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**NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING**

October 22, 2019
9:30 a.m.

Red River Conference Center
101 W. River Street
Red River, New Mexico 87558

1. At 9:30 a.m., the meeting was convened. Board members present were:

Chief Thomas Romero, Vice Chairman
Sheriff Adan Mendoza
Chief Tim Johnson
Chief Clayton Garcia
Sergeant Hollie Anderson
Connie Monahan

John Kreienkamp, Assistant Attorney General and counsel to the Commission, delivered an inservice legal training and update for the members of the Board. Subjects addressed by Mr. Kreienkamp were: Legal Representation and the Office of the Attorney General, the Open Meetings Act, the Inspection of Public Records Act, rulemaking and the State Rules Act, and the Governmental Conduct Act, ethics, and confidentiality. The presentation itself is attached to these minutes. Board Member Bobbie Jean Green arrived for the meeting at approximately 10:15 a.m. The training lasted from 9:30 AM until approximately 11:15 a.m., at which time the meeting was paused for a break.

The remainder of the meeting, which resumed at 11:43 a.m., is transcribed as follows:

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NEW MEXICO LAW ENFORCEMENT ACADEMY

REGULAR BOARD MEETING

October 22, 2019

11:43 a.m.

Red River Conference Center

101 W. River Street

Red River, New Mexico 87558

REPORTED BY: Jan A. Williams, RPR, NM CCR 14

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BOARD MEMBERS PRESENT

New Mexico Attorney General Hector
Balderas, Chairman

Chief Thomas Romero, Vice Chairman

Sheriff Adan Mendoza

Chief Tim Johnson

Chief Clayton Garcia

Sergeant Hollie Anderson

Connie Monahan

Bobbie Jean Green

BOARD MEMBERS ABSENT

Rick Tedrow, Esq.

ALSO PRESENT

Kelly Alzaharna, Director

Brian Coss, Deputy Director

John Kreienkamp, Esq.

Monica Medrano, Case Manager

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1 P R O C E E D I N G S

2 ITEM NO. 2: CALL TO ORDER/ROLL CALL

3 CHIEF ROMERO: Good morning. We would like
4 to call this meeting to order of the New Mexico Law
5 Enforcement Academy regular Board meeting.

6 And at this time I would like to ask Monica,
7 if you would please take roll.

8 MS. MEDRANO: Attorney General Hector
9 Balderas.

10 (No response.)

11 MS. MEDRANO: Robert Tedrow.

12 (No response.)

13 MS. MEDRANO: Chief Tim Johnson.

14 CHIEF JOHNSON: Yes, ma'am.

15 MS. MEDRANO: Sheriff Adan Mendoza.

16 SHERIFF MENDOZA: Present.

17 MS. MEDRANO: Chief Clayton Garcia.

18 CHIEF GARCIA: Present.

19 MS. MEDRANO: Chief Thomas Romero.

20 CHIEF ROMERO: Present.

21 MS. MEDRANO: Sergeant Hollie Anderson.

22 SERGEANT ANDERSON: Present.

23 MS. MEDRANO: Ms. Connie Monahan.

24 MS. MONAHAN: Yes, ma'am.

25 MS. MEDRANO: Dr. Bobbie Jean Green.

1 DR. GREEN: Present.

2 CHIEF ROMERO: Okay. We do have a quorum to
3 proceed.

4 ITEM NO. 3: APPROVAL OF AGENDA

5 CHIEF ROMERO: The next item on the agenda is
6 to talk about the approval of the agenda. We would
7 like to recommend making some changes before approval.
8 I'll turn it over to counsel to kind of explain what
9 we're going to do.

10 MR. KREIENKAMP: Members of the Board, just
11 to allow us to be productive in the time before the
12 A.G. arrives, I might recommend moving up disciplinary
13 matters on the agenda to take place before new
14 business. So in between meeting minutes and new
15 business. I think that would be sufficient.

16 CHIEF ROMERO: Okay. Based on that
17 recommendation, do I have a motion to approve the
18 agenda as modified?

19 MS. MONAHAN: I move to approve the agenda as
20 amended.

21 SHERIFF MENDOZA: Second.

22 CHIEF ROMERO: I have a motion and a second
23 to approve the agenda as modified. All those in favor
24 please say aye.

25 (The Board Members voted unanimously.)

1 CHIEF ROMERO: Okay. Thank you.

2 ITEM NO. 4: APPROVAL OF MEETING MINUTES

3 CHIEF ROMERO: The next item is approval of
4 the meeting minutes for September 9, 2019. If you
5 want to approve those, I would entertain a motion.

6 CHIEF JOHNSON: I'll make a motion to approve
7 the minutes.

8 CHIEF ROMERO: Okay. We have a motion to
9 approve the minutes. Do I have a second?

10 SHERIFF MENDOZA: Second.

11 CHIEF ROMERO: I have a motion and a second
12 to approve the meeting minutes from September 9, 2019.
13 All those in favor please say aye.

14 (The Board Members voted unanimously.)

15 CHIEF ROMERO: Okay. We have approval.

16 ITEM NO. 11: DANIEL BALDING TO ADDRESS THE BOARD
17 REGARDING IMMEDIATE SUSPENSION

18 CHIEF ROMERO: So the next item on our agenda
19 as modified is Mr. Daniel Balding who seeks to address
20 the Board regarding immediate suspension. Is
21 Mr. Balding present? Mr. Balding? And he is not.

22 CHIEF JOHNSON: Could he be outside?

23 CHIEF ROMERO: Let us check real quick and
24 make sure.

25 DEPUTY DIRECTOR COSS: No, sir.

1 CHIEF ROMERO: Okay. That being the case,
2 then I would like to move on the agenda and would
3 entertain a motion that the Board go into closed
4 executive session to discuss only those matters listed
5 on the agenda under executive session pursuant to NMSA
6 1978 10-15-1(H)(1), (3), and (7). I'll entertain a
7 motion for that.

8 MS. MONAHAN: I move to enter into closed
9 session as outlined in your paragraph.

10 CHIEF ROMERO: Okay. We have a motion. Do I
11 have a second?

12 CHIEF GARCIA: Second.

13 CHIEF ROMERO: We have a motion and a second
14 to move into closed session to discuss those items
15 listed under executive session pursuant to the
16 statute. And we need a roll call, correct?

17 MR. KREIENKAMP: Yes, sir.

18 CHIEF ROMERO: And if we could have a roll
19 call vote, please.

20 MS. MEDRANO: Chief Tim Johnson.

21 CHIEF JOHNSON: Yes, ma'am.

22 MS. MEDRANO: Sheriff Adan Mendoza.

23 SHERIFF MENDOZA: Yes.

24 MS. MEDRANO: Chief Clayton Garcia.

25 CHIEF GARCIA: Yes.

1 MS. MEDRANO: Chief Thomas Romero.

2 CHIEF ROMERO: Yes.

3 MS. MEDRANO: Sergeant Hollie Anderson.

4 SERGEANT ANDERSON: Yes.

5 MS. MEDRANO: Ms. Connie Monahan.

6 MS. MONAHAN: Yes.

7 MS. MEDRANO: And Dr. Bobbie Jean Green.

8 DR. GREEN: Yes.

9 CHIEF ROMERO: For the record the Board is
10 now in closed session. Other than those we would ask
11 to remain, we will excuse all others from the room,
12 please.

13 (Recess.)

14 ITEM NO. 23: RETURN TO OPEN SESSION; ACTION ON
15 MATTERS DISCUSSED IN CLOSED SESSION

16 CHIEF ROMERO: Welcome back, everybody. The
17 Board is now in open session.

18 I affirm that, while in closed session, it
19 discussed only those matters specified in the motion
20 and listed on the agenda under executive session in
21 accordance with NMSA 1978 Section 10-15-1(H).

22 At this time we are on agenda item No. 11,
23 Daniel Balding. Do I have a motion from the Board?

24 CHIEF JOHNSON: I'll need to abstain, sir.

25 CHIEF ROMERO: Okay. We have one abstention.

1 And do I have a motion from the Board?

2 SHERIFF MENDOZA: Mr. Vice Chair, I will
3 motion to uphold the immediate suspension for
4 Mr. Daniel Balding.

5 CHIEF ROMERO: Okay. We have a motion. Do I
6 have a second?

7 MS. MONAHAN: I will second that.

8 CHIEF ROMERO: Okay. We have a motion and a
9 second regarding Mr. Daniel Balding. All those in
10 favor please say aye.

11 (The Board Members voted unanimously.)

12 CHIEF ROMERO: Any opposed? And any
13 abstaining?

14 A.G. BALDERAS: I'll abstain.

15 CHIEF ROMERO: So we have two abstaining.

16 ITEM NO. 12: ALEJANDRO M. ALBA

17 CHIEF ROMERO: Agenda item No. 12, Alejandro
18 Alba. Do I have a motion from the Board?

19 SERGEANT ANDERSON: Yes. I'll move to
20 suspend certification one-year from today's date.

21 CHIEF ROMERO: Okay. We have a motion on
22 Mr. Alejandro Alba. Do I have a second?

23 DR. GREEN: I second.

24 CHIEF ROMERO: Okay. I have a motion and a
25 second regarding Alejandro Alba. All those in favor

1 please say aye.

2 (The Board Members voted unanimously.)

3 CHIEF ROMERO: Any opposed? Any abstentions?

4 CHIEF JOHNSON: Me.

5 A.G. BALDERAS: I abstained.

6 CHIEF ROMERO: Two. Okay. The motion
7 passes.

8 ITEM NO. 13: MICHAEL C. AGUIRRE

9 CHIEF ROMERO: Moving on to agenda item
10 No. 13, Michael Aguirre, do I have a motion?

11 CHIEF JOHNSON: Sir, I make a motion to
12 revoke his certification.

13 CHIEF ROMERO: Okay. We have a motion. Do I
14 have a second?

15 SHERIFF MENDOZA: I'll second that motion.

16 CHIEF ROMERO: I have a motion and a second
17 regarding Michael Aguirre. All those in favor please
18 say aye.

19 (The Board Members voted unanimously.)

20 CHIEF ROMERO: Any opposed? Any abstaining?

21 A.G. BALDERAS: I'll abstain.

22 CHIEF ROMERO: One abstained. The motion
23 carries.

24 ITEM NO. 14: CHARLES A. BOYLSTON

25 CHIEF ROMERO: Moving on to agenda item

1 No. 14, Charles Boylston, do I have a motion from the
2 Board?

3 SHERIFF MENDOZA: Mr. Vice Chair, I'll motion
4 for a one-year suspension from today's date for
5 Mr. Charles Boylston.

6 CHIEF ROMERO: Okay. I have a motion
7 regarding Mr. Charles Boylston. Do I have a second?

8 MS. MONAHAN: I will second.

9 CHIEF ROMERO: I have a motion and a second
10 regarding Charles Boylston. All those in favor please
11 say aye.

12 (The Board Members voted unanimously.)

13 CHIEF ROMERO: Any opposed? Any abstaining?

14 A.G. BALDERAS: I'll abstain.

15 CHIEF JOHNSON: Tim Johnson.

16 CHIEF ROMERO: Okay. Two. The motion does
17 carry.

18 ITEM NO. 15: BOBBY BROOKHOUSER, SR.

19 CHIEF ROMERO: Next is agenda item No. 15,
20 Bobby Brookhouser, Sr. Do I have a motion from the
21 Board?

22 CHIEF GARCIA: I make a motion to revoke.

23 CHIEF ROMERO: Okay. I have a motion
24 regarding Bobby Brookhouser, Sr., to revoke his
25 certification. Do I have a second?

1 SERGEANT ANDERSON: I'll second.

2 CHIEF ROMERO: I have a second. All those in
3 favor please say aye.

4 (The Board Members voted unanimously.)

5 CHIEF ROMERO: Any opposed? Any abstaining?

6 A.G. BALDERAS: I'll abstain.

7 CHIEF ROMERO: The motion does carry.

8 ITEM NO. 16: DUSTIN FLORES

9 CHIEF ROMERO: Agenda item No. 16, Dustin
10 Flores. Do I have a motion from the Board?

11 SERGEANT ANDERSON: Yes, sir. I'll move to
12 revoke Dustin Flores' certification.

13 CHIEF ROMERO: Okay. I have a motion for
14 revocation. Do I have a second?

15 MS. MONAHAN: I'll second that.

16 CHIEF ROMERO: And I have a second. All
17 those in favor please say aye.

18 (The Board Members voted unanimously.)

19 CHIEF ROMERO: Any opposed? Any abstaining?

20 A.G. BALDERAS: I'll abstain.

21 CHIEF ROMERO: The motion carries.

22 ITEM NO. 17: FILIBERTO HERRERA

23 CHIEF ROMERO: Next we'll move on to item 17,
24 Filiberto Herrera. Do I have a motion?

25 DR. GREEN: I'll make a motion to revoke.

1 CHIEF GARCIA: Okay. We have a motion to
2 revoke certification on Filiberto Herrera. Do I have
3 a second?

4 MS. MONAHAN: I will second.

5 CHIEF ROMERO: And I have a second. All
6 those in favor please say aye.

7 (The Board Members voted unanimously.)

8 CHIEF ROMERO: Any opposed? Any abstaining?

9 A.G. BALDERAS: I'll abstain.

10 CHIEF JOHNSON: Tim Johnson.

11 CHIEF ROMERO: Two abstaining. And the
12 motion carries.

13 ITEM NO. 18: JOSHUA MALECKI

14 CHIEF ROMERO: Agenda item No. 18, Joshua
15 Malecki. Do I have a motion from the Board?

16 SHERIFF MENDOZA: Mr. Vice Chair, I will move
17 for revocation for Mr. Joshua Malecki.

18 CHIEF ROMERO: Okay. I have a motion. Do I
19 have a second?

20 DR. GREEN: I second.

21 CHIEF ROMERO: Okay. I have a motion and a
22 second from Dr. Green for revocation. All those in
23 favor please say aye.

24 (The Board Members voted unanimously.)

25 CHIEF ROMERO: Any opposed? Any abstaining?

1 A.G. BALDERAS: I'll abstain.

2 SERGEANT ANDERSON: I'll abstain.

3 CHIEF ROMERO: Okay. Two abstaining. And
4 the motion does carry.

5 ITEM NO. 19: MAXWELL MICHANCZYK

6 CHIEF ROMERO: Agenda item No. 19, Maxwell
7 Michanczyk. Do I have a motion from the Board?

8 CHIEF JOHNSON: I'll make a motion for a
9 three-year suspension to his certification.

10 CHIEF ROMERO: And when is that effective?

11 CHIEF JOHNSON: Today.

12 CHIEF ROMERO: From today. I have a motion.
13 Do I have a second?

14 SERGEANT ANDERSON: I'll second.

15 CHIEF ROMERO: Okay. I have a motion and a
16 second. All those in favor please say aye.

17 (The Board Members voted unanimously.)

18 CHIEF ROMERO: Any opposed? Any abstaining?

19 A.G. BALDERAS: I'll abstain.

20 CHIEF ROMERO: The motion carries.

21 ITEM NO. 20: JONAS PADILLA

22 CHIEF ROMERO: We'll move on to agenda item
23 No. 20, Jonas Padilla. Do I have a motion from the
24 Board?

25 CHIEF GARCIA: I make a motion for

1 revocation.

2 CHIEF ROMERO: Okay. I have a motion for the
3 revocation of the certification of Jonas Padilla. Do
4 I have a second?

5 MS. MONAHAN: I will second.

6 CHIEF ROMERO: And I have a second. All
7 those in favor please say aye.

8 (The Board Members voted unanimously.)

9 CHIEF ROMERO: Any opposed? Any abstaining?

10 A.G. BALDERAS: I'll abstain.

11 CHIEF JOHNSON: Tim Johnson.

12 CHIEF ROMERO: Two abstaining. And the
13 motion carries.

14 ITEM NO. 21: GARY SMITH

15 CHIEF ROMERO: Next is agenda item No. 21,
16 Gary Smith. Do I have a motion from the Board?

17 SHERIFF MENDOZA: Mr. Vice Chair, I move to
18 revoke for Mr. Gary Smith.

19 CHIEF ROMERO: Okay. I have a motion for
20 revocation of the certification for Gary Smith. Do I
21 have a second?

22 DR. GREEN: I'll second.

23 CHIEF ROMERO: I have a motion and a second
24 for revocation on Gary Smith. All those in favor
25 please say aye.

1 (The Board Members voted unanimously.)

2 CHIEF ROMERO: Any opposed? Any abstaining?

3 A.G. BALDERAS: I'll abstain.

4 CHIEF JOHNSON: Tim Johnson.

5 CHIEF ROMERO: Okay. Two abstaining. The
6 motion carries.

7 ITEM NO. 22: MATTHEW DAVIS

8 CHIEF ROMERO: Next is agenda item No. 22
9 regarding Matthew Davis. Do I have a motion from the
10 Board?

11 CHIEF GARCIA: I make a motion to dismiss.

12 CHIEF ROMERO: Okay. I have a motion to
13 dismiss regarding agenda item No. 22, Matthew Davis.
14 Do I have a second?

15 SERGEANT ANDERSON: I'll second.

16 CHIEF ROMERO: Okay. I have a motion and a
17 second to dismiss on Matthew Davis. All those in
18 favor please say aye.

19 (The Board Members voted unanimously.)

20 CHIEF ROMERO: Any opposed? Any abstaining?

21 A.G. BALDERAS: I'm abstaining.

22 CHIEF ROMERO: Bear with us a moment.

23 ITEM NO. 5: CHAIR'S REPORT

24 A.G. BALDERAS: Good afternoon, everybody.

25 I'd like to take us back to item No. 5 on the

1 agenda, the Chairman's report. I believe at the last
2 meeting we briefly addressed the idea of biennium
3 training. And there was a question as to the proper
4 requirements and also the database that stores this
5 information.

6 And I just wanted to briefly comment on the
7 progress related to law enforcement compliance with
8 this requirement and also ask our gracious Director to
9 provide a time frame for an up-to-date report for
10 further agency compliance.

11 I wanted to address concerns that had been
12 raised, especially for new Board Members, in regards
13 to the validity of the process for issuing law
14 enforcement certifications by the Director.

15 Currently it's the Director's responsibility
16 to ensure all paperwork is completed for the
17 applicants that are requesting certification.

18 We as a Board do ratify this process. But we
19 rely on the certification and the documentation as
20 presented here to the Board. And we rely upon
21 verification of successful completion by the New
22 Mexico Law Enforcement Academy Board.

23 And especially we rely upon, in our duty as
24 an oversight body, that there is a verification of
25 basic police training and the entire curriculum and

1 program and the skills brought in relation to this
2 training and other comparable training which is part
3 of the program.

4 Once the Director has certified that all the
5 prerequisites have been satisfied, the Board then
6 provides the final approval, an award of certification
7 through a ratification process, which we then provide
8 a vote in a public body and in public meeting.

9 And all the applicants participate in this
10 process. And once they complete the necessary
11 training and this ratification process is complete,
12 they then have the necessary credentials to become a
13 law enforcement officer.

14 To ensure that there is no ambiguity or
15 misunderstanding moving forward in the process, the
16 Board will now and continue to work with counsel to
17 resolve this issue to ensure that, if there are ways
18 we can improve this process, that we will bring a
19 solution forward for future Board discussion at a
20 future date.

21 I want this Board to know, especially for new
22 Board Members, that we have been extensively
23 researching this process to ensure that, if there's
24 any question as to the law, the process, or the
25 approach, both from the Law Enforcement Academy

1 Board's perspective or our role as Board Members, and
2 if there are any gaps in ways we can improve this
3 process, that we will bring these recommendations
4 forward to this Board for recommendation or
5 improvement, either through a rulemaking, Board
6 approval, or through administrative improvements.

7 And I want you to all know that we've started
8 that dialogue. It was at the suggestion of staff and
9 some dialogue at the last couple of meetings.

10 Citizens had begun to continually question
11 the ratification and certification and insinuate that
12 there was somewhat of a lack of reliability in the
13 process or that there might be some form of
14 inaccuracy.

15 And I want these Board Members who serve with
16 us to have complete confidence. But also know that,
17 if there is an error in the certification, that we're
18 all committed to ensuring that we would identify any
19 errors and rectify those at once; and that we
20 transparently would bring those errors to the
21 attention of each and every Board Member that serves
22 on this Board.

23 Are there any questions as to the brief
24 update in the Chairman's report on this issue?

25 MS. MONAHAN: I appreciate you talking about

1 it. Thank you, sir.

2 A.G. BALDERAS: Okay. And I thought I would
3 take the liberty to bring it up a little bit in the
4 Chairman's report that from one perspective, from the
5 Chairman's discretion, that I take my Chairman's
6 discretionary executive authority very seriously.

7 And so any time someone questions that, I
8 welcome the question and the critique. But I take the
9 inference that the LEAB might be certifying or that we
10 might be voting on a ratification process that might
11 not be reflecting compliance with law very seriously.
12 And I actually take it very personally as Attorney
13 General.

14 So we've been researching. It's not to say
15 that the legislature or the balance between committee,
16 executive agency, and individual Board Member
17 oversight doesn't have gray areas.

18 But as far as we know, in looking at the law,
19 we're looking for ways to improve the process is how
20 I'm giving guidance at this point. That's not to say
21 that the process could not be challenged. It could be
22 challenged. Anybody or any thing can get sued at any
23 point.

24 One of my goals as Chairman is to mitigate
25 litigation. And I'm very proud. When I inherited the

1 Board, we were always getting sued. And we don't get
2 sued, number one.

3 And number two, we're very transparent. We
4 always welcome input. And I always want to improve.
5 But I don't want to just upend the LEAB or reinvent
6 processes because of the stability, if there are not
7 errors.

8 And then thirdly, I'm only starting the
9 conversation. I don't run the Chairman's role with an
10 iron fist. Obviously there is an evolution of your
11 own leadership as you develop and have ideas and you
12 want to take this Board in a different direction.

13 I welcome your input. And if you want to
14 change the way we approach our governance and the way
15 we ratify and certify our officers' credentials, I
16 would welcome it upon recommendation and conversation
17 with the LEAB.

18 That is our role. We are responsible for
19 training and discipline of officers across the State
20 of New Mexico. But I would love to take this Board in
21 the direction that you all want to go as it relates to
22 that process. So I don't get rattled by people who
23 question the process. But I would rather us go in a
24 direction that you all want to go.

25 As far as I can tell, the delicate balance

1 between ratification and certification is fairly
2 solid. But as an elected leader, I would always
3 welcome that we could get better. I guess that's kind
4 of where we're at on that issue at this point. Anyway
5 that's the first issue.

6 The second issue that I leave open for this
7 Board to ponder for future improvement is that
8 delicate balance between officer safety and citizen
9 safety as it relates to the type of curriculum that
10 the LEAB delivers.

11 And the area that I would like to leave the
12 Board thinking about moving forward and an area that I
13 would like to suggest that the curriculum could
14 improve a little bit -- it doesn't necessarily require
15 us to vote or change anything.

16 But that I would encourage that the LEAB
17 already has the curriculum to evolve is in the area of
18 the interaction between law enforcement officers or
19 school resource officers and special needs students,
20 specifically special education students.

21 The cognitive understanding of a special
22 education student might be a little bit different than
23 the type of citizen that might be dealing with other
24 type of behavioral health issues.

25 And I would welcome working and I think this

1 Board would be welcome in a leadership role on a lot
2 of school campuses.

3 There's been now two incidents in Farmington
4 and Espanola that have involved a tasing incident and
5 a use-of-force incident, where the Farmington Police
6 had to discharge an officer recently.

7 But I've noted that there's a lot of
8 interest. But I think the LEAB as an organization and
9 this Board can probably play a leadership role.

10 And so I would welcome this Board to think
11 about maybe ways that you would like us to advance
12 that dialogue and how we can improve a greater
13 understanding so that we support our officers in the
14 community.

15 And also advancing the responsibility that
16 other stakeholders have in how they engage officers to
17 improve officer safety and student safety as it
18 relates to specifically special needs students.

19 I looked at the curriculum the other day.
20 And it seems like the curriculum could be modernized a
21 little bit in that new niche area, which would be
22 better understanding of special education students at
23 the adolescent level.

24 So like an 11-year-old who is behaving a
25 certain way autistically might look like they're being

1 disruptive to an officer's command, but that might be
2 very -- might be perceived differently.

3 Anyway I'm rambling now. But that might be a
4 great opportunity. So that seems to be an area that's
5 consistent with our priority here to advance officer
6 safety.

7 I think that is it as far as the Chairman's
8 report. Any questions as to interest in pursuing that
9 topic area a little bit more in the community?

10 SHERIFF MENDOZA: I would just like to
11 comment that I think that it is important. And, you
12 know, maybe the LEA Board can look at different
13 curriculums even with school resource officers and
14 make sure that they're getting the Advanced Training
15 that's not offered in the Academy.

16 And we wouldn't want to reinvent the wheel.
17 But I think it's also important to engage the public
18 school system, because there's two players here.
19 There's law enforcement and there's the public school
20 system.

21 And each entity has their own
22 responsibilities for how they give that information to
23 the officers responding and how the officers respond
24 when they get that information. So I think it's kind
25 of a dual system here. But I'm hoping for a

1 discussion on ideas on how we can approach that.

2 A.G. BALDERAS: That's a great point.

3 Actually we were talking about that. But with your
4 recommendation we will actually ask the Secretary of
5 Public Education to get involved on that. Appreciate
6 the feedback.

7 Any other questions on that topic?

8 CHIEF ROMERO: Mr. Chair, I would just echo
9 the Sheriff's sentiments. We're very clear to our
10 officers that there's a difference between our
11 responsibilities and our roles as police officers and
12 school resource officers and that of the schools and
13 making sure they understand that there are going to be
14 behavioral issues. And that's what we need to work
15 more on, de-escalation and working with these kids,
16 communicating with them.

17 So I think it is important that we identify
18 the roles that are involved and the officer's role
19 with a disruptive child to be more of just
20 safeguarding the child as opposed to wanting to do
21 enforcement, the typical enforcement. So I think it
22 is important to look at that.

23 A.G. BALDERAS: Thank you.

24 DR. GREEN: Mr. Chairman, I would say thank
25 you for the vision. And I also have a question. Does

1 the State have the resources to hire mental health
2 professionals to work with law enforcement in a
3 partnership capacity?

4 A.G. BALDERAS: That's a great question.
5 Matt.

6 MR. BACA: Mr. Chair, Members of the Board,
7 my name is Matt Baca. I'm senior counsel to the
8 Attorney General. You know, the question of resources
9 is always a difficult one. And obviously the Members
10 of the Board can speak better to how they both
11 experience that or could see those resource
12 allocations increase in their individual departments.

13 Part of the discussion that we're having for
14 the A.G.'s side of it and what we can bring to the
15 work of the Board and the community is certainly a
16 push for legislative attention to this in the function
17 of appropriation and the commitment to really putting
18 those resources forward to make policy ideas like this
19 actually come to life.

20 A.G. BALDERAS: I think this Board will
21 probably want at least a larger role -- at least what
22 I'm hearing in some of the feedback here is this Board
23 can be very influential on at least -- if there are
24 funding deficits that would indirectly help law
25 enforcement agencies in the community, especially if

1 the growing pattern or the future trends are that at
2 some point school sites may request law enforcement
3 assistance.

4 And there needs to be better communication
5 shared with law enforcement. And mental health
6 training at school sites would assist officers'
7 safety.

8 I don't want to be shy about requesting
9 adequate funding that would both enhance school safety
10 and law enforcement safety. I think that's an
11 appropriate role for us. And I think that we wanted
12 to, at the A.G. side at least, start that conversation
13 with appropriate stakeholders.

14 I just thought the LEAB should have a chair
15 at the table, because at some point they always
16 involve officers, whether they include us or not.

17 I mean the police chief in Farmington was
18 indirectly thrust into that or the sheriff in Rio
19 Arriba was thrust into that debate most recently when
20 it involved those controversial cases anyway.

21 It sounds like you would be up to the task of
22 being available on that discussion. Yes. We would
23 love to advance the request for some of those kind of
24 things like mental health training. Great.

25 SERGEANT ANDERSON: Mr. Chair, to address

1 Dr. Green's statement, there is a program within the
2 Albuquerque Police Department right now, it's called
3 the Mobile Crisis Team, where they do have
4 psychiatrists or doctors that go out and they respond
5 to certain situations.

6 Maybe it's something that can be modeled
7 after something like that. It seems that they've
8 already kind of developed those resources. It's a
9 specific team that goes around the city.

10 And if they know that this particular person
11 is in need of other resources, kind of as a deterrent
12 to jail and different things, just identifying what
13 they actually need.

14 It kind of sounds like that could be a
15 resource that's already been developed, that you might
16 be able to ask the Mobile Crisis Team for Crisis
17 Intervention with APD to see how they obtain those
18 resources for that. Because it's already a
19 partnership of doctors and officers working together.

20 A.G. BALDERAS: Great. We'll follow up on
21 that.

22 So I just wanted to kind of let you all know
23 that we are at least in progress. Thank you. I don't
24 have anything else at this point on the Chairman's
25 report.

1 ITEM NO. 6: DIRECTOR'S REPORT

2 A.G. BALDERAS: We can now move to item
3 No. 6, the Director's report.

4 DIRECTOR ALZAHARNA: My first update today is
5 regarding our Academy updates. We had a Public Safety
6 Telecommunicator Class 144. We graduated 25 on
7 September 27, 2019. The NMLEA Police Officer Training
8 Class No. 199 is scheduled to graduate 44 this Friday,
9 October 25, from that Academy.

10 We have four basic police officer satellite
11 training academies who are scheduled to graduate
12 officers in December. And I'll give you an update on
13 those exact numbers and which academies they are at
14 our next meeting.

15 Curriculum update. We basically are working
16 with the curriculum. We have two revisions. Our
17 use-of-force lesson plans have been revised. Our
18 defensive tactics instructor classes or the defensive
19 tactics classes have been revised.

20 And so right now what we're doing is we have
21 four courses scheduled between now and early January
22 to get the defensive tactics instructors who are
23 already certified, give them an update in this new
24 training curriculum.

25 The scheduled dates for that are November 4

1 through 8; that is going to be in Santa Fe at our
2 Academy. November 18 through 22nd is going to be in
3 Farmington. December 16 through 20 is going to be in
4 Las Cruces, Dona Ana County Sheriff's Office. And
5 January 6 through 10 is going to be in Hobbs. So
6 those are the updates for the instructors on those
7 curriculums that we're working on right now.

8 Personnel update. I'll be honest. Our
9 staffing is -- we need help. And I'm not sure that
10 it's help anybody can give us. We're working on it.
11 It's just one of those situations. We have vacancies
12 and we're doing what we can to get them filled.

13 When I came on board, I was let know that
14 there were several people who had already let us know
15 that they were looking for employment elsewhere. And
16 those have come to fruition. We've had three leave
17 and move on to bigger and better things just since
18 I've been there, so in the last six weeks.

19 And where that leaves us right now is we have
20 four instructor vacancies. They are posted and the
21 hiring process is in process. So we're moving on, you
22 know. We can only move as fast as the process itself
23 from this point.

24 Our database manager had resigned. She gave
25 two weeks notice but basically gave us about three

1 working days notice. So she was the end all/be all
2 for the current database that we use to track all of
3 this information.

4 Deputy Director Coss has been volunteered and
5 has volunteered. He oversaw that position. So he's
6 doing the best he can. He had extensive knowledge but
7 not the day-to-day knowledge of business practices and
8 stuff. So he's handling that while we're working on
9 getting that position filled.

10 We have an administrative assistant whose
11 last position was October 4. We have another
12 administrative assistant position that was vacated.
13 Our PST, the telecommunicator coordinator, her last
14 day was this Friday.

15 And she did very well. She wrapped up this
16 last program that we had. And she set us up so that
17 the next telecommunicator academy is ready to go and
18 staffed. It could run itself. We have somebody
19 overseeing it. But we will still need to fill a
20 position that still oversees that program as it moves
21 on.

22 And we have three temp hires that we have
23 right now that are basically filling mostly our
24 administrative assistant positions at this point.
25 Their biggest project is just data entry.

1 Whether it's entering data as our academies
2 wrap up, our Advanced Training, our cert-by-waiver
3 classes, just the biennium training, all of that stuff
4 has to be entered into that database.

5 So those three temps are just doing that.
6 That's all they're doing. One of them is filling our
7 front office. So we actually have a face out front
8 and somebody who can pick up the phone when people
9 call.

10 So everybody has jumped on board and is doing
11 their best. But we know we're in critical mode right
12 now. I am preparing something. Most of the agencies,
13 if they have an issue, they're calling me.

14 And so I'm letting them know right off the
15 bat. And that seems to address the biggest concerns,
16 which is, you know, people just not getting a response
17 and not knowing why.

18 So we're putting it out there and talking to
19 people. If they've called and said, hey, I've
20 submitted this but don't have a response, it seems to
21 alleviate the problem that they actually get to talk
22 to a physical person and it's explained.

23 Everybody understands staffing shortages. So
24 they're being patient with us. So we're definitely
25 looking that that's going to be the future.

1 To wrap into that, our database is Acadis.
2 It's been -- Deputy Director, I just don't remember
3 the date. Two years roughly?

4 DEPUTY DIRECTOR COSS: Pretty close.

5 DIRECTOR ALZAHARNA: About two years from the
6 time we bought this and put it on board and know that,
7 once it's up and running, it's going to be an amazing
8 tool for us. What we have found is like anything,
9 data in and data out is what you get.

10 What I have found in my short time is one of
11 the reasons for the standstill on it is that IPRA --
12 and we've been told earlier, IPRA is creating a lot of
13 problems. One of the biggest things is that the way
14 we have always tracked information is not amenable to
15 the types of requests we are getting right now.

16 And just one example I can give you is we get
17 requests that say how many people are currently
18 certified or how many people with this agency have
19 done their biennium training. Well, we have always
20 tracked it, no matter how it was tracked, kind of in
21 the reverse.

22 Like biennium training, we get that
23 information because the agency heads send us a form,
24 basically an affidavit, that says, "I verify that
25 everybody in my agency has complied except." And so

1 if they have one person who doesn't have it, that's
2 the name we have.

3 So we have those forms. But if I get a
4 request, how many people in that agency have done it,
5 there's no mechanism to pull that out. We have to
6 reverse search it.

7 And we have to do it manually because we have
8 to look at that one name and then go look at that
9 agency. And that person may not even be with that
10 agency anymore.

11 So that is what's causing our biggest glitch
12 with giving what I call verifiable information. We
13 can produce it. But there are times we've looked at
14 it and said, well, I'm not sure this is not really
15 answering the question.

16 So part of that may be addressed in the
17 future by a rules change or a forms change. Instead
18 of having a form that says everybody has complied
19 except this person, we change the form to say you need
20 to list everybody who has complied and issues like
21 that. And on top of that, having the personnel to get
22 that information added as it comes in.

23 So that's an update on the database. It is a
24 wonderful database. It can do lots for us. If it was
25 up and running tomorrow with all of its capacity, it

1 would be the end all/be all. We just have to get
2 there with it. And we're working on it.

3 Case update. In the workshop earlier, you
4 had asked in a future meeting if we could give you
5 kind of an outline of what cases we have pending as we
6 move in. I can give you a tentative. We don't have
7 the spreadsheet here. But based on what we know, I
8 can give you some rough numbers, if that will help you
9 all with this particular meeting.

10 We roughly have 110 pending cases.
11 Thirty-one of those are in the A.G.'s Office and the
12 part of the process where they initiate or draft a
13 Notice of Contemplated Action for us.

14 Eighteen of them are ones that have come into
15 the office and are waiting -- I won't say necessarily
16 waiting for my review. If I've reviewed them, then
17 they are ready to move on to the next part of the
18 process. But they are at the basic, the beginning of
19 the process.

20 We have five pending a response to the Notice
21 of Investigation, where the Respondent had been
22 notified that an investigation has been initiated.
23 And we don't have a response back from them yet.

24 Six of them are pending oral response.
25 Pending which means they've been notified. They have

1 requested an oral response with me. So most likely a
2 date has been set and we're just waiting for that date
3 to come when we have the meeting with them.

4 Seven of them are pending the outcome of
5 court proceedings. So those are ones that really we
6 can't do anything about until that comes to fruition.

7 Four of them are pending a response to the
8 Notice of Contemplated Action. So the cases that we
9 looked at earlier today which were at the tail end,
10 these are the ones that they're within the time frame
11 that we're not sure. We don't have a response yet.
12 That time frame hasn't come.

13 Eleven of them we adjudicated at this Board
14 meeting. Eight of them we have formal hearings
15 already scheduled for. And 19 of them were in that
16 file where immediate suspensions were initiated and we
17 were pending to find out what the next step is. We
18 now know what that is and that will be initiated.

19 So that's rough. I had not planned on giving
20 you a rundown. But that's just what we know. At the
21 next meeting, we'll be able to have that spreadsheet.

22 MS. MONAHAN: Director, thank you very much
23 for having that so quickly.

24 DIRECTOR ALZAHARNA: You can thank Monica.

25 MS. MONAHAN: Thank you, Monica.

1 SHERIFF MENDOZA: Director, is there any way
2 that we could get -- maybe this is more specific to
3 the Chair. But an update in reference to the cases
4 that are pending within the A.G.'s Office and where
5 those are at and the time frames on those. I think
6 how many did you say?

7 MS. MONAHAN: Thirty-one.

8 SHERIFF MENDOZA: Thirty-one.

9 A.G. BALDERAS: Yeah, we can do that. Those
10 are in our Civil Division. You want to come up, Matt.

11 MR. BACA: Sure. Mr. Chair, Members of the
12 Board, and Sheriff, we'll be happy to send
13 correspondence on this either through the Director or
14 directly to the Board just to give an idea of where
15 they are in our process.

16 As the Attorney General and Director
17 mentioned, our Litigation Division handles those
18 administrative prosecutions. And the NCA is the first
19 step in the process. That's a long way of saying
20 we'll be happy to update that for you.

21 SHERIFF MENDOZA: Okay. Thank you.

22 A.G. BALDERAS: What would be most helpful in
23 terms of the type of update?

24 SHERIFF MENDOZA: I think my concern is, if
25 we've got 110 pending and 30 are in the Notice of

1 Contemplated Action, that's almost a quarter of them.
2 Where are they at time-wise as far as getting through
3 that process.

4 I don't think anybody here really cares about
5 the actual details. But is this 90 days out, 30 days
6 out, is it a 10-day thing. So is there a point where
7 it's going to come up for some type of action.

8 A.G. BALDERAS: I think what I'm hearing too,
9 can you talk to them a little bit and give us a couple
10 foreseeable outcomes. When they come to us, they're
11 in litigation. Why does it take so long?

12 MR. BACA: So by the time you're at the
13 Notice of Contemplated Action phase, you know, you are
14 preparing to bring formal action on behalf of the
15 Board. I mean it is the originating sort of pleading,
16 if you will.

17 So it gives an opportunity for the Board to
18 negotiate with the individual that is the target of
19 that investigation or of that contemplated action. So
20 at times it can be difficult for the attorney that
21 handles this particular Board to process those all
22 because really you're starting to get into the
23 substance of it. So that can cause some of that
24 backlog.

25 MR. KREIENKAMP: Mr. Chair, if I may. The

1 Board's previous counsel is now the Director of the
2 Litigation Division. And his name is Joe Dworak.

3 And when he took over the Litigation
4 Division, he has given them a 90-day goal from the
5 time that they receive a referral from the Board to
6 turn around with an NCA.

7 So during those 90 days, the prosecutor is
8 usually going to be contacting witnesses, making sure
9 that he has the evidence that he needs in order to be
10 able to actually prosecute that case. So that's
11 generally where those cases would be at this stage.

12 MR. BACA: I mean that's a general notion.
13 And like I said, you know, I'm sure the Attorney
14 General will authorize it. And obviously we would be
15 happy to at least give a rough estimate to the Board
16 of sort of where those are.

17 A.G. BALDERAS: When is our next meeting?

18 MR. BACA: December.

19 MS. MEDRANO: December 10.

20 A.G. BALDERAS: We could put Joe on the
21 agenda and have him kind of -- we'll give the Board a
22 full update. I guess to me too it would be helpful.

23 I guess what I was getting at is it would be
24 helpful for the Board to know how we approach the
25 timing of the cases also as it relates to the

1 workload. I think that's what the sheriff was getting
2 at.

3 MR. BACA: Absolutely. And I think, as
4 Mr. Kreienkamp mentioned, you know, there's a broad
5 divisional goal. Obviously we take into account the
6 facts and circumstances of every case.

7 So if there is something that is particularly
8 emergent or time sensitive, then obviously that would
9 be prioritized as you would do in any sort of work
10 setting. But the goal is to turn them around no
11 shorter than three months.

12 But to Mr. Kreienkamp's point, really at that
13 point you're building your case. You've got to ensure
14 that you've got all the appropriate evidence so that
15 by the time the NCA actually goes out, you're ready to
16 litigate the case first in front of this tribunal; and
17 then, if necessary, upon appeal in the district court.

18 SHERIFF MENDOZA: So maybe it's just the
19 ignorance of the process for myself. But are these
20 Notices of Contemplated Action always to the point of
21 revocation or are some of these suspensions? Is it
22 worth the time and effort in my opinion to put all
23 this work into something that could result in a
24 two-month suspension.

25 MR. KREIENKAMP: So keep in mind that the

1 cases that would be referred to the A.G.'s Office are
2 typically cases that the Director has either decided
3 not to try to resolve informally or through a
4 settlement agreement or something like that or a case
5 that warrants discipline, but the settlement
6 negotiations for whatever reason have failed. At that
7 point it would be referred.

8 But as today's disciplinary cases give you an
9 idea, once that Notice of Contemplated Action has been
10 sent out, those cases can certainly be resolved
11 through a suspension or a revocation. You know, they
12 do run the gamut there.

13 And even after the NCA has been issued, some
14 cases will resolve that way. And that's another
15 reason why it could be that some of these cases are at
16 the A.G.'s Office, because oftentimes the prosecutor
17 will reach out to the Respondent to try to resolve it
18 through a settlement agreement. So these cases can be
19 very diverse in terms of where they are in the
20 process.

21 SHERIFF MENDOZA: Okay. Thank you.

22 DIRECTOR ALZAHARNA: My final update is just
23 my activities since our last meeting. I spend a great
24 deal of time on IPRA requests, just the nature of what
25 they are or what they can be or what they may be in

1 the future. We're just getting tons and tons and tons
2 of them.

3 I'm not actually doing them. I'm asking that
4 they come to me if they're coming from outside.

5 Usually I'm going through DPS. And we've got that
6 down that, if they come to me, I've got staff that has
7 this historical knowledge and the background; that I
8 can get it to them, but I can also track the response.

9 Initially I think I was getting them and
10 there would be a cc to half the staff. And then I
11 couldn't keep track of whether or not we had actually
12 provided the information.

13 So now they are taking a lot of time.
14 They're not taking as much of my time because I'm
15 getting them delegated. And they're doing an awesome
16 job of getting me the information back so we can make
17 sure it goes to where it's supposed to go.

18 I have met with Board counsel, with John and
19 your past counsel, on that particular issue. John has
20 been wonderful. There have been processes that we've
21 done. But all of a sudden we go, yeah, we've got
22 these cases, let's say the immediate suspension cases,
23 that we followed what the rules said, this is what you
24 do, and then they just kind of stop; because there was
25 no other direction and rules or anything that tells

1 you, you know, is there any follow-up action.

2 So we've done that and I think moved forward
3 in a lot of areas. One of them was like on these
4 NCAs. Some of them were pending in their office
5 because they hadn't received the information they
6 thought they needed to move forward.

7 So one of the discussions we had was, okay,
8 what information do you need, what can our staff
9 provide initially, you know, that would save a lot of
10 time going back and forth. So I think that is going
11 to be productive in at least making our end move a lot
12 quicker.

13 I have a letter that I prepared for the
14 chiefs, the sheriffs, and our satellite academy
15 directors to just let them know what -- you know,
16 saying hi, here I am, this is what we're working on,
17 here is our staff. I got it all done.

18 I think I got it sent out to all the agencies
19 with an A. My next step is to get it sent out to the
20 Board just so you all know what I've sent out. I sent
21 it out to the sheriffs and the satellite directors
22 just to let people know that we're here and we're
23 doing stuff.

24 Finally I'm a member of an organization
25 called the International Association of Directors of

1 Law Enforcement Training and Standards. It's called
2 IADLEST. And it's an association of people who do
3 what I do. They're either post directors, so they
4 handle the standards and certification side of their
5 state, or they're academy directors.

6 And some states do it like we do, where it
7 falls under one position. Some states do it where
8 they have two separate. But they are an awesome
9 resource for what it is we do and what you all do as a
10 Board.

11 They've already been wonderfully responsive
12 on things as far as asking about staffing, how much
13 staff do you have to do what you're doing. And the
14 responses are still coming in. That helps me provide
15 information to you all as we move forward.

16 I can ask what they're doing, if they're
17 understaffed and what they're expecting. We're
18 looking at a possible job task analysis to help us
19 with curriculum development. And I bet I got 27 state
20 responses saying, hey, here is who we've had success
21 with, you know, save your time.

22 So I went to our regional meeting two weeks
23 ago. And it was -- I was glad to be back involved.
24 Because I went to the Western regional meeting which
25 is mostly the states in our area, Idaho, Nevada,

1 California, Arizona, all of that.

2 And I also found out that a lot of those
3 states are dealing with the same issues we are.
4 They're dealing with IPRA. Some of them are dealing
5 with things where they're following their rules, like
6 they have a compliance, you know, they're a compliance
7 agency, they're required to have so much training.

8 But they also find in their rules that, yeah,
9 you're supposed to do it. But if they don't, what are
10 you supposed to do. And guess what. We don't do
11 anything because we have no teeth.

12 So it's I won't say comforting. But it does
13 help to know that we're not the only ones dealing with
14 these issues. So it gives me a big resource and pool
15 of information to bring back to you all to say here is
16 what other people are doing, here are other options.

17 So we don't have to sit here and come up with
18 it ourselves. So that's the extent of my report for
19 the last several weeks. Thank you.

20 A.G. BALDERAS: Thank you. We appreciate it.

21 ITEM NO. 7: PUBLIC COMMENT

22 A.G. BALDERAS: We'll now move on to public
23 comment. Do we have anyone?

24 MS. MEDRANO: There is no one.

25 A.G. BALDERAS: Nobody drove all this way up

1 here?

2 ITEM NO. 8: APPROVAL OF ADDITIONS TO LIST OF
3 INDIVIDUALS ELIGIBLE TO SERVE AS HEARING OFFICERS ON
4 BOARD DISCIPLINARY CASES

5 A.G. BALDERAS: We'll move on to item No. 8,
6 the approval of the Hearing Officers.

7 DIRECTOR ALZAHARNA: I apologize. This was
8 on the draft agenda.

9 A.G. BALDERAS: No Robert here? Is Robert
10 here?

11 DIRECTOR ALZAHARNA: No. I don't believe
12 either of the candidates are here.

13 A.G. BALDERAS: That's okay. We'll move on.

14 DIRECTOR ALZAHARNA: I had to find out what
15 our process was for Hearing Officers. And I learned
16 that with our counsel, because it's different from
17 what I was used to. So if I get somebody who is
18 interested, what do I evaluate that based on, who can
19 be a Hearing Officer.

20 Mr. Tyler was evaluated. I believe the
21 Deputy Cabinet Secretary and Secretary are familiar
22 with him. And I have no concerns based upon his
23 resume and background.

24 But the second candidate who is on there, I
25 don't know what the proper procedure is to -- I'm not

1 recommending him at this point. I think there was a
2 misunderstanding. He is currently still a certified
3 officer actively working.

4 And I personally don't feel that's
5 appropriate, that he be a Hearing Officer for other
6 acting officers being up for misconduct. So the first
7 one is still up for a recommendation, Mr. Tyler. The
8 second one, I would request that he not be considered
9 at this time.

10 A.G. BALDERAS: As far as Pat, we can take
11 that under advisement and defer to you. And then upon
12 your recommendation I'll entertain a motion to approve
13 Mr. Tyler, if that's your recommendation at this time.

14 DIRECTOR ALZAHARNA: Yes, sir.

15 A.G. BALDERAS: She has included his resume
16 in our binders. Are there any questions at this time?

17 If there are no questions, I'll entertain a
18 motion to approve the Director's recommendation that
19 Mr. Tyler serve as a Hearing Officer. Is there a
20 motion?

21 CHIEF ROMERO: So moved.

22 A.G. BALDERAS: There is a motion to
23 entertain the Director's nomination and recommendation
24 that Mr. Tyler serve as a Hearing Officer. Is there a
25 second?

1 MS. MONAHAN: I second that.

2 A.G. BALDERAS: There is a second. All in
3 favor.

4 (The Board Members voted unanimously.)

5 A.G. BALDERAS: Any opposed?

6 Congratulations. The motion passes.

7 ITEM NO. 9: RATIFICATION OF CERTIFICATIONS FOR LAW
8 ENFORCEMENT OFFICERS

9 A.G. BALDERAS: We can now move on to item
10 No. 9, ratification of certifications for law
11 enforcement officers.

12 DIRECTOR ALZAHARNA: I don't know what the
13 proper wording for this is. This is my first one on
14 that. Basically what we have is an exhibit for the
15 list of certifications for ratification.

16 Under Exhibit A it's Certification
17 No. 19-0021-P through 19-0065-P. As a side note for
18 that, the letter that you see attached in that section
19 under your binder is a letter that I sent to Chief
20 Padilla with Santa Fe Police.

21 They contacted me to let us know that since
22 this class -- and I don't know why this class didn't
23 come up. This was an issue that came up prior to me
24 coming on board.

25 But normally we would run this process at the

1 next Board meeting following the graduation. But that
2 didn't happen with this class. And I believe
3 Mr. Mechels brought up a concern. I've seen bits and
4 pieces, I don't know the whole story.

5 But since it was on the agenda to be ratified
6 here, Santa Fe Police brought up that they had three
7 officers who were in that class, but their one-year
8 time frame from the date they had hired to the time
9 they were supposed to be certified would expire prior
10 to this Board meeting.

11 So per the NMAC I did a temporary
12 certification for those three officers, letting him
13 know that it was on the agenda for this meeting.

14 I purposely did the letter with the intent
15 that I knew it was going to be addressed today. And
16 if it wasn't, that temporary certification would
17 expire today. So that's why that letter was there. I
18 just wanted to let you know I had done that.

19 A.G. BALDERAS: Are those officers, Madam
20 Director, in Exhibit A?

21 DIRECTOR ALZAHARNA: Yes, sir.

22 A.G. BALDERAS: Okay. Great. Thank you.

23 I'll now entertain a motion to pass 19-0021-P all the
24 way through 19-0065 P, Exhibit A. Is there a motion?

25 SERGEANT ANDERSON: Mr. Chair, I'll move to

1 accept the certifications.

2 A.G. BALDERAS: Great. There is a motion to
3 move Exhibit A. Is there a second to that motion?

4 CHIEF JOHNSON: Second.

5 A.G. BALDERAS: All in favor.

6 (The Board Members voted unanimously.)

7 A.G. BALDERAS: Any opposed? The motion to
8 pass Exhibit A is successful.

9 ITEM NO. 10: RATIFICATION OF CERTIFICATIONS FOR
10 PUBLIC SAFETY TELECOMMUNICATORS

11 A.G. BALDERAS: We'll now move on.

12 DIRECTOR ALZAHARNA: Item No. 10 on the
13 agenda, ratification of certifications for public
14 safety telecommunicators. On Exhibit A we have
15 Certification Nos. 19-0057-PST through 19-0080-PST and
16 No. 04-0102-PS.

17 A.G. BALDERAS: Thank you. I'll entertain a
18 motion to pass Exhibit A, 19-0057-PST through
19 19-0080-PST and 04-0102-PS.

20 SHERIFF MENDOZA: Mr. Chair, I'll make a
21 motion for ratification of those certifications.

22 A.G. BALDERAS: Thank you for that motion.
23 Is there a second to that motion?

24 CHIEF JOHNSON: Second.

25 A.G. BALDERAS: There is a motion and a

1 second to approve 19-0057-PST through 04-0102-PS. All
2 in favor say aye.

3 (The Board Members voted unanimously.)

4 A.G. BALDERAS: Is there anyone in
5 opposition? The motion does pass for Exhibit A.

6 ITEM NO. 24: ADJOURNMENT

7 A.G. BALDERAS: I will entertain a motion for
8 adjournment. Is there a motion? No one wants to
9 adjourn.

10 MS. MONAHAN: We're having so much fun here.

11 CHIEF ROMERO: So moved.

12 A.G. BALDERAS: There is a motion to adjourn.
13 Is there a second?

14 MS. MONAHAN: I second.

15 A.G. BALDERAS: All in favor say aye.

16 (The Board Members voted unanimously.)

17 A.G. BALDERAS: Any in opposition? No. The
18 motion passes. Thank you all.

19 (The meeting was adjourned at 1:45 p.m.)

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1 REPORTER'S CERTIFICATE

2

3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
4 HEREBY CERTIFY that on October 22, 2019, the
5 proceedings in the above captioned matter were taken
6 before me, that I did report in stenographic shorthand
7 the proceedings set forth herein, and the foregoing
8 pages are a true and correct transcription to the best
9 of my ability.

10 I FURTHER CERTIFY that I am neither employed
11 by nor related to nor contracted with (unless excepted
12 by the rules) any of the parties or attorneys in this
13 case, and that I have no interest whatsoever in the
14 final disposition of these proceedings.

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JAN A. WILLIAMS, RPR
New Mexico CCR #14
License Expires: 12/31/19

Exhibit A

Certification #	Name	Type of Cert	Issue Date	Employing Agency
19-0021-P	Ilya Aksenov	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0022-P	Pablo Arreola	BPOT # 198	5/12/2019	Torrance County Sheriff's Office
19-0023-P	Stephen E. Barba	BPOT # 198	5/12/2019	Los Lunas Police Department
19-0024-P	Ryan Bartlett	BPOT # 198	5/12/2019	Rio Rancho Police Department
19-0025-P	Gabriel Blea	BPOT # 198	5/12/2019	Taos Police Department
19-0026-P	Santana Campos, Jr.	BPOT # 198	5/12/2019	Santa Rosa Police Department
19-0027-P	Fernando O. Cruz	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0028-P	Andrew L. Fillmore	BPOT # 198	5/12/2019	Belen Police Department
19-0029-P	Arron Garcia	BPOT # 198	5/12/2019	Roswell Police Department
19-0030-P	Hannah Goodman	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0031-P	Joey Graves	BPOT # 198	5/12/2019	Taos County Sheriff's Office
19-0032-P	Justin Gurule	BPOT # 198	5/12/2019	Rio Rancho Police Department
19-0033-P	Adrian C. Jacquez	BPOT # 198	5/12/2019	Hidalgo County Sheriff's Office
19-0034-P	Jonathan Kermode	BPOT # 198	5/12/2019	Roswell Police Department
19-0035-P	Dazanique Kidd	BPOT # 198	5/12/2019	Roswell Police Department
19-0036-P	Matthew J. Larreategui	BPOT # 198	5/12/2019	Rio Rancho Police Department
19-0037-P	Daniel J. Lopez	BPOT # 198	5/12/2019	Tucumcari Police Department
19-0038-P	Gabriel M. Martinez	BPOT # 198	5/12/2019	Taos Police Department
19-0039-P	Timo E. Molina	BPOT # 198	5/12/2019	Gallup Police Department
19-0040-P	Cesar Ornelas	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0041-P	Douglas Padilla	BPOT # 198	5/12/2019	Albuquerque Fire & Rescue
19-0042-P	Jacob Perry	BPOT # 198	5/12/2019	Roswell Police Department
19-0043-P	John R. Plowman	BPOT # 198	5/12/2019	Lordsburg Police Department
19-0044-P	Aaron Pool	BPOT # 198	5/12/2019	Santa Fe County Sheriff's Office
19-0045-P	Rodolfo Reyes-Vicente	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0046-P	Sean Riley	BPOT # 198	5/12/2019	Santa Fe County Sheriff's Office
19-0047-P	Wyatt S. Robinson	BPOT # 198	5/12/2019	Los Lunas Police Department
19-0048-P	Daniel Rodriguez, Jr.	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0049-P	Joe D. Rodriguez	BPOT # 198	5/12/2019	Socorro Police Department
19-0050-P	Fabian F. Rojo	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0051-P	Anthony Romero	BPOT # 198	5/12/2019	Los Lunas Police Department
19-0052-P	Luis Ruiz	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0053-P	Jeremie J. Salazar	BPOT # 198	5/12/2019	Lordsburg Police Department
19-0054-P	Miles Salmons	BPOT # 198	5/12/2019	Valencia County Sheriff's Office
19-0055-P	Alexander Schwerdel	BPOT # 198	5/12/2019	Torrance County Sheriff's Office
19-0056-P	Kedrin Sheppard	BPOT # 198	5/12/2019	Hidalgo County Sheriff's Office
19-0057-P	Kevin W. Smith	BPOT # 198	5/12/2019	Moriarty Police Department
19-0058-P	Enrique N. Valdez	BPOT # 198	5/12/2019	New Mexico EMNRD - State Parks
19-0059-P	Oscar Vasquez	BPOT # 198	5/12/2019	Albuquerque Fire & Rescue
19-0060-P	Donovan C. Velasquez	BPOT # 198	5/12/2019	New Mexico EMNRD - State Parks
19-0061-P	Aaron Vigil	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0062-P	Damian D. Vigil	BPOT # 198	5/12/2019	Santa Fe Police Department
19-0063-P	Ryan A. Villegas	BPOT # 198	5/12/2019	Los Lunas Police Department
19-0064-P	Jason R. Walley	BPOT # 198	5/12/2019	Gallup Police Department
19-0065-P	Preston W. Woods	BPOT # 198	5/12/2019	Alamogordo Police Department

Exhibit A

Certification #	First Name	Last Name	Type of Cert	Employing Agency
19-0057-PST	Miriam	Alvillar Garcia	PST #144	Ruidoso Police Department
19-0058-PST	David	Crespin	PST #144	Santa Fe Regional Emergency Communication Center
19-0059-PST	Letha	Dunn	PST #144	Tatum Police Department
19-0060-PST	ShyAnn	Garcia	PST #144	Espanola / Rio Arriba 911 Dispatch
19-0061-PST	Dustina	Lanz	PST #144	Sandoval County Regional Emergency Communications Center
19-0062-PST	Malia	Lessard	PST #144	Sandoval County Regional Emergency Communications Center
19-0063-PST	Ariana	Mancino	PST #144	Sandoval County Regional Emergency Communications Center
19-0064-PST	Angel	Marroquin	PST #144	Espanola / Rio Arriba 911 Dispatch
19-0065-PST	Valerie	Martinez	PST #144	Tesuque Tribal Police Department
19-0066-PST	Karissa	Ortiz	PST #144	Grant County Regional Dispatch
19-0067-PST	ShannonRae	Ortiz	PST #144	Las Vegas Police Department
19-0068-PST	Victor	Padilla	PST #144	Albuquerque Fire Rescue
19-0069-PST	Selena	Perea	PST #144	Valencia Regional Emergency Communications Center
19-0070-PST	Elsie	Ramirez	PST #144	New Mexico State Police - SOCOM
19-0071-PST	Nicole	Rede	PST #144	New Mexico State Police - SOCOM
19-0072-PST	Trevor	Robedeaux	PST #144	Mesilla Valley Regional Dispatch Authority
19-0073-PST	Jacklyne	Soto	PST #144	Ruidoso Downs Police Department
19-0074-PST	Jessica	Stanley	PST #144	Sierra County Regional Dispatch Authority
19-0075-PST	Angelica	Stockton	PST #144	Las Vegas Police Department
19-0076-PST	Travis	Tafoya	PST #144	New Mexico Institute of Mining & Technology Police Department
19-0077-PST	Torrez	Diane	PST #144	Las Vegas Police Department
19-0078-PST	Jason	Triplett	PST #144	Mesilla Valley Regional Dispatch Authority
19-0079-PST	Rhonda	Ward	PST #144	Regional Emergency Dispatch Authority
19-0080-PST	Monica	Yoshida	PST #144	New Mexico State Police - SOCOM
04-0102-PS	Theodore	King	PST #144	Albuquerque Fire Rescue



Office of New Mexico **Attorney General**



ANNUAL INSERVICE PRESENTATION

New Mexico Law Enforcement Academy Board

October 22, 2019

Presentation Overview

- Supplement to presentation at May meeting
 - Overview of critical legal issues
 - Mix of law and best practices
- Questions, please (only from Board members or staff)
 - Remember that we are in open session
- Outline:
 - Legal Representation and the Office of the Attorney General (OAG)
 - Open Meetings Act
 - Inspection of Public Records Act
 - Rulemaking
 - Governmental Conduct Act, ethics, and confidentiality



Office of the Attorney General

- Office Structure: Civil Affairs & Criminal Affairs
- Duty of the Attorney General includes “prosecute and defend all actions and proceedings brought by or against any state . . . board or commission” NMSA 1978, § 8-5-2(C).
- Open Government Division (OGD)
 - Represent approximately 80 state boards and commissions
 - Open Meetings Act (OMA) and Inspection of Public Records Act (IPRA)
 - Contract review
 - Draft Official Attorney General Opinions
 - Bill analysis
 - Other duties as assigned
- Litigation Division
 - Administrative prosecution for many boards
 - Defend judges and some governmental entities in lawsuits
 - Other litigation as needed



Role of Board Counsel

- Provide independent legal advice
 - Members of public body
 - Agents (staff) of Board as appropriate
 - Hearing officers
- Draft legal documents
- Represent public body in court or legal proceeding
- The OAG does NOT have:
 - An oversight role
 - Policy role separate from the board's
- Role of OAG is similar to any other attorney role – advise and represent the client's wishes and best interests



Attorney-Client Privilege

- Client = public body (members)
- The privilege protects “a confidential communication made for the purpose of facilitating or providing professional legal services to that client” (Rule 11-503 NMRA)
- Only current members of the board hold this privilege
 - May extend to staff only if there is an agency relationship
- Communications must be confidential
 - If you disclose, no privilege
 - If communication is not private, no privilege
 - Example: what I’ve said in this presentation is not privileged
 - Extends to meetings: closed session
 - Must maintain confidentiality after term is over



Role of Administrative Prosecutor

- Separate and distinct from general counsel
- Prosecute on behalf of the board/state
- Board refers case with request for prosecution
 - Prosecutor drafts charging document (NCA)
 - Prosecutorial independence and discretion
 - Obligations to *pro se* respondents
- Legal Residuum Rule and standard of evidence
 - Must have at least some admissible evidence (non-hearsay)
 - Must prove case by a “preponderance of the evidence”
- Limited relationship with Board members and staff
- Ex parte communications prohibited
- Questions?



OPEN MEETINGS ACT



Open Meetings Act (“OMA”)

NMSA 1978, Sections 10-15-1 to -4

- Critical for all boards and commissions
- OGD advises, trains, and enforces OMA
 - Complaints filed with our Office
 - Review and write determinations
 - Jurisdiction to file suit in court
 - Trainings across the state
- This is not a full OMA training
 - Welcome to attend or ask for a full training



OMA as Public Policy

- Legislative Intent:
 - Representative government depends on informed electorate
 - Public is entitled to greatest possible information about government affairs
- All meetings of a public body are public meetings, and anyone can attend
- Must make reasonable efforts to accommodate audio and video recordings
- No closed meetings (exceptions apply)



Who is subject to OMA?

- Very broadly applicable
 - Any board, commission, administrative adjudicatory body, or other policymaking body of any state agency or political subdivision
- Any public body that is policymaking (not advisory)
 - Does not apply to purely advisory bodies
 - Includes bodies that have delegated authority
 - Formulate a binding decision or action on behalf of the public body
 - Can't delegate authority to a committee to avoid OMA
- Any meeting of a quorum held to:
 1. Formulate public policy
 2. Discuss public business
 3. Take any action



Quorums

- For the Board, quorum is five (5) members
 - OMA applies to any meeting to conduct or discuss business with a quorum of members present
- Rolling quorums
 - Members not present together at same time and place
 - Separate conversations (in person, telephone)
 - Emails
 - Through staff, attorney, or third party



What is not subject to OMA?

- Meeting of less than quorum
- Discussions not related to public business
 - Social situations, chance encounters, or when business is not being discussed
- Public bodies can take steps to avoid appearance of violations
 - Avoid quorums
 - Email communications (use bcc feature)
 - Transparency



Meeting Notices

- Reasonable advance notice of all meetings
 - No secret meetings, even when a closed meeting
- All public bodies must determine what is “reasonable notice” for the body once per year
 - Adopt annual OMA resolution
- Notices must include:
 - Date, time, and location
 - Agenda (or how to obtain a copy)
- Provided to, at minimum:
 - Broadcast stations and newspapers of general circulation that make a written request for notice
 - Published or posted in place and manner accessible to the public
 - Other requirements found by the public body to be reasonable (determined in OMA resolution)



Types of Meetings and Deadlines

- **Regular Meetings**

- Notice = at least 10 days prior
- Agenda = at least 72 hours prior

- **Special Meetings**

- Notice = at least 3 days prior
- Agenda = at least 72 hours prior

- **Emergency Meetings**

- Only allowed if significant threat to public health, safety, or imminent and irreparable financial harm to public body
- Notice and agenda = 24 hours or less based on emergency



Agendas

- Notice must include agenda or how to obtain a copy
- Must contain a list of specific items of business
 - Must be reasonably specific
 - *Would someone be able to know what is to be discussed?*
 - Must include items of business to be discussed or acted on
 - *Announcements not included so long as not “substantive discussion”*
- No action may be taken unless listed on final agenda
 - Must be posted 72 hours in advance, including on website
 - Exception for emergency meetings
- “Public comment” is not required by OMA



Minutes

- Must keep minutes of all meetings
- At minimum, must include:
 - Date, time, and place
 - Names of members present *and* absent
 - Substance of proposals considered (does not need to be verbatim)
 - Record of each vote taken and how each member voted. Members should clearly indicate vote if they are dissenting
- Minutes are available for inspection (includes drafts)
- Draft must be prepared in 10 working days
- Must be considered at next meeting



Closed Session

- Closed = private, excludes the public
- Allowed at either a separate, closed meeting, or a closed session during an open meeting
- Must qualify for one of OMA's exceptions
 - Ten exceptions
 - Very limited
- Action (vote) must occur in open session
- Must follow proper procedures
- Closed session is permissive and NOT required



Closing an Open Meeting

- Requirements:
 - A motion citing:
 - legal authority for closure
 - AND
 - topic to be discussed with reasonable specificity
- A roll call vote
- Afterwards, need statement in open session confirming that the topics discussed were limited to those in the motion to close



OMA Exceptions

- Ten exceptions authorize closed session
 1. Licensing
 2. Limited Personnel Matters
 3. Deliberations for Administrative Adjudicatory Proceedings
 4. Personally Identifiable Student Information
 5. Collective Bargaining Strategy
 6. Certain Purchases Exceeding \$2,500
 7. Pending or Threatened Litigation
 8. Purchase, Acquisition or Disposal of Real Property/Water Rights
 9. Strategic & Long-Range Business Plans/Trade Secrets
 10. Certain Gaming Control Board Meetings



OMA Exceptions – (1) Licensing

- Covers discussions related to a particular license
 - Hearing must be public
 - Covers deliberations
 - Must be an individual license, not all licenses
- Final action takes place in open meeting
- Must still comply with the Uniform Licensing Act



OMA Exceptions – (3)

Administrative Adjudications

- Covers deliberations in connection with an administrative adjudicatory proceeding
 - brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing
- Hearing must be public unless otherwise provided by law
- Final action takes place in open meeting



OMA Exceptions – (7) Litigation

- Covers discussion of pending or threatened litigation
 - Must pertain to threatened or pending litigation
 - Public body is or may become a participant
- Only exception for attorney-client privilege



OMA Enforcement

- Attorney General and District Attorneys
- Private individuals
 - Written notice to public body required; public body has 15 days to act on alleged violation
 - Individual can recover reasonable costs & attorneys' fees
- Actions taken in violation of Act may be deemed invalid
 - Presumption: public body complied with OMA
- Criminal penalty: full misdemeanor and \$500 fine



OMA: Review and Best Practices

- Specificity in agendas is absolutely vital
- Avoid “rolling quorums”
 - Do not discuss public business with more than one other member
- Closed session is very limited
 - Only permissible if exemption applies
 - Permissive, not mandatory
 - Requires specific procedures
 - Action cannot take place in closed session



Related Issues

- Application of Roberts Rules – not required
 - Procedures by Chair or practice of Board
 - Motion practice
- Abstention vs. recusal vs. excusal
 - Abstention: voluntarily refraining from voting
 - Counts towards quorum
 - Recusal: self-removal from case because of bias
 - Family, personal, financial interest
 - Personal animosity or favoritism, prejudgment bias
 - Does NOT count towards quorum
 - Excusal: party forces a member's removal
 - May be peremptory (no reason) or for cause



INSPECTION OF PUBLIC RECORDS ACT



Inspection of Public Records Act (“IPRA”)

NMSA 1978, Sections 14-2-1 to -12

- Allows inspection, copying of public records
- Broadly written in favor of disclosure
- Contains specific requirements
- This presentation: extremely condensed
 - OGD enforces IPRA
 - Need to know information; NOT full training



IPRA as Public Policy

- Right to inspect “public records”
- Representative government = informed electorate
- Public is entitled to greatest possible information about government affairs
- Providing records is essential function of representative government and a duty of all public officers and employees



IPRA: “public record”

- “all documents, ..., photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or **held by or on behalf of any public body and relate to public business**, whether or not the records are required by law to be created or maintained”
- Examples: emails, photos, social media, texts
- Includes drafts
- Do NOT have to create a public record in response to a request



IPRA: Providing Records

- Almost always must provide the record
 - Unless there is a need to withhold and an exception applies
- Strict time limits
 - Acknowledge request: 3 business days
 - Provide records: 15 calendar days
 - Unless request is broad and burdensome
- Reasonableness is key
- All agencies have records custodians
 - Records custodian handles the request



IPRA: Redacting and Withholding

- Can redact information or withhold record entirely
 - For one of IPRA's exceptions
- Exceptions: several specific, one catch-all
 - Allow, do not require redacting or withholding
- Role of Board counsel and records custodian



IPRA: What the Board Should Know

- Your emails, documents, and texts are potentially subject to IPRA
 - If it relates to public business
- Records custodian will handle the request
- If you personally receive a request:
 - **Notify Board Administrator and attorney immediately**
 - IPRA has specific requirements for this situation
 - Forward the request to records custodian or Board Administrator promptly



ADMINISTRATIVE RULEMAKING PROCESS



Laws Generally

- Federal Laws
- State Constitution
- New Mexico Statutes Annotated (NMSA)
 - Passed by state legislature
- New Mexico Administrative Code (NMAC)
 - Administrative laws passed by certain officials, agencies, boards, and commissions
 - Must have statutory authority to promulgate rules
 - Limited in scope by statutory authority
 - Also called “rules” and “regulations” (all the same)



Rulemaking – Generally

- State Rules Act
 - NMSA 1978, § § 14-4-1 to -11
 - Sets requirements to adopt and amend rules
 - Written to allow public participation in rulemaking process
- Attorney General's Default Rule
 - Rule 1.24.25 NMAC
 - Governs all rulemaking unless agency has adopted its own rule that provide at least as much opportunity for public participation
 - Sets more requirements and clarifies procedures
- Uniform Licensing Act
 - NMSA 1978, § § 61-1-29 to - 32



Rulemaking – Process Overview

1. Discussion by board, committees, staff
2. Preliminary drafts of rules written and forwarded to AAG for review and edits
 - Usually by committee or staff
 - Must be forwarded to AAG with enough time to ask questions, review, edit
3. Updates or drafts may be provided to Board prior to final draft
4. Final draft proposal sent to full board to review
5. Initiation of formal rulemaking requires board vote
6. Notice provided to public of proposed rule and public hearing
7. Public comment for submitting written comment
8. Public rule hearing conducted to receive oral and written comment
9. Board reviews entire record and public comment, and adopts, amends, or rejects proposed rule
10. If adopted, rule sent to Records & Archives, published and provided to public



Rulemaking – Notice of Proposed Rule

- Notice Requirements:

1. Summary of full text
2. Short explanation of the purpose
3. Citation to the specific legal authority
4. Information on how copy can be obtained & link to full text
5. Information on how comments may be submitted
6. Information on public hearing and participation
7. Citation to technical information, if any, as basis for proposed rule



Rulemaking – Public Participation

- Public has right to participate in process and comment
- Notice to the public of proposed rules
 - In New Mexico Register at least 30 days prior to hearing
 - Sunshine Portal
 - On website and at agency's office(s)
 - Legislative Council Service
 - Anyone who has requested notice of rulemakings
- Public comment
 - Public can submit comments in writing before the hearing
 - Comments must be posted to agency website within 3 days
- Rule hearing
 - Either conducted by a hearing officer or by full board
 - Public can comment and submit evidence



Rulemaking – Adoption of Rule

- Agency may adopt, amend or reject proposed rule
- Amendments must fall within the scope of noticed rulemaking or new rulemaking may be required
- Concise Explanatory Statement
 - Required for any adopted rule, and must include reasons for adopting rule and reasons for not accepting changes proposed by public comment
 - Must be filed with adopted rule and provided to the public



GOVERNMENTAL CONDUCT ACT



Governmental Conduct Act: Ethics

- Government positions are a public trust and used only to advance the public interest, not to pursue private interests
- High standards of conduct to maintain integrity and discharge high responsibilities
- Full disclosure of real or potential conflicts of interest
- Requests or receipt of something of value in exchange for promised performance is a fourth degree felony



Governmental Conduct Act (“GCA”)

NMSA 1978, Sections 10-16-1 to -18

- Public service has high responsibilities
 - Requires integrity at all times
 - Public policy requires that officers and employees act only in public interest
- Includes prohibitions and requirements
- Enforced by Attorney General and District Attorneys



GCA: Prohibitions

- Cannot take official act to benefit yourself
 - Primary purpose of personal financial gain= felony offense
- No payments over \$100 for speech or service relating to public duties
 - Does not include per diem or expenses
- Cannot coerce another public officer or employee to participate in political causes



GCA: Other Conduct

- Prohibited from using or disclosing confidential information for private gain
- Must disclose outside employment
- Agencies may adopt own codes of conduct
 - Can be more strict than GCA
- Contracts with current employees or officers and direct family are prohibited unless:
 - Disclosed through public notice and
 - Awarded through competitive process
- Contracts involving former employees and officers are also restricted



Financial Disclosure Forms

- Applies to all public officers whose appointment is subject to Senate approval
 - Must submit financial disclosure form to Secretary of State
 - Must be submitted annually
- Required by the Financial Disclosure Act
- Form provided by Secretary of State
 - All sources of income over \$5,000
 - All real estate holdings beyond primary residence
 - Business interests over \$10,000
 - Other specific requirements



Ethics: Best Practices

- Disclose potential conflicts to staff and board counsel
 - Critical in disciplinary cases
- Avoid both real conflicts and the appearance of a conflict
- Be cautious in discussing Board business with the public
 - Difference between listening, sharing information
 - Sharing too much could lead to an allegation of bias
 - Keep closed session confidential



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