

State of Colorado



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Meeting Minutes
October 17, 2017

The State Personnel Board met in public session on Tuesday, October 17, 2017, at 1525 Sherman Street, First Floor Conference Room 104, Denver, Colorado 80203.

The meeting, which followed the Board's October 17 rulemaking hearing, was called to order at 10:45 a.m. Board Members Vonda Hall, Nora Kelly, Maurie Knaizer, Michelle Palmquist and Neil Peck were present in person.

Dana Shea-Reid, Board Director, and Leanne De Vos, Board Counsel, were present in person.

IA. RULEMAKING OF BOARD RULES-CHAPTER 8

Following the public hearing for rulemaking concerning proposed amendments to Board rules in Chapter 8, Board Counsel De Vos reminded the Board they had 180 days to adopt rules after the hearing. Because of the large number of proposed changes to Board Rules, Counsel advised that the Board may choose to deliberate in this meeting and continue the deliberation through a second meeting, and more if needed. The Board could table rules that require no further discussion and at a later session when deliberations have been completed, adopt all of the rules in one action. Adoption at a later date would push out the effective date for the new rules from the current effective date of January 1, 2018.

Director Shea-Reid reviewed each proposed rule change as presented in the October 17 rulemaking hearing and the Board determined which rules would require further deliberation on their part and which proposed changes needed no further discussion.

The Board began its deliberation of rule changes as proposed and changes to rules that were further amended as a result of stakeholder input. At 12:10 p.m., the Board agreed to table further discussion and action for another meeting, in order to proceed with other business before the Board for this regularly scheduled Board meeting. As a last agenda item, the Board will determine when to continue its deliberation. (see VIII. Proposed Legislation or Rulemaking)

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

The next quarterly report is scheduled for December 19, 2017.

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

There were no Initial Decisions or other Final Orders on appeal before the Board.

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

- A. Luke Ewing v. Department of Agriculture, State Personnel Board case number 2017S009

Mr. Peck moved to adopt the Preliminary Recommendation to grant the petition for hearing on the disability discrimination claim and to deny the other claims. Ms. Kelly seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- B. Jeffreyson R. Gieck v. Governor's Office of Information Technology, State Personnel Board case number 2017G074.

Ms. Hall moved to adopt the Preliminary Recommendation to grant the petition for hearing. Ms. Palmquist seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- C. LaVerne J. Matthew v. Department of Local Affairs, State Personnel Board case number 2017G046.

Ms. Palmquist moved to adopt the Preliminary Recommendation to deny the petition for hearing. Mr. Knaizer seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

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

- A. Laura Saurini v. Department of Corrections, Office of Clinical & Correctional Services, Division of Clinical Services, State Personnel Board case number 2016B075.

No formal action taken.

- B. Vicki Armstrong v. Department of Human Services, Office of Children, Youth & Families, Division of Youth Corrections, Adams Youth Services Center, State Personnel Board case number 2017B016.

No formal action taken.

V. REVIEW OF THE MINUTES FROM THE SEPTEMBER 19, 2017 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Hall moved to approve the minutes as submitted. Mr. Knaizer seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

VI. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS SEPTEMBER 19, 2017 PUBLIC MEETING:

- A. David Scherbarth v. Department of Corrections, Sterling Correctional Facility, State Personnel Board case number 2016B087(C).

The Board voted to adopt the Order on Remand Awarding Back Pay and Benefits and made an Order of the Board.

- B. Matthew Stiles v. Department of Corrections, State Personnel Board case number 2016B034.

The Board voted to adopt the Order on Remand Clarifying the Award of Benefits and made an Order of the Board.

- C. Rose Perez and Jack Haynes v. Department of Public Safety, Colorado Bureau of Investigations, State Personnel Board case number 2017G030(c).

The Board voted to adopt the Preliminary Recommendation of the ALJ and grant Complainants' petition for hearing

- D. Francesca Giongo v. Department of Natural Resources, Colorado Parks & Wildlife, State Personnel Board case number 2017S037.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing.

- E. Kelly Pickering v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2017B045.

No formal action was taken

VII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Board Counsel De Vos noted that there were no significant updates on the three cases before the Court of Appeals (Muller v. DOC; McCauley v. DOR; and Rome v. University of Colorado at Colorado Springs). All three are in stages of briefing.

B. OTHER BOARD BUSINESS

No business to report this month.

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

Ms. LaVerne Matthew asked to be recognized and began to recount her case as it was made in her petition for hearing which was denied by the Board in its October 17 Board meeting. Director Shea-Reid advised Ms. Matthew that the public comment period was not intended for further appeal of cases before the Board. As Ms. Matthew attempted to continue her rebuttal, Board Chair Peck advised her that the Board had made its decision, her petition for hearing was denied and the Board would consider no further oral argument from her.

VIII. PROPOSED LEGISLATION AND/OR RULEMAKING

The Board agreed that the deliberation and final adoption of rules would require an additional meeting in order to provide the Board members with more time to review the proposed and amended changes to Board Rules. The deliberation could be conducted in another “marathon” Board meeting on November 21, 2017 or in a special session if needed. Director Shea-Reid will check on potential dates for a special session which, she advised, would be in addition to the Board’s regularly scheduled meeting for November. Additionally, she will find out how many preliminary recommendations and initial decisions are scheduled for Board review on November 21, and if the agenda is light, the Board could include rulemaking deliberation on that month’s agenda.

IX. EXECUTIVE SESSION

The Board meeting adjourned by consensus at 12:55 p.m.

DATED THIS 21st DAY OF NOVEMBER, 2017.

SIGNATURES

Neil Peck, Board Chair

Michelle Palmquist, Vice Chair

Vonda Hall, Member

Nora Kelly, Member

Maurie Knaizer, Member
