

# State of Colorado



**John W. Hickenlooper**  
*Governor*

**Garth Lucero**  
*Board Chair*

**Dana Shea-Reid**  
*Board Director*

**State Personnel Board**  
1525 Sherman Street, 4<sup>th</sup> Floor  
Denver, Colorado 80203  
Phone (303) 866-3300  
Fax (303) 866-5038

## Meeting Minutes June 17, 2014

The State Personnel Board met in public session on Tuesday, June 17, 2014, at the Colorado State Personnel Board, 1525 Sherman Street, 4th Floor, State Personnel Board Courtroom 6, Denver, Colorado 80203.

The meeting was called to order at 9:03 a.m. Board Members Vonda Hall, Garth Lucero, and Sally Yerger were present in person. Board Member Teresa Salerno missed roll call, but was in attendance later. Board Member Neil Peck was absent.

Disclosure of any potential conflicts of interest with regard to present Board business and notice of recusal, if applicable.

Dana Shea-Reid, Board Director; Assistant Attorney General Andrea Faley, 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])**

#### **REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR], DPA**

Ms. Nesbitt expressed her thanks to out-going Board Member and Chair, Garth Lucero, for his leadership and commitment to the state, and extended a welcome to Michelle Palmquist, the new gubernatorial appointee to the Board who was present in the audience. Ms. Nesbitt reported on the following DPA initiatives:

- The launch of the new financial system, CORE, at the end of this month will replace the current COFRS financial system. There will be 5,000 employees from around the state using the system on a daily basis.
- DPA is preparing for the next legislative session, and if the financial forecast is favorable, will seek funding for a new HRIS (Human Resources Information System).
- Ms. Nesbitt will be gone most of the month of July; Kara Veitch, DPA's Deputy Director, will be acting Director during Ms. Nesbitt's absence.

Kim Burgess, State Chief Human Resources Officer, reported on the following:

- DHR is conducting a business process review for a new HRIS to prepare for issuing an RFP.
- The General Professional (GP) series which includes 3,200 employees is being reviewed over the next 10 months and new classes will be established in the series for FY16-17.

Mr. Lucero asked how this would affect the GP series. Ms. Burgess responded that they would “deconsolidate” the series to make more specific classifications. This would enable them to analyze the market for narrower classes.

- DHR is in the process of developing the Total Compensation letter due to the Governor in August to include pay, leave, and benefits recommendations.
- DHR is enhancing its ability to track Director’s appeals and what DHR is seeing in those appeals and specific areas to focus on. Ms. Burgess will start reporting this information to the Board in July.
- Ms. Burgess thanked the Board for its flexibility in moving its meeting room from the first floor to accommodate the CORE call center.

## **II. PENDING MATTERS**

There were no pending matters before the Board this month.

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

- A. Doug Wanker v. Department of Transportation, State Personnel Board case number 2013B092 (December 27, 2013).

Ms. Yerger moved to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge. Ms. Salerno seconded the motion. The motion passed on the affirmative vote of the following members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

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

- A. Stephanie Sisneros v. Department of Corrections, Clinical Services, State Personnel Board case number 2014G055.

Ms. Salerno moved to adopt the Preliminary Recommendation of the

Administrative Law Judge and deny Complainant's petition for hearing. Ms. Hall seconded the motion. The motion passed on the affirmative vote of the following members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

- B. Nancy Fey v. Department of Human Services, Colorado State Veteran's Nursing Home at Fitzsimons, State Personnel Board case number 2014G067.

Ms. Salerno moved to adopt the Preliminary Recommendation of the Administrative Law Judge and grant Complainant's petition for hearing. Ms. Yerger seconded the motion. The motion passed on the affirmative vote of the following members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

- C. Joshua Powell v. Colorado School of Mines, Facilities Management, State Personnel Board case number 2014G075.

Mr. Lucero moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny Complainant's petition for hearing. Ms. Salerno seconded the motion. The motion passed on the affirmative vote of the following members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

- D. Richard Medina v. Office of Information Technology, State Personnel Board case number 2014G044.

Ms. Hall moved to adopt the Preliminary Recommendation of the Administrative Law Judge and grant Complainant's petition for hearing. Ms. Yerger seconded the motion. The motion passed on the affirmative vote of the following members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

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

- A. Joanne Brown v. Department of Human Services, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2012B128 (May 28, 2014).

- B. Kimberly Hardesty v. Department of Human Services, Division of Youth Corrections, Zebulon Pike Youth Services Center, State Personnel Board case number 2013G080 (May 12, 2014).

- C. Rodney Smith v. Colorado State University, Police Department, State Personnel Board case number 2014B019 (May 27, 2014).

Director Shea-Reid reported that there has only been an appeal in the Brown case, but not the other two cases. In the Brown case, Complainant has filed an appeal and Respondent has filed an objection to the appeal. The Board declined to review any of these cases on its own motion.

## **VI. REVIEW OF THE MINUTES FROM THE MAY 20, 2014 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

Ms. Hall moved to approve the Minutes from the May 20, 2014 meeting as submitted. Mr. Lucero seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger.

## **VII. ACKNOWLEDGMENTS**

### **DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS MAY 20, 2014 PUBLIC MEETING:**

- A. Harvest Thomas III v. Department of Human Services, Office of Operations and Financial Services, State Personnel Board case number 2013G085.

The Board voted to deny Complainant's petition for hearing.

- B. Kathy Starling v. Department of Revenue, Tax Audit and Compliance, State Personnel Board case number 2014G013.

The Board voted to grant Complainant's petition for hearing.

- C. Phillip K. Rietz v. Colorado School of Mines, Facilities Management, State Personnel Board case number 2014G028.

The Board voted to deny Complainant's petition for hearing.

- D. Caitlin R. Monahan v. University of Colorado Denver, School of Dental Medicine, State Personnel Board case number 2014G044.

The Board voted to deny Complainant's petition for hearing.

## **VIII. ADMINISTRATIVE MATTERS & COMMENTS**

### **A. ADMINISTRATIVE MATTERS**

- Cases on Appeal to the Board and to Appellate Courts

## B. OTHER BOARD BUSINESS

- Arthur Robinson v. University of Colorado Denver, Information Technology Services, State Personnel Board case number 2012B131, Court of Appeals Number 2013CA1147, Order Reversed and Case Remanded with Directions, May 22, 2014. The Board deferred discussion of this matter to Executive Session.
- Director Shea-Reid informed the Board that she had provided a status update to the Auditors in advance of the Legislative Audit Committee hearing she will be attending on July 14, 2014 regarding earlier audit recommendations.
- In keeping with the Board's Conflict of Interest Policy, Director Shea-Reid distributed the annual disclosure form for all members to sign and return prior to the end of the current fiscal year.
- Regarding the vacancy of the ALJ position, the Director announced that Pamela Sanchez will be starting in that position on July 1. Director Shea-Reid also informed the Board that another of the Board's current ALJs was transferring to Administrative Courts in August for a full time position. That vacancy will be filled by another highly qualified candidate on the ALJ referral list who will start in late August or early September.
- In recognition of Garth Lucero's service to the Board, the Director presented a plaque to him from the Board and staff and read its inscription into the record:

"Garth Lucero – 2009-2014. On behalf of the Members and Staff and in appreciation of your five years as an Appointed Member of the Board, the State Personnel Board recognizes your significant contribution to the legal analysis of cases before the Board and your wisdom in Board decisions and rulemaking. In particular, the Board thanks you for your leadership as Board Chair from 2013-2014 and your commitment to its mission to protect and recognize merit as the basis for state employment."

Mr. Lucero thanked the Board for his five years as a Board member and said his involvement with the Board staff, Board Counsel, DPA and the Attorney General's office during those years was a great experience for him.

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

Michelle Brissette Miller introduced Jack Patten as a new Assistant Attorney General. Director Shea-Reid introduced Michelle Palmquist who will begin her term as a Board member in July.

**IX. PROPOSED LEGISLATION AND/OR RULEMAKING**

**X. EXECUTIVE SESSION**

- Attorney advice regarding Board options for Court of Appeals' remands.

At 10:10 a.m., Mr. Lucero made a motion to enter into Executive Session for the purpose of receiving legal advice on specific legal questions pursuant to § 24-6-402(3)(a)(II), C.R.S., regarding Arthur Robinson v. University of Colorado Denver, State Personnel Board case number 2012B131, Court of Appeals Case No. 2013 CA 1147; and regarding Board options for Court of Appeals' remands. The motion was seconded by Ms. Hall. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Mr. Lucero, Ms. Salerno, and Ms. Yerger. Executive Session ended by consensus at 10:18 a.m.

**XI. BOARD DELIBERATION**

Returning to open session, the Board deliberated on its options regarding the Board's involvement in Arthur Robinson v. University of Colorado Denver, State Personnel Board case number 2012B131, Court of Appeals Case No. 2013 CA 1147. The Board agreed that it would reinstate the Robinson appeal to the Board and not file a petition for rehearing. Since there was no action taken, there was no vote by the Board members. Board Counsel Faley said that Board staff would issue a Notice of Briefing and Board Review upon receiving the Mandate from the Court of Appeals.

The Board meeting ended by consensus at 10:20 a.m.

**DATED THIS 15th DAY OF JULY, 2014.**

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Garth Lucero, Board Chair

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Sally Yerger, Vice Chair

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Vonda Hall, Member

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Teresa Salerno, Member