

State of Colorado



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State Personnel Board
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Meeting Minutes December 16, 2014

The State Personnel Board met in public session on Tuesday, December 16, 2014, at the Colorado State Personnel Board, 1525 Sherman Street, First Floor Conference Room 104, Denver, Colorado 80203.

The meeting was called to order at 9:00 a.m. Board Members Vonda Hall, Michelle Palmquist, and Sally Yerger were present in person. Board Member Teresa Salerno was present via teleconference. Board Member Neil Peck was absent.

Dana Shea-Reid, Board Director; Assistant Attorney General Andrea Faley, Board Counsel; and Jane Sprague, Legal Assistant, were present in person.

I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR], DPA

Kathy Nesbitt, Executive Director of the Department of Personnel and Administration, addressed the Board, bidding farewell and expressing her appreciation for the partnership she has had with the Board over the last four years. She introduced Kara Veitch, current DPA Deputy Director, who will serve as the Interim Director while a search is conducted for a new director. Ms. Veitch stated that she is looking forward to serving as the Interim and working with the Board.

On behalf of the Board, Director Shea-Reid thanked Ms. Nesbitt and wished her well and congratulated Ms. Veitch on her interim appointment.

Kim Burgess, State Chief Human Resources Officer, reported to the Board on behalf of DHR as follows:

- The agency is conducting a study of PERA benefits as requested by legislators, and is evaluating how to incorporate PERA into total compensation. A third party vendor is conducting the review which may take 1-2 months.

- The 2013-14 Workforce Report was issued earlier this month and contains a summary of statistics on employees in the state workforce. Ms. Burgess noted that the look of the report has dramatically changed as a result of the excellent work of Michaela Turner, DHR Communications Manager.
- With regard to tracking Director's reviews, Ms. Burgess said that at the mid-year point, sixteen appeals were referred from SPB for a Director's review with most regarding selection matters. One-third of the appeals have been resolved by agencies working with the appellants in a non-adversarial manner.

II. PENDING MATTERS AT THE COURT OF APPEALS

- A. Shantell Honest v. Department of Human Services, Division of Youth Corrections, Platte Valley Youth Service Center, State Personnel Board case number 2014G036, Court of Appeals Number 2014CA934.

Board Counsel Faley provided an update to the Board, stating that the Board decided not to participate in the briefing in this matter; however, Ms. Honest is now alleging that the record is not complete. While the case was before the Board, disclosures were exchanged between the parties, which did not involve the Board. Ms. Honest has filed motions regarding supplementing the record with documents that were exchanged during disclosures. Although the briefing is complete, there are several motions pending, including one to amend the caption. Board members agreed that a response to motion requesting a supplementing of the record should be filed with a notation as to Board Rules 8-44 and 8-45 regarding disclosure.

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

- A. Anne Sheridan v. Department of Corrections, Division of Adult Parole, Community Corrections & Youthful Offender System, State Personnel Board case number 2014B033 (July 7, 2014).

Ms. Salerno moved to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to make the Initial Decision an order of the Board. Ms. Hall seconded the motion. The motion passed on the affirmative vote of the following: Ms. Hall, Ms. Palmquist, Ms. Salerno, and Ms. Yerger.

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

- A. Julius Tomasi v. Department of Transportation, State Personnel Board case number 2014G082.

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

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

There were no Initial Decisions or other Final Orders of the Administrative Law Judges before the Board this month.

VI. REVIEW OF THE MINUTES FROM THE NOVEMBER 18, 2014 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Hall moved to approve the Minutes from the November 18, 2014 meeting as amended to correct an error on page 5, under Administrative Matters - Cases on Appeal to the Board and to Appellate Courts with regard to the Shantell Honest case. The Minutes should reflect that an answer brief was filed by the agency, not by Board Counsel Faley. Ms. Yerger seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Palmquist, Ms. Salerno, and Ms. Yerger.

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS NOVEMBER 18, 2014 PUBLIC MEETING:

- A. Terrence M. Sullivan v. Department of Transportation, State Personnel Board case number 2014B003.

The Board voted to provide notice that it has declined to act upon or to address Respondent's Motion for Stay of Final Agency Order Pending Appeal as the Board no longer has jurisdiction over this matter.

- B. Richard Reinhardt v. Department of Human Services, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2014G088.

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

- C. Kathi Dean-Lee v. Department of Corrections, State Personnel Board case number 2014G027.

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

- D. Shaun Crowley v. Community Colleges of Colorado, Front Range Community College, State Personnel Board case number 2014G109.

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

- E. Adel W. Edward v. Department of Transportation, State Personnel Board case number 2014S020.

The Board voted to adopt Administrative Law Judge's Recommended Order re: Complainant's Motion for Reconsideration of State Personnel Board's October 22, 2014 Order, and to deny Complainant's Motion for Reconsideration to Add Complainant's National Origin, Race, Color and Ancestry to Claims of Discrimination Against CDOT.

VIII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts

Board Counsel Faley updated the Board on cases before the Court of Appeals:

Kirkmeyer-filed a petition for certiorari; Williams-an opening answer brief was filed by his attorney and Respondent subsequently requested an extension of time and Board Counsel will follow up; Ryan-dismissed with prejudice as she did not file an opening brief; Sullivan-on appeal to the agency; the Board addressed a motion to stay in last month's meeting.

B. OTHER BOARD BUSINESS

Director Shea-Reid distributed handout materials to the Board from the 11th Annual Judicial Workshop on Ethics which was conducted December 5 and attended by the SPB Administrative Law Judges and Board Member Hall.

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

There were no comments. Director Shea-Reid wished everyone a happy holiday season.

IX. PROPOSED LEGISLATION AND/OR RULEMAKING

X. EXECUTIVE SESSION

The Board declined to enter into Executive Session.

The Board meeting ended by consensus at 9:40 a.m.

DATED THIS 20TH DAY OF JANUARY, 2015.

Sally Yerger, Board Chair

Teresa Salerno, Member

Vonda Hall, Member

Michelle Palmquist, Member