



New Mexico State Personnel Board State Personnel Office

**SUSANA MARTINEZ
GOVERNOR**

Eugene J. Moser
Director

Nivia L. Thames
Deputy Director

State Personnel Board
Paul T. Yarbrough, Chairman
Christine Romero, Vice Chairman

Devon Day Chris Sanchez
Rebecca Long

**State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
April 27, 2012
9:00 AM**

Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:00 a.m. on April 27, 2012, at the State Personnel Office, Santa Fe, New Mexico.

Invocation Stuart Hamilton

Pledge of Allegiance Scott Summerfield

Roll Call

Eugene Moser, Director, State Personnel Office (SPO), called roll and a quorum was established with the following members present:

Paul Yarbrough, Chairman
Christine Romero, Vice Chair
Chris Sanchez
Rebecca Long

Board Member Day was absent.

2600 Cerrillos Road, Santa Fe, New Mexico, 87505 (505) 476-7759



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Approval of Agenda

Board Member Long moved to approve the agenda, seconded by Vice Chairman Romero. Motion carried.

Approval of Minutes – March 5, 2012

Board Member Long moved to approve the March 5, 2012 State Personnel Board meeting minutes, seconded by Vice Chairman Romero. Motion carried.

II. Director's Report

Director Moser advised the Board that former employee, Kennis Ray Berard, a judge for the agency for almost 30 years passed away. Mr. Berard formed the structure for the hearing officer program and appeals process and was partly responsible for the state's labor relations program. Mr. Berard was also heavily involved with the crafting of the Public Employee Labor Relations Act.

SPO has requested through the General Services Department to rename the new SPO hearing room the Kennis Ray Berard hearing room. If approved, SPO will coordinate a dedication with Mr. Berard's family.

Chairman Yarbrough expressed sympathy on behalf of the Board and offered support on renaming the hearing room. Director Moser noted that staff brought the request forward.

The Senate Rules Committee held confirmations for all Board members except Board Member Sanchez. It is anticipated that confirmation for Board Member Sanchez will occur during the 2013 Legislative Session. Director Moser noted that the Committee expressed admiration and praise for the Board. The Committee also acknowledged that the previous administration systematically disseminated the Personnel system. Chairman Yarbrough added that Director Moser has credibility with the Senate and the Legislature which assisted and was beneficial with the confirmations.

SPO is in the process of developing a Request for Proposal (RFP) to digitize all personnel files within state government. SPO will set the direction for an effort that will eventually include digitizing all records within state government.

Mr. Neville Kenning from the Hay Group met with SPO to discuss the classification compensation system and develop a plan to present to the Governor. Director Moser noted that the Hay Group is internationally well-known and was actively involved with the development and installation of HR2001. There has not been any maintenance of HR2001 since its implementation. Staff is reviewing statutory requirements for all classifications to ensure qualification standards are in compliance.

The agency will begin to initiate the Shared Services approach for all agencies with less than 100 employees. Director Moser and Deputy Director Thames will meet with each agency to



discuss HR services. Audits determined major issues in smaller agencies warranted alternatives in providing services.

Ms. Julia Susemihl-Lanham was hired as the statewide training director. Ms. Susemihl-Lanham has been in the private sector largely with Office of Personnel Management (OPM) and Department of Internal Revenue Service (IRS) creating leadership academies. Ms. Susemihl-Lanham is near completion of her Ph.D. and has 25 years of experience in development of training programs.

At the conclusion of the 2012 Legislative Session, the National Association of Social Workers (NASW) invited five cabinet secretaries that employ social workers in their agencies as well as the Director of SPO to attend their Annual Social Work Summit Forum. Director Moser noted that this was the first time in over ten years that any Cabinet members attended and participated in this forum despite repeatedly being invited. SPO is working with NASW to address social worker classification compensation issues.

The NEOGOV system is functioning; close to 100,000 applications have been received since November 2011. Approximately between 21,000 to 22,000 applications are received monthly. Since its implementation, NEOGOV has received 1.3 million hits. Director Moser noted that the Department of Health is able to rank applicants based on qualifications within 24-hours of a position closing. Director Moser also noted that in some cases filling positions is a priority; however it may not be a priority for the interviewing supervisor.

Union negotiations are proceeding; both the state and the unions are engaged in more dialog.

In response to Vice Chairman Romero, Director Moser said Budget Adjustment Request (BAR) authority was requested from the Legislature to be included in the General Appropriations Act (GAA). The Legislature authorized up to \$150,000 for Shared Services to be transferred from agencies in FY12 and up to \$400,000 in FY13. SPO is developing the financial scheme to present to agencies for the current fiscal year. Vice Chairman Romero asked if the Shared Services program was just for transactions or if it includes internal investigations. Director Moser said funding would include both transactions and internal investigations.

Director Moser clarified that a list of eligibles is available twenty-four (24) hours after a position has closed. The expectation for a list is three to five days after a position closes. Vice Chairman Romero asked if agencies are able to download lists off of the system to initiate interviews with eligible applicants. Director Moser said once a list is closed, it is determined which applicants meet the minimum qualifications and rank order them based upon how questions were answered. Experience and education are then verified manually.

Vice Chairman Romero asked if there is a deadline for union negotiation contracts. Director Moser said by guarantee through the Public Employee Bargaining Act (PEBA), the state negotiated the Evergreen clause meaning that the expired contracts will continue in place until a successor is approved. Chairman Yarbrough asked if the length of the process is impeding the functions of SPO. Director Moser did not comment due to ongoing negotiations.

Director Moser provided written comments from a state employee who was not able to attend the SPB meeting. The employee requested that the information remain confidential.



Vice Chairman Romero expressed interest in hearing from the new training director at the next scheduled SPB meeting. Director Moser said Ms. Susemihl-Lanham begins employment with SPO on May 29 and will be able to give a presentation and the June 22 SPB meeting.

III. General Public Comment

No public comment.

IV. Approval of Operating Budget

Director Moser presented the FY13 Operating Budget for the SPO and noted that SPO anticipates filling positions by the beginning of the fiscal year. Currently, there are sufficient funds to fill positions; however positions hired into the Shared Services Bureau will be based on the transfer of funds from agencies. The FY13 total revenue is \$3.896 million. Expenditures total over \$4 million. The difference between revenue and expenditures is due to salaries; Department of Finance and Administration (DFA) will make the adjustment.

Vice Chairman Romero asked if the Operating Budget included funding for out-of-state travel. Director Moser said a minimal amount of funding is included for out-of-state travel; however no out-of-state trips are anticipated. Vice Chairman Romero asked if there were ongoing contractual services included in the operating budget. Director Moser said the budget does include year-to-year contracts; however they are minimal.

Director Moser commended Deputy Director Thames and her staff for preparing the FY13 Operating Budget.

Board Member Sanchez moved to approve the FY13 Operating Budget as presented, seconded by Board Member Long. Motion carried.

V. Reduction In Force – General Services Department

Ms. April Naranjo, HR Consultant, Agency HR Services Bureau, SPO introduced Ed Burckle, Cabinet Secretary, Michelle Aubel, Administrative Services Division Director, Robert Unthank, Director of Operations and Madelyn Gutierrez, HR Bureau Chief, General Services Department.

In accordance with State Personnel Board rule 1.7.10.9 NMAC, Reduction In Force, the General Services Department (GSD) requests approval of the department's reduction in force (RIF) plan effective May 11, 2012. This RIF plan is requested due to a reduction in inventory of the state of New Mexico's airplanes and therefore the elimination of one filled permanent airline pilot advanced position. The Transportation Services Division within the Aviation Services Bureau had four airplanes. Two planes were sold and the sale of another airplane is anticipated. With the sale of the three planes, GSD will have an inventory of only one airplane. With the proposed RIF the subsequent workload will be diminished to the point that only two airline pilot positions will be necessary.

GSD is requesting the elimination of three airline pilot positions; two vacant positions and one filled position. The GSD will maintain two airline pilot positions and one aircraft mechanic and

service advanced position within the Aviation Services Bureau. The SPO will work with the classified employee to foster interviews and ensure reemployment rights are adhered to.

Cabinet Secretary Burckle added that the RIF is unfortunate. The Aviation Services Bureau will continue to fly the 2006 King Air, the only aircraft that will remain in the fleet. GSD wants to maintain the ability to have two pilots for safety issues.

Board Member Sanchez moved to approve the General Services Department, Reduction In Force, Airline Pilot position, seconded by Board Member Long. Motion carried.

Ms. Naranjo presented the second RIF for the General Services Department. In accordance with State Personnel Board rule 1.7.10.9 NMAC, Reduction In Force, the General Services Department requests approval of the department's RIF effective May 11, 2012. The RIF is a result of a restructuring of GSD's management structure resulting in the elimination of one filled permanent classified position. The restructure should result in a more effective and efficient reporting model which will better suit the needs of the department, ensuring a more direct chain of command and a wide span of managerial control enabling more employees to report to a single manager. The department hopes to facilitate a greater level of communication between employees and management and allow for more direct staff input and support for managerial decisions.

GSD analyzed the structure of the organization and determined that a streamlined management structure would be beneficial for the department and would better serve its customers. The RIF affects one permanent General Manager I position. The Administrative Services Division is currently comprised of 20 FTE including four bureau chief positions, one deputy division director position and one director position. The RIF would eliminate the deputy division director position currently occupied and the duties will be assigned to the four bureau chief positions resulting in the ASD director having more of a "hands on" management approach.

SPO will work with the classified employee to foster interviews and ensure employment rights are adhered to.

Cabinet Secretary Burckle added that the deputy division director position is no longer needed. The majority of duties and responsibilities of the deputy division director were distributed to the four bureau chiefs. The current deputy division director has been primarily involved with records management issues and is not in a supervisory position. GSD is streamlining administrative positions that do not add as much value as they have in the past.

Vice Chairman Romero moved to approve the General Services Department, Reduction In Force, General Manager I position, seconded by Board Member Long. Motion carried.

VI. Children, Youth and Families Department – Policy Making Exempt Positions

Mr. Stuart Hamilton, Executive HR Manager, Agency HR Services Bureau, SPO reported in accordance with NMSA 1978 Section 10-9-4 (N) the Children, Youth and Families Department (CYFD) requests conversion of a filled classified position #00026071 to an exempt policy making position. Subsection N of Section 10-9-4, Coverage of Service allows the Board to authorize the creation of exempt policy making positions which are an addition to statutory



exemptions. At the positive completion of the request, the incumbent will be given the opportunity to except the position or be placed in a lower level position within the classified system.

After careful analysis of the agency's request, approval is recommended. The CYFD has shown that the position designs, develops and implements policy of public global impact. Furthermore, the position will act on behalf of the people, community or government rather than private matter or interest.

Ms. Helen Quintana, HR Director, CYFD added that Yolanda Dienes, Cabinet Secretary, CYFD has made a proactive decision and has been working to improve the Juvenile Justice Services. The position will enable CYFD to make great strides in improving the Juvenile Justice Services throughout the state and the country.

Vice Chairman Romero asked why a deputy director position is being converted when the division director position is policy making. In addition, Vice Chairman Romero asked if other deputy director positions in the agency will be converted from classified to exempt. Ms. Quintana said the position has very far outreaching responsibilities. The agency recently moved Juvenile Parole to the Juvenile Justice Division. The position is also involved with interagency responsibilities. Vice Chairman Romero said historically the position has always been classified and asked if there was anticipated cost savings or a salary change. Ms. Quintana said because the position is vacant and division director positions are determined at a different level, it is difficult to determine if the salary structure would change. The request is a program initiative and not a cost savings initiative.

Board Member Sanchez moved to approve the request to convert classified position #00026071 to an exempt policy making position, seconded by Board Member Long. Vice Chairman Romero opposed the request. Motion carried.

Mr. Hamilton presented a second request and said in accordance with NMSA 1978 Section 10-9-4 (N), the CYFD is requesting conversion of a vacant classified position #00040615 to an exempt policy making position. Subsection N of Section 10-9-4, Coverage of Service allows the Board to authorize the creation of an exempt policy making position which is in addition to statutory exemptions. The working title for this position is Deputy Director for Facilities.

After careful analysis of the agency's request, approval is recommended. The CYFD has shown that the position designs, develops and implements policy of public global impact. Furthermore, the position will act on behalf of the people, community or government rather than private matter or interest.

Board Member Sanchez moved to approve the request to convert classified position #00040615 to an exempt policy making position, seconded by Board Member Long. Vice Chairman Romero opposed. Motion carried.

VII. Classification Study – Public Defenders

Mr. Justin Najaka, State Compensation Director, SPO reported that prior to 2001; Public Defenders and Administrative Staff Attorneys had a separate classification series. In 2001,

these classifications were combined into one classification occupation grouping titled Lawyers. The Public Defenders Department (PDD) struggles with the current descriptions and capturing the job content and the work performed in the court room by Public Defenders. The minimal qualifications do not support the agency's needs to promote, train and retain qualified Public Defenders and the current pay bands are not competitive with their primary market.

The objective of the department is to provide effective assistance of counsel to indigent people accused of crimes in New Mexico. With that, a classification series of four levels was created to include: Public Defender 2, Public Defender 3, Public Defender 4 and Public Defender 5. The content of the job classifications presented accurately capture the work that is currently being performed. Upon approval, the new classifications will be incorporated into NEOGOV to assist in attracting new graduating attorneys, most of who graduate from University of New Mexico (UNM) school of law, and retain, attracting and retaining qualified attorneys in New Mexico. Alternative pay band assignments are recommended to the Public Defender 2, Public Defender 3 and Public Defender 4 series. Mr. Najaka noted the primary comparative market for Public Defenders is the District Attorneys and the salary structure is significantly behind.

There are currently 195 non-managing public attorney positions in the department with only approximately 135 filled leaving a vacancy rate of 31 percent. Approval of the proposed classification series will have no fiscal impact.

Mr. Najaka recommended adoption the Public Defender job classification series, the pay band assignments and the alternative pay band assignments as presented.

Ms. Jacqueline Cooper, Chief Public Defender, Public Defender Department, added that the department has a constitutional and statutory obligation to provide effective assistance of counsel to indigent people accused of crimes. Last fiscal year, 70,000 files were opened across the state. With the help of social workers, clients are also directed to treatment in order to lower recidivism rates and increase public safety. The current classifications are not compatible with the needs of the New Mexico Public Defender Department making it impossible to fill vacant positions. The department is a machinery of due process as well as social intervention.

Director Moser added that the adoption of the proposed classification and alternative pay bands should address Legislative Finance Committee (LFC) funding concerns. Currently, work is performed by contractors. Chairman Yarbrough asked what the percentage of decrease would be for contractual services if pay bands are approved. Ms. Cooper said the amount of contractual services will be reduced; however contractors are required for conflict cases as well as for district offices that do not have Public Defenders.

Board Member Long moved to approve the Public Defender job classification series, the pay band assignments and the alternative pay band assignments as presented, seconded by Board Member Sanchez. Motion carried.

VIII. Classification Study – Economic Development Representatives

Mr. Justin Najaka, State Compensation Director, SPO said the primary objective of the Economic Development Department is to promote economic development for the state in an effort to stimulate business opportunities and local jobs.



The Economic Development classification series was developed to better identify the specific work performed at the department. In 2001, the various levels of the Economic Development Representatives were combined into two generic classifications; the Line Manager II and the Administrative Operations Manager II. Although the department made due with these classifications, they do not accurately capture the work involved in economic development nor do they contain occupational specific minimum qualifications.

The proposed classification series includes the Economic Development Representative (Regional Representative) working with local communities; the Economic Development Coordinator (responsible for independently overseeing a single economic development program on a statewide basis); and the Administrative Operations Manager II-Economic Development, (overseeing a group of regional representatives and/or managers and multiple statewide programs). Mr. Najaka noted with the minimum qualifications in the generic manager classification there were substitutions. The department was very adamant that a substitution on years of experience was not needed; rather the department required minimum qualifications of a bachelor's degree and specific experience in economic development, marketing and working in the occupation.

The department had an approximate vacancy rate of 33 percent at the beginning of April. Thirty-seven (37) of 56 positions were filled with a majority of vacancies in the Economic Development Division. The study enhances the department's ability to attract, retain, properly classify, hire and reward Economic Representatives. Approval of the proposed classification series will have no fiscal impact.

Mr. Najaka recommended adoption of the Economic Development Representative job classification series, the pay band assignments and the alternative pay band assignments as presented.

Ms. Barbara Brazil, Deputy Cabinet Secretary provided a brief background to the proposed classification study. The proposed categories will provide an opportunity to create a professional pathway for employees.

Board Member Long moved to approve the Economic Development Representative classification series, the pay band assignments and the alternative pay band assignments as presented, seconded by Board Member Sanchez. Motion carried.

IX. Classification Study – Correctional Managers

Mr. Cliff McNary, State Classification Manager, SPO said the 13 Correctional Manager positions as well as the pay bands are currently in place. The classification study provides the manager classifications specific correctional industry titles and content.

Ms. Elona Cruz, HR Director, Department of Corrections explained that these positions are unique and require a specific skill set and job knowledge in order to recruit and attract the most qualified applicants. The department defines and recognizes that other areas may not meet the definition of correctional programs; however experience adds value to well-rounded knowledge in the roles of Correctional Managers. Based on the experience the department is seeking in a



correctional setting, promotions are usually given internally; however outside states or agencies in a correctional environment are considered.

Mr. McNary recommended adoption of the Correctional Manager job classification series recognizing the current pay band assignments as presented.

In response to Vice Chairman Romero, Mr. McNary said occupation specific content to job descriptors gives agencies more flexibility to be more descriptive in depth of what a job entails. They also help SPO in terms of compensation and classification to know what its marketability is with external markets to be more competitive. Vice Chairman Romero said agencies are appreciative of SPO's efforts.

Chairman Yarbrough asked how classification descriptions fit with actual American with Disabilities Act (ADA) required job descriptions or if there were separate job descriptions. Mr. McNary said the job descriptions contain the Uniform Guidelines on Employee Selection and Placement requiring essential functions of the job to assess ability on or against with reasonable accommodation. In addition, the abilities language was deleted from the knowledge, skill and abilities for ADA reasons. Ms. Cruz added that the Corrections Department uses a job descriptor and a separate ADA job description outlining the minimum qualifications as well as essential functions and the physical demands of a job. An applicant is required to review the documents and advise the department in writing prior to their interview whether they can perform the functions of the position with or without a reasonable accommodation.

Board Member Long moved to approve the Correctional Manager classification series and pay band assignments as presented, seconded by Board Member Sanchez. Motion carried.

X. Classification Study – Supervisors

Mr. Cliff McNary, State Classification Manager, SPO presented 75 new Supervisory job classifications and said the Supervisory classification represents new direction for the SPO classified service to capture, as an occupation, the performance of supervisory duties and remove the temporary supervisory pay differential that is an add-on to the base pay. The proposed classification series will have no fiscal impact and supervisors will not be negatively impacted.

Mr. McNary recommended adoption of the Supervisor job classifications and pay bands, as presented. Mr. McNary noted there are some Supervisor occupations that have alternative pay bands because the series they represent already receive alternative pay bands due to external market forces.

In response to Vice Chairman Romero, Mr. Najaka said agencies are currently paying Temporary Salary Increases (TSIs) out of their base budget and many agencies are including funding in their E-1s. Vice Chairman Romero asked why agencies have TSIs. Director Moser said there are not as many as there used to be and they continue to decline. Removing TSI's identifies positions that are not part of the bargaining unit. Vice Chairman Romero expressed concern with larger agencies that have federal funding and are able to give TSI's easier than agencies that have 100 percent general fund.



Chairman Yarbrough asked if the proposed alternative pay bands were designed to address TSI issues and make positions more competitive in the market. Chairman Yarbrough also expressed concern with increasing salaries for state workers. Mr. McNary said the proposal is intended to be cost neutral. The higher pay band allows agencies to absorb the base pay plus the supervisory allowance, having no cost impact on the employee or the agency. The alternative pay bands represent a higher pay opportunity; however it does not mean employees will receive an automatic promotion or increase. Agencies will move their current designated recognized supervisors receiving supervisory pay into the new titles provided they do not fall below the minimum of the new pay band in which case Board rules allow an agency, given the budget, to move an employee up to the minimum of the pay range. In most cases, there will be no budget impact. The hourly salary plus the supervisory pay will be captured within the range of the higher pay band.

Board Member Sanchez moved to approve the Supervisory classification series, pay band assignments and alternative pay band assignments as presented, seconded by Board Member Long. Motion carried.

XI. Classification Study – Student Aide and State Government Intern

Mr. Cliff McNary, State Classification Manager, SPO reported that the Student Aide and State Government Intern are existing titles with the pay bands already assigned. The classifications were created in 2006 to address the Student Aide allowing for enrolled high school students to shadow a state employee in an agency to learn about state government. The State Government Intern addresses enrolled college students to shadow state employee managers in an agency that hopefully will have a beneficial influence in their choice of work in state government. The classifications were largely unused and were put aside and the minimum qualifications statement was not updated.

Mr. McNary recommended approval of the minimum qualification standards set for the Student Aide and the State Government Intern.

Vice Chairman Romero asked if these positions are actual FTE. Mr. McNary said the positions are primarily used for summer interns and are curriculum based. Positions would be dedicated FTE, but they would be temporary. Director Moser added that funding would derive from existing budget; most agencies carry, to some extent, vacancy savings and positions are limited. The Governor's Office is engaged in the selection process for State Government Interns.

Board Member Sanchez moved to approve the Student Aide and State Government Intern classification descriptors, as presented, seconded by Board Member Long. Motion carried.

XII. Executive Session

Vice Chairman Romero moved to go into Executive Session. The authority for closing the meeting is under the Open Meetings Act NMSA 1978, Section 10-15-1 (H)(3), for



deliberations in connection with an administrative adjudicatory proceeding, for the matters listed on the agenda; seconded by Board Member Sanchez:

1. *Arellano v. NM Department of Health*; Docket No. 11-068
2. *Tapia v. NM Department of Health*; Docket No. 11-060;
3. *Hagan v. NM Regulation and Licensing Department*; Docket No. 11-061;
4. *Saenz v. NM Corrections Department*; Docket No. 11-075; and
5. *Regulation and Licensing Department v. State Personnel Board et al*; Ct App. No. 31,633.

Director Moser called roll and all members voted in the affirmative. **Motion carried.**

The Board met in Executive Session from approximately 11:10 a.m. to 11:50 a.m. The matters discussed in closed session were limited to those specified in the Motion to close.

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Arellano v. NM Department of Health*; Docket No. 11-068, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Sanchez. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Tapia v. NM Department of Health*; Docket No. 11-060, **Board Member Sanchez moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Hagan v. NM Regulation and Licensing Department*; Docket No. 11-061, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Sanchez. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Saenz v. NM Corrections Department*; Docket No. 11-075, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Sanchez. Motion carried.**

Board Member Sanchez moved to allow Mona Valicenti, Assistant Attorney General to execute the settlement agreement in the matter of *Regulation and Licensing Department v. State Personnel Board et al*; Ct App. No. 31,633 as drafted, seconded by Board Member Long. Motion carried.

XIII. Litigation Update

Director Moser updated the Board on the Court of Appeals case regarding the 2009 pay plan. AFSCME disputed that the State did not comply with contractual requirements. The case has significant ramifications to the State budget. Both parties are awaiting a decision.

XIV. Open Meetings Act Presentation



Mona Valicent, Assistant Attorney General provided a brief presentation regarding the Open Meetings Act.

XV. Other Business

Next Meeting Date: June 22, 2012

XVI. Adjournment

With no further business, **Board Member Sanchez moved to adjourn the State Personnel Board meeting at approximately 12:34 p.m., seconded by Board Member Long. Motion carried.**

Approved by:


Chairman Yarborough
State Personnel Board

Attest:



Eugene Moser, Director

