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August 18, 2022

Via Email ONLY

Arthur Melendres
amelendres@modrall.com
Modrall Sperling
500 Fourth Street NW, Suite 1000
Albuquerque, NM 87102

**Re: Collective Bargaining Agreement between Albuquerque Teachers'
Federation and Albuquerque Public Schools**

Dear Art,

I am writing on behalf of my client, Albuquerque Teachers' Federation (ATF), regarding your client's failure to ratify the successor collective bargaining agreement negotiated by the parties. It is my understanding that the APS School Board refused to ratify the completed agreement at its meeting on August 17, 2022.

As you know, an employer's refusal to ratify a collective bargaining agreement is unprecedented in the public sector in New Mexico. The Board's failure to ratify the parties' agreement, in this instance, establishes per se violations of the Public Employees Bargaining Act (PEBA). The law is clear that each party in bargaining must vest their negotiators with sufficient authority to carry on meaningful bargaining at the bargaining table. *Valley Imported Cars*, 203 NLRB 873 (1973). An employer violates PEBA where it sends representatives to the bargaining table who have no authority to enter into an agreement. *Cablevision Industries*, 283 NLRB 22 (1987).

Even where a Board reserves the right to ratify an agreement, any refusal to ratify must be consistent with bargaining at the table and a good faith basis for refusal to ratify must exist. Here, I understand that the Board refused to ratify the agreement based upon its distaste for long existent provisions in the CBA which were not even a subject of negotiations at the bargaining table. Such a refusal, under these circumstances, establishes statutory violations. *Valley Cent. Emergency Hospital*, 349 NLRB 1126 (2007). Unless the agreement is ratified in short order, we will pursue an order compelling APS to sign the agreement.

On behalf of my client, and pursuant to Section 15 of APS' Labor Relations Ordinance, I am hereby declaring impasse. The Union's last best offer is, of course, the offer agreed upon by the parties at the bargaining table. Please immediately forward APS' last best offer. By copy of this



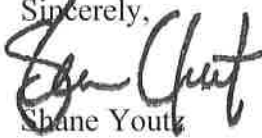
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letter to the APS Labor Management Relations Board, I am hereby requesting that the Labor Board immediately assign a mediator pursuant to Section 15(A)(1) of the LABOR RELATIONS ORDINANCE.

Please contact me if you have any questions.

Sincerely,

Shane Youn

cc: APS Labor Management Relations Board (*via email to Valerie Hoose,*
Valerie.hoose@aps.edu)
Ellen Bernstein