

State of Colorado



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Governor

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Meeting Minutes
June 18, 2019

The State Personnel Board met in public session on Tuesday, June 18, 2019, at 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, Nora Kelly, Maurie Knaizer, Michelle Palmquist and Neil Peck were present in person.

Dana Shea-Reid, Board Director and Board Counsel Amy Lopez were present.

Mr. Knaizer recused from discussion on McDonald v. Department of Law.

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

Agenda item pending until further notice.

II. PENDING MATTERS – CASES ON REMAND FROM THE COURT OF APPEALS

- A. Doris McCauley v. Department of Revenue, Division of Motor Vehicles, Driver's License Section, State Personnel Board case number 2014B061, Court of Appeals Number 2017CA921.

Order Vacated and Case Remanded with Directions issued on March 28, 2019 and Mandate issued on May 21, 2019.

Mr. Knaizer moved to remand the matter to the ALJ in accordance with the mandate. Ms. Palmquist seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

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

There are no Initial Decisions on appeal or other final orders of the ALJ's for review.

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

Before the Board commenced with its deliberation on the preliminary recommendations, Mr. Peck asked to make a statement. He noted his six years serving on the State Personnel Board and that it was a privilege to have had the opportunity to do so. He thanked his colleagues on the Board, the Director and the Board staff for all of the exceptional work performed on behalf of the State of Colorado.

- A. Katie Lee v. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Fort Logan, State Personnel Board case number 2019S046.

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

- B. Brenda K. Cody v. Department of Revenue, Executive Director's Office, State Personnel Board case number 2019G057.

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. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- C. Jonathan McDonald v. Department of Law, State Personnel Board case number 2018G046.

Mr. Knaizer recused himself from himself from discussion of this case and left the meeting room.

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

Mr. Knaizer rejoined the Board after the Board vote was taken.

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

- A. Lorenzo Wright v. Department of Labor & Employment, Division of Unemployment Insurance, State Personnel Board case number 2019B038.

No formal action required on the part of the Board.

- B. Director Shea-Reid advised the Board that an Initial Decision had been issued by the ALJ on June 10, 2019 for Dean Copley v. Department of Corrections, State Personnel Board case number 2019B034, after the Board packets had already

been mailed. Thirty days from the date of issue would be July 10 and the Board does not meet until July 16. In order to preserve the Board's 30 day review period under statute, the Board would need to vote to table the matter until the next Board meeting.

Ms. Hall moved to table the review of the Initial Decision for Dean Copley v. Department of Corrections, State Personnel Board case number 2019B034, until the July 16, 2019 meeting of the Board. Mr. Knaizer seconded the motion.

The motion carried on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

VI. REVIEW OF THE MINUTES FROM THE MAY 21, 2019 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Palmquist 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. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck. Ms. Hall abstained.

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS MAY 21, 2019 PUBLIC MEETING:

- A. Michelle Muller v. Department of Corrections, State Board of Parole, State Personnel Board case number 2018B012.

No formal action taken.

- B. Braulio A. Rojas v. Colorado State University, State Personnel Board case number 2018G027.

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

- C. Ghada Wahdan v. Department of Public Safety, State Personnel Board case number 2019G029.

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

VIII. ADMINISTRATIVE MATTERS & COMMENTS

- A. ADMINISTRATIVE MATTERS

Board Counsel Lopez noted that the Court of Appeals docket on State Personnel Board cases has been reduced.

- An oral argument has been scheduled for Jason Purdue v. Department of Regulatory Agencies State Personnel Board case number 2018G047 on August 6, 2019 at 9:00 a.m.
- Stiles v. Department of Corrections, State Personnel Board No. 2016B034, Colorado Supreme Court No. 2019SC107 – State Personnel Board’s Brief in Opposition to the Petition for Writ of Certiorari filed 5/29/19 and the order from the Court will not likely be issued until early Fall.
- Order Affirmed in Miederhoff v. Department of Transportation, State Personnel Board case number 2018G026; Court of Appeals No. 18CA0868
- Mandate issued by the Court dismissing Flavio Quintana v. Department of Revenue 2018G090

B. OTHER BOARD BUSINESS

Director’s Report:

- The Director advised that the appointment letter from the Governor’s office had been received, appointing Sarah Wager to the Board effective July 1, 2019. Ms. Wager has indicated she would be available to attend the July 16 Board meeting, which would remove concerns about having a quorum available. The closing deadline for nominations for the elected Board position is July 1, 2019.
- The e-filing project continues to struggle. Weekly meetings have been occurring with Kara Veitch, State Personnel Director, the Board Director and key directors from OIT and OAC in order to get weekly progress reports on the project, which have indicated little progress. Ms. Kelly inquired how long the e-filing project has been going on and the Director responded for almost three years.
- Interviews will be conducted by the Board during its executive session in today’s meeting in order to select a new Board Director.
- On behalf of the Board and staff, the Director expressed gratitude and presented plaques acknowledging six years of service for outgoing Board member Vonda Hall and for Board Chair, Neil Peck. Ms. Hall and Mr. Peck each expressed their appreciation for having the opportunity to serve on the Board for two terms on behalf of the State of Colorado.

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

IX. PROPOSED LEGISLATION OR RULEMAKING

X. EXECUTIVE SESSION

At 9:37 a.m., Mr. Peck moved to enter into Executive Session for the purpose of considering employment for the position of Board Director pursuant to 24-6-402-(3)(b)(I).

Ms. Hall seconded the motion. The motion carried by the affirmative vote of the full Board. The Board exited executive session for a break at 9:39 a.m. and re-entered executive session at 10:00 a.m.

The Board re-entered open session at 12:09 p.m.

Mr. Peck announced that the Board had agreed on a candidate for Board Director and a formal announcement will be pending a reference check and background investigation.

There was no further business to be conducted.

The meeting adjourned by consensus at 12:11 p.m.

DATED THIS 18th DAY OF JULY, 2019.

SIGNATURES

Michelle Palmquist, Vice Chair

Nora Kelly, Member

Maurie Knaizer, Member
