bargaining, and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act. [11.21.1.7 NMAC - N, 3/15/2004; A, 2/28/2005; A, 10/16/2018; A, 7/1/2020; A, 8/9/2022]