State of Colorado

John W. Hickenlooper
Governor

Rich Djokic
Board Chair

Kristin F. Rozansky
Board Director

State Personnel Board
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Meeting Minutes
May 15, 2012

The State Personnel Board met in public session on Tuesday, May 15, 2012, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604.

The meeting was called to order at 9:03 a.m. Board Members Rich Djokic, Garth Lucero, Anthony Marquez, Dana Shea-Reid and Sally Yerger were present in person.

Kristin F. Rozansky, Board Director; First Assistant Attorney General Eric Maxfield, Board Counsel; and Jane Sprague, Legal Assistant, were present in person.

I. REPORT OF KATHY NESBITT, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])

Ms. Nesbitt reported that with regard to legislative matters on personnel reform, the administration was successful in getting the referred measure, HCR12-1001, through the legislature. She stated that there would be a campaign to get information regarding the legislation out to the voters prior to November. In addition, Ms. Nesbitt stated that HB12-1321 was passed and that, beginning with a meeting on May 22, 2012, she would be working with Director Rozansky, state troopers, CO-WINS and other stakeholders on drafting rulemaking revisions to implement statutory changes to bumping and performance pay. Ms. Nesbitt explained that the Talent Agenda will be part of TBD Colorado, a citizen initiative in which the Governor is eliciting input and opinions from the citizenry around the state in 40 communities. She said that if one is interested, one must be nominated to sit on the TBD panel and can sign up on TBDColorado.org. In response to Mr. Lucero's inquiry, Ms. Nesbitt said that the administration must raise funds for the Talent Agenda campaign and may not use state funds for this purpose.

Deborah Layton-Root, Chief Human Resources Officer and Director of the Division of Human Resource Services, reported that DPA/DHR's goals with regard to the Talent Agenda include a rules review with initial revisions by September. Other DPA/DHR goals include improving engagement and customer service with rebranding and the provision of reliable information to customers. She said an "HR Roadshow" is being planned starting in July with the intent of getting to know the agencies which DHR serves. Referring to a handout which she distributed to the Board, Ms. Layton-Root mentioned that DHR is also aiming to be more efficient in shared services, such as training and selection.

II. REQUESTS FOR RESIDENCY WAIVERS

Director Rozansky reported to the Board that currently there are no pending requests for residency waivers. However, DOC is undergoing a business reorganization with respect to Centennial South and Rick Thompkins, DOC HR, will address the Board later in the meeting regarding that reorganization.

III. PENDING MATTERS

There were no Pending Matters before the Board this month.

IV. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

A. John David Schutte v. Department of Corrections, Buena Vista Correctional Facility, State Personnel Board case number 2010G082(C) (December 16, 2011).

Ms. Yerger made a motion to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and the Initial Decision of the Administrative Law Judge and to make it an Order of the Board, based on Complainant's demonstration of a *prima facie* case of discrimination based on religion; his sincerely held religious belief that he is not to work on the Sabbath; and Respondent did not demonstrate that it was unable to reasonably accommodate Complainant's religious observances without undue hardship on the conduct of the employer's business. Mr. Marquez seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

V. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

A. Suzanne R. Sigona v. Department of Health Care Policy & Financing, State Personnel Board case number 2012G041.

Mr. Djokic made a motion to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Ms. Shea-Reid seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

B. Herman P. Houston v. University of Colorado Denver, School of Medicine, Center for Advancing Professional Excellence, State Personnel Board case number 2012G048.

Mr. Marquez made a motion to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Lucero seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

C. Larry Brown v. Colorado State University, Housing & Dining Services, State Personnel Board case number 2012G061.

Mr. Djokic made a motion to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Ms. Shea-Reid seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

D. Kenneth Peterson v. Department of Human Services, Division of Facilities Management, State Personnel Board case number 2012G064.

Mr. Djokic made a motion to adopt the Preliminary Recommendation of the Administrative Law Judge, deny the petition for hearing and refer the matter to the State Personnel Director for further action, as appropriate. Mr. Marquez seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

E. Grace U. Beard-Novotny v. Department of Corrections, Office of the Inspector General, State Personnel Board case number 2012S016.

Ms. Shea-Reid made a motion to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing. Mr. Djokic seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

VI. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

A. Robert Crouse v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2012B018 (April 18, 2012).

Director Rozansky reported that a designation of record and appeal of the Initial Decision in Crouse had been filed.

B. James Hegler v. Department of Human Services, Division of Youth Corrections, Spring Creek Youth Services Center, State Personnel Board case number 2012B045 (April 23, 2012).

C. Edward Lawson v. Department of Corrections, Arrowhead Correctional Facility, State Personnel Board case number 2012B055 (April 24, 2012).

The Director reported that neither Hegler nor Lawson had filed an appeal.

VII. REVIEW OF THE MINUTES FROM THE APRIL 17, 2012 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Mr. Djokic made a motion to approve the minutes from the April 17, 2012 meeting as submitted. Ms. Shea-Reid seconded the motion. The motion to approve the minutes from the April 17, 2012 meeting as submitted passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid and Ms. Yerger. Mr. Djokic abstained from voting because he was not present at the April 17, 2012 meeting.

VIII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS APRIL 17, 2012 PUBLIC MEETING:

A. Tameka Austin v. Department of Corrections, Limon Correctional Facility, State Personnel Board case number 2012G037.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and to deny the petition for hearing.

IX. REPORT OF THE DIVISION OF HUMAN RESOURCES (DHR), DPA

There was no further report from DHR. (See Part I.)

X. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts
- Mandate; Order Affirmed, John Redding v. Department of Natural Resources, State Personnel Board case number 2010B015, Court of Appeals Case Number 2010CA2267 (March 8, 2012).

B. OTHER BOARD BUSINESS

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

- Business Plan for Reorganization of Centennial Correctional Facility, South

Rick Thompkins, DOC HR, explained the business plan for reorganization of Centennial Correctional Facility, South, involving 256 DOC employees of whom 42 will stay at the facility and 214 will be reassigned to other facilities. He stated there are 9 facilities in Fremont County that have vacancies to which employees may transfer; if they choose to transfer outside of Fremont County, more than 75 miles, DOC will pay for their move, per Board Rule. In addition, Mr. Thompkins said that at 1:00 p.m. on May 15, 2012, the business plan will be posted on DOC's internal website; a letter to affected staff will be transmitted; and there will be an HR person assigned in-house to guide staff through the reorganization, which is being done due to the reduction in the demand for beds for a segregated prison population such as resided in Centennial South. In response to an inquiry from the Board, Mr. Thompkins asserted that there will be no early retirement incentives and no reduction of force, but DOC's goal is to retain all employees from the affected facility. He stated that the turnover rate in Canon City is 9.5%, and all affected employees should be absorbed into other facilities by February 2013. Finally, he announced that the building is to be closed and there will be an attempt to repurpose the building, although there are certain legal restrictions which may make repurposing difficult.

XI. PROPOSED LEGISLATION AND/OR RULEMAKING

- Personnel System Legislation (HB12-1321 and HCR 12-1001)

Having first passed out copies of the final HB12-1321 and HCR12-1001, Director Rozansky reported that the legislation has been sent to the Governor for signing. The Director again stated that she will try to do the "front-end" work with DPA in preparation for rulemaking regarding this legislation, as well as outreach to the Board's stakeholders. The effective date for constitutional changes is January 1, 2013, if the concurrent resolution passes, while September 1, 2012, is the effective date for non-constitutional changes. Confirming Ms. Nesbitt's earlier remarks, Ms. Rozansky said there will be a campaign for the referendum to be voted on in the November election as this legislation is part of the Governor's legislative agenda.

XII. EXECUTIVE SESSION

A. Case Status Report

B. Minutes of the Executive Sessions of February 21 and March 20, 2012

C. Other Business

At 10:32 A.M., Mr. Djokic made a motion to enter Executive Session for the purpose of considering the Executive Session Minutes from February 21 and March 20, 2012, and receiving legal advice regarding Maria Berumen and Dawn Adams v. Department of Human Services, Wheat Ridge Regional Center, State Personnel Board case number 2010B087(C), Court of Appeals No. 11CA0640; and Noma Miller v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2009G085, Court of Appeals No. 11CA0918, pursuant to § 24-6-402(3)(a), C.R.S. The motion was seconded by Ms. Shea-Reid. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic.

Executive Session ended by consensus at 11:08 A.M.

At 11:09 A.M., upon the request of Director Rozansky, Mr. Djokic made a motion to enter Executive Session for the purpose of discussing a personnel matter, the Director's performance evaluation, pursuant to § 24-6-402(3)(b), C.R.S. The motion was seconded by Ms. Shea-Reid. The motion passed on the affirmative vote of the following Board members: Mr. Lucero, Mr. Marquez, Ms. Shea-Reid, Ms. Yerger and Mr. Djokic. Ms. Rozansky and Ms. Sprague left the meeting room and did not return until Executive Session was over and the recorder was turned off.

Executive Session ended by consensus at 11:25 A.M.

The Board meeting ended by consensus.

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APPROVED THIS 19th DAY OF JUNE, 2012.

Rich Djokic, Board Chair

Dana Shea-Reid, Member

Garth Lucero, Member

Anthony Marquez, Member

Sally Yerger, Member