

State of Colorado



John W. Hickenlooper
Governor

Neil Peck
Board Chair

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Board Director

State Personnel Board
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Meeting Minutes
March 20, 2018

The State Personnel Board met in public session on Tuesday, March 20, 2018, at 1525 Sherman Street, First Floor Conference Room 104, Denver, Colorado 80203.

The meeting was called to order at 9:01 a.m. Board Members Nora Kelly, Michelle Palmquist and Neil Peck were present in person. Board members Vonda Hall and Maurie Knaizer were absent.

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

Director Shea-Reid reported that Board Counsel De Voss would recuse from Board discussion of the Preliminary Recommendation for Miederhoff v. Department of Transportation. Serving in her place will be Assistant Attorney General Amy Lopez.

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

No quarterly report this month.

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

No Initial Decisions or Other Final Orders on Appeal before the Board this month.

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

- A. Curtis Brooks v. Department of Human Services, Office of Children, Youth & Families, Division of Youth Corrections, Lookout Mountain Youth Services Center, State Personnel Board case number 2018S030.

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

- B. Michelle Cordova v. Department of Public Safety, Executive Security Unit, State Personnel Board case number 2018G039.

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

- C. David Livesay v. Department of Transportation, State Personnel Board case number 2018G040.

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

- D. William Miederhoff v. Department of Transportation, State Personnel Board case number 2018G026.

Board Counsel De Voss excused herself from the room during the Board's deliberation on this case. Assistant Attorney General Amy Lopez served as counsel during deliberation.

Ms. Palmquist moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Peck seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Kelly, Ms. Palmquist and Mr. Peck. Mr. Peck noted that although the Board adopted the recommendation to deny a hearing, he wanted to send a message to the Department of Transportation that the Board felt the Complainant was treated improperly and that the Board was troubled by the manner in which the agency made the title changes and revisions to the PDQs.

Board Counsel De Vos returned to the room at the conclusion of the discussion and vote.

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

- A. Yi Yu v. Department of Public Safety, Colorado State Patrol, Port of Entry Branch, State Personnel Board case number 2017B070.

No formal action was taken.

V. REVIEW OF THE MINUTES FROM THE FEBRUARY 20, 2018 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

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

VI. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS FEBRUARY 20, 2018 PUBLIC MEETING:

- A. Laura Saurini v. Department of Corrections, State Personnel Board case number 2016B075.

As a preliminary matter, the Board considered Complainant's Pre-statement issues and Remedies Sought, filed with Complainant's Opening Brief, in which Complainant asserted that the Administrative Law Judge should have specifically disclosed the Judge's prior experience as an Administrative Hearing Officer for the Colorado Department of Corrections from 2007 to 2014, as a conflict of interest. Complainant's remedies included a request for a new hearing. Complainant also requested removal of the Initial Decision of the Administrative Law Judge from the Board's official web site.

The Board found that Complainant did not file a timely motion for a new trial pursuant to C.R.C.P. 59 or a timely motion for disqualification, with the affidavit of personal bias required by Section 24-4-105(3), C.R.S., with the Administrative Law Judge. Further the Board found that Complainant had not alleged well-supported grounds that would have disqualified the Administrative Law Judge from hearing the case. To the extent Complainant has made an untimely motion for a new trial or disqualification of the Administrative Law Judge, the Board denied Complainant's motion. The Board also, denied Complainant's request to remove the Initial Decision of the Administrative Law Judge from the Board's website.

The Board voted to adopt the findings of fact and conclusions of law in the ALJ's Order of Dismissal and made an Order of the Board.

- B. Lori Baumgardner v. Department of Transportation, State Personnel Board case number 2018S015

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

- C. Michael Harris v. Department of Public Health & Environment, Water Quality Control Division, State Personnel Board case number 2018G028.

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

- D. Richard Dale Helmick v. Department of Transportation, State Personnel Board case number 2017B053.

No formal action taken.

- E. Michael Dodson v. University of Colorado Boulder, University of Colorado Police Department, State Personnel Board case number 2018B004.

No formal action taken.

VII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Board Counsel De Vos noted that there was nothing new to report on cases on appeal to the appellate courts: the mandate has not been issued by the court for Rome upholding the Board's decision; Stiles, Muller and McCauley are all in stages of briefing.

B. OTHER BOARD BUSINESS

Director's Report:

- Director Shea-Reid requested that the update on the e-filing project she planned to provide to the Board be moved to the April Board meeting so that all of the Board members will be in attendance.

- The Director reported that Board members Michelle Palmquist and Maurie Knaizer were confirmed by the Senate State, Veterans and Military Affairs Committee on March 7, 2018 and were then confirmed by the full Senate the following week. Each has a three-year term on the Board.

- Director Shea-Reid advised the Board that an Initial Decision was issued for Barbara Bloem v. Department of Health Care, Policy & Financing by ALJ Susan Tyburski on March 9, 2018 (due date was March 12). Because the ID was issued after Board packets were mailed, the Board on its own motion can vote to table review until the April 17 Board meeting in order to preserve the Board's ability to review an Initial Decision within 30 days of issue.

Mr. Peck moved that the review of the Initial Decision for Barbara Bloem v. Department of Health Care, Policy & Financing be tabled until April 17. Ms. Palmquist seconded the motion. The motion was carried by the affirmative vote of Ms. Kelly, Ms. Palmquist and Mr. Peck.

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

VIII. PROPOSED LEGISLATION OR RULEMAKING

IX. EXECUTIVE SESSION

Prior plans to enter into executive session for personnel matters involving the annual review of the Director are postponed until the April 17, 2018 Board meeting.

The Board meeting adjourned by consensus at 9:24 a.m.

DATED THIS 17th DAY OF APRIL, 2018.

SIGNATURES

Neil Peck, Board Chair

Michelle Palmquist, Vice Chair

Nora Kelly, Member
