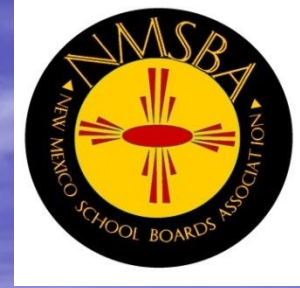




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# Laboring Through the Process of Collective Bargaining

NMSBA  
2016 School Law Conference  
June 3-4, 2016

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# Laboring Through the Process of Collective Bargaining

## I. The Union Organizing Process

- A. Card Check v. Election
- B. Organizing During Duty Time /Restricting Activities of Non-Employee Organizers
- C. Access to Mailboxes / Networks

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## II. The Negotiation Process

- A. Appointing the Negotiating Team
- B. Identifying Management Proposals
- C. Confidentiality
  - NMSA 1978 Section 10-15-1H(f) (Open Meetings Act)
  - NMSA 1978 Section 10-7E-17G (PEBA-Closed Meetings)
- D. Negotiating Ground Rules



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## III. The Scope of Bargaining

### A. Management Rights

- NMSA 1978 Section 10-7E-6 (Direct work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees; determine qualifications for employment ...)

### B. Past Practices

- "Zipper" Clauses

### C. Dues Deduction

### D. Reductions in Force

### E. "Bargaining: the impact of professional and instructional decisions made by the [Public School] Employer." NMSA 1978 Section 10-7E-17D

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## IV. Dispute Resolution

### A. Grievance Procedures

- Binding Arbitration – NMSA 1978 Section 10-7E-17F
- *14 Penn Plaza LLC v Pyett* - U.S. Supreme Court-5-4 Decision, April 1, 2009
- Board as final level of grievance process
  - CCSD v. CCEA, New Mexico Court of Appeals
    - June 21, 2016
    - Statutory Authority vs. CBA bargaining



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## – Prohibited Practices Complaints

- Broad use to address individual employment issues;
- Used in political process to influence local school board;
- Complaints against local superintendent

## – Election of Remedies

- What does your CBA say?
- HRB/EEOC
- PELRB

# Questions



- Thank you



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