

**MEETING MINUTES
BOARD OF PERSONNEL APPEALS
Zoom Meeting
Helena, Montana
9:00 a.m.
November 16, 2023**

Call to Order – Establish Quorum – Introduction of Board & Staff Members Present: (00:25)

Members Present via Zoom:

Brian Hopkins, Board Chair
Jenny Stringer, Management Member
Curtis Schomer, Alt Labor Member

Staff Present via Zoom:

Trisha Shupe, Board Secretary
Ben Williams, Attorney, Department of Labor and Industry
Wendy Jackson, Dispute Resolution Section Chief

Approval of Minutes for September 21, 2023, meeting (03:00)

Member Stringer moved to approve minutes from the previous meeting and Member Hopkins seconded the motion. September 21, 2023, meeting minutes were approved.

Public Opportunity to Comment (2-3-103 MCA) (03:51):

There were no comments by the Public.

Staff/Attorney Comments (04:09):

There were no comments from Staff/Attorney.

Board Action – Case for Oral Argument (06:03):

Petitioner: MFPE

Counter Petitioner: School Districts

Case #2022DRS00073, 76, 77, 78, 79 & 80

Board Chair Brian Hopkins confirmed all documents provided to the Board were reviewed by Board Members.

Nyles Greer, representing the Counter Petitioner(s) School Districts, presented his oral argument in this matter. Greer argues that the issue before the Board today directly aims towards the Privacy Provision within the Montana Constitution is clear, Article 2, Section 10 states that the right of an individual's privacy is essential to the well being of a free society and shall not be infringed without the showing of a compelling state interest. Greer asks that the Board finds that the Hearing Officers' decision and recommended order were based on incorrect conclusions of law, and that it rejects the Hearing Officers decision and finds that no unfair labor practice took place.

Vicki McDonald, representing the Petitioner (MFPE), presented her oral argument in this matter. McDonald argues that the Union is requesting this information, not to the general public, but to the Union. McDonald states that the Union requesting this information is a duty to fulfill, not just for paying members but to all unit employees whether they choose to join or not.

Board Discussion of Case for Oral Argument(00:50:01)

Members of the Board asked follow up questions regarding the information presented. Chair Hopkins called for discussion and observations by the Board. Management Member Jenny Stringer made a motion to adopt the Hearing Officers Findings of Fact, Conclusions of Law, and Recommended Order. The motion was seconded by Member Schomer. Vote: 3-0. The motion passed.

Board Action – Case for Oral Argument(01:04:17):

Petitioner: Mitchell McBroom & Barbara Lewis-Baca
Counter Petitioner: Missoula Urban Transportation District
Case#2022DRS00256

Board Chair Brian Hopkins confirmed all documents provided to the Board were reviewed by Board Members.

David Diacon, representing the Petitioner(s) Mitchell McBroom and Barbara Lewis-Baca, presented his oral argument in this matter. Diacon argued that the statute of limitations contained in MCA 39-31-404 is subject to equitable tolling and that the statute did not run while a related grievance was being processed.

Susan Aaberg, representing the Counter Petitioner(s), presented her oral argument in this matter. Aaberg argues that MUTD and the complainants through negotiations had come to an agreement and the grievance was settled. Aaberg states that the complainant's statute limitations had run out and they were too late to file. MUTD supports the Board Agents Finding of No Probable Merit

Board Discussion of Case for Oral Argument(01:41:45)

Members of the Board asked follow up questions regarding the information presented. Chair Hopkins called for discussion and observations by the Board. Board Chair Hopkins made a motion to uphold and affirm the Investigating Officers Finding that the Unfair Labor Practice Charge in this case lacks Probable Merit and is Dismissed. The motion was seconded by Member Stringer. Vote: 3-0. The motion passed.

Scheduling of Next Meeting

February 15, 2024

Meeting adjourned. (01:51:59):

There being no further business to come before the Board, Board Chair moved to adjourn the meeting. Member Stringer seconded the motion, and the meeting was adjourned.

