

State of Colorado



Bill Ritter, Jr.
Governor

Rich Djokic
Board Chair

Kristin F. Rozansky
Board Director

State Personnel Board
633 17th Street, Suite 1320
Denver, Colorado 80202-3604
Phone (303) 866-3300
Fax (303) 866-5038

Meeting Minutes August 19, 2008

The State Personnel Board met in public session on Tuesday, August 19, 2008, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604.

The meeting was called to order at 9:02 a.m. Board members Rich Djokic, Dana Shea-Reid, Robert Thompson and MaryAnn Whiteside were present in person. Board Member Roberto Corrada was absent.

Kristin F. Rozansky, Board Director; Assistant Attorney General Roxane Baca, Board Counsel; and Jane Sprague, Legal Assistant, were also present in person.

ANNUAL ELECTION OF BOARD CHAIR AND VICE-CHAIR FOR FISCAL YEAR 2008 – 2009

Mr. Thompson stated that he would nominate anyone who wanted to be Board Chair. Ms. Shea-Reid moved and nominated Mr. Djokic for Chair of the Board for Fiscal Year 2008-2009. Ms. Whiteside seconded the motion. The nominations for Board Chair were closed by consensus. The nomination of Mr. Djokic as Board Chair passed by acclamation.

Mr. Djokic moved and nominated Mr. Corrada for Vice-Chair of the Board for Fiscal Year 2008-2009. Ms. Shea-Reid seconded the motion. The nominations for Board Vice-Chair were closed by consensus. The nomination of Mr. Corrada as Board Vice-Chair passed by acclamation.

I. MARTIN E. FLAHIVE, GOVERNOR'S DESIGNEE FOR EMPLOYEE PARTNERSHIPS

Mr. Flahive reported to the Board on the status of employee partnerships, stating that two of his resources were in the meeting room: Ms. Rozansky and Rich Gonzales, Personnel Director, Department of Personnel and Administration (DPA). He pointed out that Frequently Asked Questions (FAQs) and the

Executive Order on Employee Partnerships are posted on the web and that he would send the Board members a copy of the FAQs.

He stated that his first responsibility was dealing with elections and proceeded to give a summary of the elections for state troopers and seven state employee groups, all of which have participated in elections. Mr. Flahive reported that the state troopers have elected their own representative, with voting done among those who are below the rank of colonel, and consequently, the Association of Colorado State Patrol Professionals (ACSPP) is the certified employee organization representing troopers.

Mr. Flahive presented a chart to the Board, showing that, of the seven other employee groups, five out of seven (Protective Services; Health Care; Labor, Trade and Crafts; Administrative Support; and Physical Science and Engineering) held an election in June of all certified employees who were not excluded under the Governor's Executive Order. The last two employee groups of the seven – Professional Services and Financial Services – held an election in August. He stated that exclusions, those were not permitted to vote, included the classifications of confidential and managerial employees, such as higher level General Professionals and Information Technology (IT) people. According to Mr. Flahive, the biggest surprise was that there were no protests of the exclusions and as a result of the elections, Colorado WINS is the certified employee organization representing all groups except state troopers.

Mr. Flahive described for the Board the use of the process of interest-based bargaining in the employee partnerships, citing to the book, Getting To Yes, and the concept of mutual gains or win/win situations. On September 4, 2008, a training in interest-based bargaining will be held at the St. Cajetan's Center on the Auraria campus, from 8:30 a.m. until noon, for anyone interested in learning more about the process.

Mr. Flahive also gave the Board examples of some of the issues which have arisen in this arena, including proposals for organizational development and working with DPA to find the most cost-effective health insurance. He told the Board that there were also concerns about state veterans' homes, customer service at the motor vehicle division, and total compensation. He explained that Colorado WINS is comprised of the American Federation of State County and Municipal Employees (AFSCME), the American Federation of Teachers (AFT) and the Service Employees International Union (SEIU). He stated that there are also concerns about the consolidation of IT personnel to create the Office of IT (OIT) and that Mark Cavanaugh of the Governor's Office of Government Efficiency and Management (GEM) has reviewed proposals to see which proposals could benefit from a labor/management approach without taking authority from anyone.

Finally, Mr. Flahive reported that he was going to Glenwood Springs in two weeks to attend the state troopers' management meeting and that he wanted to get task forces and work force groups going with small scale projects to gain momentum, again emphasizing that none of the work will shift existing authority away from any entities having that authority.

II. REPORT OF RICH GONZALES, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])

Mr. Gonzales reported to the Board on three items. The first item of note by Mr. Gonzales, the Enterprise Content Management Project, will create a centralized repository of information with access by all to data. He has received five decision items from four departments that involved five software packages. He wants to have a sharing of information for records management that will involve e-filing by the Board, the Office of Administrative Courts (OAC), the Attorney General (AG), and the Public Utilities Commission (PUC). Representatives to this project are Roxy Huber, Executive Director of the Department of Revenue; Michael Locatis, Chief Information Officer for Colorado; and himself. The project will address how the state agencies are utilizing training, rules, procedures and protocols for the handling of data. Stakeholders include state agencies, State Archivist, Central Services, OAC, and the Board. Director Rozansky added that at PUC, e-filing of documents is being accepted, but record storage is still not perfected. Mr. Gonzales stated that OIT would have the final say about how a business plan for e-filing would be implemented.

Mr. Gonzales reported on total compensation, stating that the August 1, 2008 letter had been sent to the Governor and the legislature and was up for discussion with the partnerships. He stated that the difference between last year's letter and this year's is that the letter has been modified to include concerns about rewards and incentives being given to employees at the time of their achievement, instead of only at the end of the year in the form of achievement pay. He said that the goal is a higher percentage of employee recognition, including rewarding teams for good service which in turn creates good government. To arrive at the total of 3.8% for total compensation, Mr. Gonzales used the average salary survey amount, 2.5%, plus 1% base-building; the remaining .3%, or around \$12 million, is for employee incentives and on-the-spot awards. There is also a performance management and evaluation committee looking at the relationship between performance pay and a more meaningful evaluation process, and DPA has plans for enhancing performance management training for supervisors, developing programs and opportunities for advancement and growth.

The third subject Mr. Gonzales reported to the Board on was emergency planning, in light of the rapidly approaching Democratic National Convention (DNC), which is scheduled to begin in Denver on August 25. Mr. Gonzales

stated that there is an Incident Management Team (IMT) studying how DPA maintains safety and decorum. The current evacuation plan is to go to 1999 Broadway on the east side of Holy Ghost Church. The IMT is meeting both this week and next week regarding safety and decorum.

Finally, Director Gonzales stated that DPA is discussing the Maguire case, a recent Initial Decision of the Administrative Law Judge, and how DPA should be reacting to it and the direction given by the ALJ in that decision.

III. REQUESTS FOR RESIDENCY WAIVERS

Director Rozansky reported that there are three residency waiver requests pending: one for the State Veterinarian, one from the Department of Natural Resources for Terrestrial Section Manager, and one from the University of Northern Colorado for a Piano Technician, for which supplemental information has recently been filed.

IV. PENDING MATTERS

There were no Pending Matters before the Board this month.

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

- A. Peter S. Herrera v. Department of Human Services, Division of Youth Corrections, State Personnel Board case number 2008S013.

Ms. Whiteside moved to adopt the Order Denying Request for Extension of Time; Dismissal Order with respect to the disciplinary termination only. Mr. Thompson seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Shea-Reid, Mr. Thompson, Ms. Whiteside and Mr. Djokic.

In a second motion, Ms. Shea-Reid moved to refer the matter to the State Personnel Director for a Director's Review regarding selection issues, including the removal of Complainant's name from the eligibility list for rehire. Ms. Whiteside seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Shea-Reid, Mr. Thompson, Ms. Whiteside and Mr. Djokic.

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

There were no Preliminary Recommendations of the Administrative Law Judges before the Board this month.

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

- A. Sean McGuire v. Department of Revenue, State Personnel Board case number 2004G080(C) (July 28, 2008).

Director Rozansky stated that Respondent filed a Petition for Reconsideration, which was denied; Complainant filed a Designation of Record and Respondent filed a Designation of Record.

VIII. REVIEW OF THE MINUTES FROM THE JULY 15, 2008 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Mr. Djokic moved to approve the minutes of the July 15, 2008 meeting as submitted. Mr. Thompson seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Thompson and Mr. Djokic. Ms. Shea-Reid abstained from voting because she was not present at that meeting; Ms. Whiteside abstained from voting because she was not yet a Board member at that time.

IX. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JULY 15, 2008 PUBLIC MEETING:

- A. Judy Wilday-O'Neill v. Department of Human Services, Colorado State Veteran's Home at Fitzsimons, State Personnel Board case number 2008G065.

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

- B. Lee Burkholder v. Department of Human Services, Trinidad State Nursing Home, State Personnel Board case number 2008G071.

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

- C. Kelly Smith v. Department of Corrections, State Personnel Board case number 2008G074.

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

X. REPORT OF DAVID KAYE, DIRECTOR OF THE DIVISION OF HUMAN RESOURCES, DPA

XI. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts
- Annual Whistleblower Report to the Governor
- Mandate - Order Affirmed, Ward v. Department of Natural Resources, State Personnel Board case number 2004B143, Court of Appeals No. 06CA2496
- Case Remanded with Directions, Maggard v. Department of Human Services, Colorado State Veterans Home at Fitzsimons, State Personnel Board case number 2006B058, Court of Appeals No. 07CA0866

B. OTHER BOARD BUSINESS

- Staff Activities

In addition to the above, Director Rozansky reported that she and Matthew Azer from OAC had met with Ronald Jack at the PUC regarding e-filing. She stated that the PUC is still working on the "after filing/storage" piece and that the Board currently has a database in place but it does not have storage capability. Ms. Shea-Reid asked if the Board's records had secured access, and the Director replied that all Board files and records are accessible by the public, unless sealed by the ALJ. Board Counsel Baca gave the example of Ms. Sprague's recent subpoena by the Pueblo County Grand Jury in which a file request was sent by Ms. Sprague to the requesting party. Following a motion to quash by Ms. Baca, the judge and district attorney released Ms. Sprague from the subpoena.

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

Jo Romero, Director of Colorado Public Employees Association, addressed the Board, thanking the members for their service. Ms. Romero told the Board that Senator Tochtrop would be sponsoring a bill to suppress the names of state employees which currently appear on the web. She suggested that the Board use a spot on its website or a column in the state's newsletter, Stateline, to educate employees on their rights.

XII. PROPOSED LEGISLATION AND/OR RULEMAKING

XIII. EXECUTIVE SESSION

- A. Case Status Report
- B. Minutes of the July 15, 2008 Executive Session
- C. Other Business

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APPROVED THIS 16th DAY OF SEPTEMBER, 2008.

Rich Djokic, Board Chair

Dana Shea-Reid, Member

Robert Thompson, Member

MaryAnn Whiteside, Member