



New Mexico State Personnel Board

State Personnel Office

Michelle Lujan Grisham
Governor

Pamela D. Coleman
Director

State Personnel Board
Christine B. Romero, Chair
Jerry Manzagol, Vice Chair
Megan Muirhead, Member
Carmen V. Chavez, Member

State Personnel Board Meeting
State Personnel Office
Gary Carruthers State Library Building
1209 Camino Carlos Rey, Santa Fe, NM 87505
November 30, 2018
Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board (SPB) was called to order by Chair Romero at approximately 9:00 a.m. on November 30, 2018, in the Pinon room of the Garrey Carruthers State Library building, 1209 Camino Carlos Rey, Santa Fe, New Mexico.

Invocation David Berry

Pledge of Allegiance Cliff McNary

Roll Call

Director Justin Najaka called roll and a quorum was established with the following members present:

Christine B. Romero, Chair
Jerry Manzagol, Vice Chair
Megan Muirhead, Board Member
Carmen V. Chavez, Board Member

Approval of Agenda

Director Najaka modified the agenda, moving Item X (NM Aging and Long Term Services Department Reduction in Force) to immediately follow Item III (General Public Comment), due to the presence of multiple parties and individuals interested in the Reduction in Force (RIF).

Board Member Muirhead moved to approve the November 30, 2018 State Personnel Board Agenda with the proposed change; seconded by Vice Chair Manzagol. Motion carried unanimously.

Approval of Minutes – October 19, 2018

Board Member Muirhead moved to approve the October 19, 2018 State Personnel Board minutes, seconded by Board Member Chavez. Motion carried unanimously.

II. Director's Report

Director Najaka provided the following update:

Consolidation Update:

The move from the Willie Ortiz building to the Garrey Carruthers State Library building is complete. Staff, GSD, and NMCD all worked together to make it happen. The Ortiz building will be closed until April for renovations. SPO staff are getting settled into the Carruthers building, and are happy to be there. Special thanks given to Stuart Hamilton, Tony Redding, Prakash Bhakta, and Carolyn Spidle for their efforts to make the move go smoothly.

The consolidation continues to move forward. CYFD staff was brought into SPO about a month-and-a-half ago and are settling in. The consolidation is continuing as planned.

FY 09 Back Pay Update:

All checks have been cut and issued. Some were returned due to bad addresses, and we are working to find correct ones. We think we now have correct addresses for everybody. Unclaimed checks will be given to DFA and placed in unclaimed property.

Lujan Grisham Administration Transition Update:

SPO has been contacted once by the Transition office. We have not had agency transition meetings yet, but assume they will start soon. We are ready to do whatever is needed to make the transition as smooth as possible.

III. General Public Comment

Patricia Tupper, Program Coordinator for the Senior Community Service Employment Program, provided public comment concerning the ALTSD RIF. Ms. Tupper objected to the 2-minute limit on public comment, as this issue concerns her livelihood. She has been with the Department since 2003, has traveled all over the State for her work, and has always been remotely supervised. She explained that this is not a RIF, but a forced transfer to Santa Fe – that they are essentially being threatened to agree to the transfer or be laid off. She also explained that, due to the limitations of the current RFP process, the proposed RIF will result in 3 months where she cannot serve clients of the Senior Community Service Employment Program in McKinley, San Juan, Dona Ana, Bernalillo, and Santa Fe Counties. Ms. Tupper pointed out the irony that the Department is Aging and Long-Term Services, and all the workers affected by the proposed RIF are older workers. She also pointed out that since October 24, affected staff have been required to report to Santa Fe, which involved their meeting at the Albuquerque office each morning and traveling back and forth to Santa Fe each day in a state car, cutting into each employee's productivity by two-and-a-half hours.

Ed Ackron, Program Manager for the Office of Indian Elder Affairs, also provided public comment concerning the ALTSD RIF. Mr. Ackron provided talking points and other information to the Board members. He explained that the ALTSD RIF is ill-conceived and does not serve its stated purpose for numerous reasons. First, budgetary. The RIF will result in less than \$185,000 in savings, while the State General Fund request for FY 20 is more than \$45 million. The savings will be less than half a percent of the State budget, not including federal funds that flow through the Department. He also questioned the budget concerns, pointing out that 1) there are ongoing budget savings due to unfilled vacancies, and 2) the Department continues to create and hire for high level positions. Mr. Ackron also does not believe options other than reducing Albuquerque office size and transferring staff to Santa Fe have been considered, like moving to other state buildings in Albuquerque. He pointed out there will not be any immediate savings, as the lease continues through mid-January, then a RFP process is first required, and then 90-days notice has to be given before the Department can end its relationship with the building owner. Second, operational issues. Another stated goal of the RIF is to have staff in closer proximity to supervisors so there can be more supervision. Mr. Ackron does not believe any of the designated workers need more supervision. They are all experienced employees and the ability to work independently is an expectation of their jobs. If there are any other operational issues, the RIF plan did not outline them. Losing the affected staff would be losing years of work experience and education. Since the plan is to move the positions to Santa Fe, but not eliminate them, there will be the cost of training new hires and loss in productivity as well. It's a three-year process to get new employees up to speed. The RIF plan is not much of a plan, more an outline. Actual costs could be more or less, after the RFP process. No timeframes are included, other than the layoff on January 2. And the plan contains nothing about how having staff in Santa Fe will be more efficient and improve the operations of the Department, except for the idea of more supervision. Mr. Ackron also stated that working in Santa Fe will affect his family life and his children.

Joseph Sanchez, Program Director of Acoma Pueblo, also provided public comment concerning the ALTSD RIF. Mr. Sanchez only recently assumed his position and relied heavily on the assistance of the Albuquerque Office of Indian Elder Affairs to help him. He is asking the Board and any other decision makers to rethink the RIF plan and waive the RIF for this office.

Chair Romero thanked everyone for the public comments and their dedication to their jobs.

For the record, Director Najaka explained to the Board that the November 30, 2018 SPB Meeting Agenda was inadvertently posted in only one spot on the SPO website, rather than the usual two. SPO's web hosting company verified that it was posted on time on the webpage as required by law. And the Board's Assistant AG confirmed compliance.

IV. New Mexico Aging and Long Term Services Department Reduction in Force (RIF)

Desirae Vigil, HR Consultant Supporting NM Aging and Long-Term Services, presented and sought Board approval for the proposed RIF Plan for ALTSD. ALTSD Acting Cabinet Secretary Kyky Knowles and Deputy HR Director of Labor Relations Mike Carrillo were also present. The RIF Plan, proposed pursuant to SPB Rule 1.7.10.9 NMAC, would eliminate 8 field positions, effective January 2, 2019.

Due to a strategic reorganization of multiple administrative support positions, ALTSD is realigning resources in aim of creating a stronger supporting role for the needs of the growing populations served by the agency. This population includes older adults, adults with disabilities, and caregivers. ALTSD's second initiative with this plan is to be fiscally responsible by ensuring it operates efficiently and effectively. The

agency identified over \$180,000 of recurring costs that can be saved by relocating Administrative Support positions to the same geographical location. To achieve the Agency's initiatives of a stronger hold on administrative support functions and cost savings, ALTSD proposed the following RIF Plan.

Upon favorable consideration and Board approval, ALTSD will eliminate eight (8) filled administrative support positions, including:

- Aging & Network Division – Program & Fiscal Data Manager
- Employment Programs – Social & Community Services Coordinator
- Employment Programs – Employment, Placement & Recruitment Specialist
- Office of Indian Elder Affairs – Program Manager
- Adult Protective Services – Director
- Adult Protective Services – Training Manager
- Adult Protective Services – Training Coordinator
- Adult Protective Services -- Secretary

The Agency has worked diligently with current staff within the identified positions by providing notification regarding the restructure of the Agency beginning in early October. Staff was given the opportunity to accept a location change to Santa Fe and remain in their current positions. Two (2) individuals accepted the location change and are currently working at the Toney Anaya Building here in Santa Fe. The Agency has and continues to provide support to the remaining staff by allowing them to still accept a transfer to prevent their position from being part of the RIF.

Upon the Board's approval of the proposed RIF Plan, SPO will issue an official notice of the RIF to the affected employees, which will outline all post RIF reemployment rights offered for six (6) months pursuant to the SPB Rules and Regulations.

Additionally, the SPO Talent Acquisition Team will be available to assist the affected employees in regards to finding suitable employment within state government.

Therefore, pursuant to 1.7.10.9 NMAC, Reduction in Force, ALTSD is requesting Board approval of the proposed RIF plan affecting seven (7) classified service employees and one (1) probationary employee, to be effective January 2, 2019.

Acting Cabinet Secretary Knowles and Mr. Carrillo have requested to speak to the Board to provide additional information in support of the RIF. After their presentations we will stand for any questions the Board may have. With your permission, I would like to call Mr. Carrillo, Deputy HR Director to the podium.

Mike A. Carrillo, ALTSD Deputy Director of HR for Labor Relations.

Pursuant to 1.7.10.9 NMAC, ALTSD is requesting that the Board recognize the Aging Network Division, the Office of Indian Elder Affairs, the Policy & Accountability Section, and the Adult Protective Services, all in the geographic location of Albuquerque, as organizational units for the purpose of RIF. The purpose is two-fold. First, ALTSD is currently paying high rental costs for the office located at 625 Silver, SW. The current lease is due to expire on January 14, 2019. Current lease costs \$362,783.33 per year and is shared by three divisions. ALTSD will continue to maintain 45 regional staff – 36 for Adult Protective Services Division and 9 for the Consumer and Elder Rights Division in Albuquerque. This staff is required to maintain a regional presence due to the nature of the work they perform and their assigned NM counties.

Current allowable GSD square footage per FTE is 215 square feet. Current average cost per FTE is \$18.43. Space for the 45 regional staff FTE costs \$178,310. Our current estimated cost savings is \$184,473. Secondly, and more importantly, the business and operational needs of the ALTSD are that the divisions with regional staff are required to maintain a presence in the district office and will remain in necessary district locations. ALTSD does not pay rent in the Toney Anaya Building. It will operate more efficiently and effectively with staff in the same geographic location, provide closer supervision of affected staff, and reduce rental costs by \$184,783. Aging and Network Division and Office of Indian Elder Affairs staff who accepted the change in geographic location moved on October 20, 2018. Those employees who did not accept the change in geographic location were assigned temporarily. We already moved the Adult Protective Services Division Director, the Aging Network Division Director, a Management Analyst, a Financial Coordinator, a Business Operations Specialist, an Executive Secretary, and an Admin Assistant to Santa Fe. The second phase of our internal realignment involved relocating the 11 positions contained in the organizational units outlined above. Of those 11 positions, two have already accepted our offer to relocate, one is retiring prior to the effective date, 5 have declined to relocate, and 3 have not yet responded whether they will voluntarily relocate. Therefore we request that the Board approve the ALTSD RIF Plan for those 8 positions.

ALTSD Acting Cabinet Secretary Kyky Knowles

Acting Secretary Knowles acknowledged the employees and the provider from Acoma who expressed their concerns. Department is aware of the impact this decision is having on these employees both personally and professionally. Like any change in this Department, we go through this together. And we have them at the forefront of our decision-making process, because we're a team. Want to talk a little more about operational need and strategic planning around this. We heard concerns around budget, and this Department has had budgetary concerns. It is related to why this is so critical to have these positions in Santa Fe. In less than 12 years from today, the population of 65+ is going to double in numbers. Our population is staying pretty flat overall – around 2 million in urban and rural communities. But we are mostly a rural state. By the year 2030, the 65+ population is going to be higher than the 18 and younger population. That paints a picture of the population the Department is trying to serve now and long-term, but also the complexity, because we are a high-poverty, rural state. With this rapidly growing population, the Department has been assessing and will continue to assess our best efforts to realign and strengthen the operations within all of our programs, to address the complexity of our strategic priorities, and most importantly to optimize the services and resources for the people we serve in NM. Have to keep in mind we're not just serving the aging 65+ population, but also the 18+ for our adult protective services unit, our care transitions unit, our ombudsmen program, and our caregivers. In FY 2017, ALTSD began the realignment of our budget to more accurately depict what the true picture of servicing our clients needs are per division and at the programmatic level. During this process, cost saving opportunities were identified, as well as administrative efficiencies, all to better serve our clients. Directed Board's attention to Department organizational chart. Our Department serves entire state of NM. We have 21 regional offices, but our central office is right here in Santa Fe at the Toney Anaya Building. We house our staff in Santa Fe. We just completed consolidating an additional Santa Fe office that was over on 5th street – our Adult Protective Services field office – into Toney Anaya, again so we did not have to pay rent in another, separate building, and more importantly to make sure that field office was engaged with our central office. On the organizational chart, in red, you see the positions in Albuquerque being relocated to Santa Fe. When you look at the color scheme, it's all in blue. This is actually our entire Department. We're small, just over 230 FTE, but notice that only the areas with an orange highlight have a regional presence in a regional office. Every single other unit and division in blue is housed in Santa Fe. Office of Indian Elder Affairs, for example, is housed under the Office of the Secretary in Santa Fe. There's a lot of advocacy, legislative

policy coordination that occurs in Santa Fe. It's very important that they work with the Indian Affairs Department in Santa Fe. So these positions are the hub – we call Santa Fe the hub – our CFO is there, our legal staff, our procurement office, contracting, all 5 of our division directors – including director of operations – are all housed in Santa Fe. The only positions remaining in the Albuquerque Silver Square office that will go to RFP are required to be there because they have a regional presence in that geographical area. It's not just Adult Protective Services, we house some of our ombudsmen staff there as well, and our Care Transition unit that is working to transition some of our clients from long-term care facilities into their communities, so they have to be hands-on there. Just like our other regional offices throughout the state require a physical presence. This proposed RIF plan is essential and necessary. It's the very reason for the Department's existence – to trust, serve and represent the State of NM as the state unit on aging, nationally, to service our seniors and their caregivers. This aligns administratively to be more efficient in our strategic planning, our policy coordination, and in our contract management. Those contracts are critical in providing services to seniors, not just meals, but rides, advocacy around residents' rights, our volunteer programs. It's critical because we have this growing population. The Department does not look like it did in 2004. We have grown. We need to continue to grow. This RIF is not seen as reducing or scaling back our efforts in terms of meeting the needs of our clients. This is about taking it to the next level to be able to meet the needs of our clients. Emphasized that we do hope the folks who decided not to accept the relocation will still change their minds and come join us in Santa Fe. We see this as a positive thing to all be together in Santa Fe, collaborating, talking to each other, so we can further ALTSD's vision together. We have to balance the interests of our employees with the purpose of the Department in serving NM. Make a plea to those employees to change their minds and accept the transfer. Request that the Board approve the proposed RIF Plan.

Vice Chair Manzagol asked for the total number of employees that did not want to relocate. Acting Secretary Knowles answered 7 employees are not accepting the change in location.

Chair Romero asked if the change in location would be accompanied by a change in salary or if those employees' salaries would remain the same? Acting Secretary Knowles said they would remain at the same salary. Chair Romero immediately commented, "Oh my gosh, you guys have got to transfer." She explained that many agencies are not able to give their employees the option of transferring location at the same salary and it provides the employees more time, even if they only want to find another job in Albuquerque.

Chair Romero asked if the RIF gets the employees 6 months preferential treatment on the list? Director Najaka answered that they will have 6 months reemployment rights.

Chair Romero asked if the employees do not accept relocation, will they no longer be paid as of January 2? Director Najaka answered they would not be on payroll and to be considered for another position, they would have to apply for a job and then would have first right of refusal.

Vice Chair Manzagol asked if the employees expressing concerns had a reason for not wanting to work in Santa Fe, other than the additional time it would take to get there?

Ed Ackron answered that he has been working for State of NM since 2005 when he moved from California to NM and made decision to live, work, and raise a family in Albuquerque. Refusing to work in Santa Fe because he has a family life in Albuquerque. Travel time takes away from that. One son about to leave for college. Coaches younger son's baseball team.

Mr. Ackron also stated that the Department keeps talking about eliminating the position, but it's not eliminating the position, just "skirting the 35 mile rule" by moving the position to Santa Fe. This is not

about budget savings. They think they're going to get better work out of us in Santa Fe. He suggested that his work was regional, since he works with all 22 tribes in NM. He travels to them, and the central point is Albuquerque.

Board Member Chavez agreed with Chair Romero that it was a good idea for the employees to accept the relocation, and asked if the positions would be eliminated?

Acting Secretary Knowles answered that the 8 Albuquerque positions will be eliminated and recreated under a new organizational structure. So the new development of positions might not be what they are today.

Board Member Chavez then asked if the employees who accepted the relocation still had the same job duties?

Acting Secretary Knowles answered that their job duties are the same now. In three months when the Agency starts to restructure will identify if duties need to be shifted at that time.

Board Member Chavez also asked if all the information provided to the Board had also been provided to the affected employees?

Acting Secretary Knowles answered yes, that meetings were held with the employees in -person to encourage them to accept the relocation and explain what it meant for their position and where the Department was going.

Chair Romero asked if this was just step one in a series of planned changes for ALTSD? Acting Secretary Knowles explained it was actually phase two of the process and just one part of realigning the budget and the efficiencies of the divisions and programs.

Board Member Chavez asked if someone could explain the "35-mile rule"?

Deputy Director Carrillo explained that the "35-mile rule" means an agency can transfer a position in the same classification and same pay band within 35 miles of where the position is located, without consent of the employee. Anything further than 35 and you need the consent of the employee. And that's what we're asking the employees to do right now, to transfer voluntarily. We need their services in Santa Fe

Chair Romero again emphasized that the designated employees should transfer and take the opportunity to buy themselves some more time. It would be a challenge for them, but would allow them to be in a position while looking for a new job. It's easier to find a job when you have a job. And confirmed Deputy Director Carrillo – the 35-mile rule has been around as long as I've known. Once you go beyond those 35 miles, that's why you're here.

Affected ALTSD employee, Ms. Esperanza Lucero asked if she would have a chance to make a comment about the RIF Plan?

Chair Romero said she had missed the opportunity to sign up for public comment and was thinking that she had shared any comments she had with the Agency. Chair Romero asked if the Agency had met with Ms. Lucero one-on-one?

Ms. Lucero answered that they were presented with the RIF Plan and that was the extent of it.

Another affected ALTSD employee added that they only met as a group.

Deputy Director Carrillo stated that he personally met with the employees as a group, gave them ample opportunity to ask questions about the RIF Plan, and answered any questions they had.

Chair Romero commented that sometimes people are not comfortable in a group and one-on-one might have made a world of difference. Chair Romero proceeded to give the additional ALTSD employees 2 minutes to give their comments.

Esperanza Lucero – Adult Protective Services Training Manager, one of employees affected by the proposed RIF Plan. Three points of concern. 1) Affects her personally. She has an 11-month old son and cares for him in early morning. Spouse and she have coordinated their schedules. Extreme burden to now have to figure it out again. Additional commuting time has detrimental impact on employees and their families. 2) Cost savings from RIF Plan is nominal. Savings comes from reducing the overall square footage. Currently we use 21,000 square feet. Plan reduces it to 9,000 square feet. So currently going through RFP process to move Albuquerque office into another Albuquerque space. That's what is outlined in the proposal. 215 square feet multiplied by 5 FTEs equates to only \$19,000 to keep us in Albuquerque. That is the overall cost savings, not \$189,000. The cost savings comes from reducing the 21,000 square feet to 9,000 square feet. 3) In current job, Ms. Lucero does not work only with people at Toney Anaya Building or in Santa Fe. Job is to train existing and new staff around state. All took our positions with the understanding that we would be working in Albuquerque. Ms. Lucero deliberately transferred from a job in Santa Fe to one in Albuquerque to be closer to family and handle personal obligations. This decision affects hardworking New Mexican families. Have children, caregiving duties, might not be able to afford cost of commuting.

Chair Romero reminded everyone that management has to look at a business plan and make a decision for a lot of people. Management cannot consider every individual's situation.

Acting Secretary Knowles reiterated her earlier focus was more on strategic planning, less on budget. She explained that the cost savings on leases is good in general because the Department has 19 offices that we pay rent on, so any reduction is a positive. But focusing more on the fact that we have to make these hard decisions for operational needs. We want you to come to Santa Fe, be with our hub, and work across divisions and programs. Would help the statewide needs of the Department of the people we serve and each other. Important for the optimization and collaboration of working with five different divisions with very different programs that serve the entire state.

Marlena Medina, Adult Protective Services Secretary. Ms. Medina explained that her responsibilities as caregiver for her husband and granddaughter make her unable to relocate with position to Santa Fe. Worried that the stress and strain of all this will set her husband back. Creates stress, hardship, and strain on her and family.

Matthew Vigil – SPB Rule 1.7.5.12(G) states that a transfer can be done involuntarily if within 35 miles, which does not apply to us. Also says we can be transferred “if the established requirements state that willingness to accept a change of geographic location is a condition of employment.” The employees here have no established conditions of employment requiring relocation. Since that was not a condition of any of our employment, believe ALTSD has decided to go around the law, asking us to “voluntarily” accept the change in geographic location or be fired. There's nothing voluntary about that. And again there were no established requirements. Just looking at the Board Rules, cannot understand how possible. It's as if, so long as there's a strategic plan, Board Rule does not matter.

Rudy Grano – Deputy Division Director for Adult Protective Services. In RIF Plan, ALTSD has erroneously and purposely relayed to the Board that relocating myself and my colleagues will result in a

cost savings of \$184,473. What they failed to relay to the Board is that the lease does not expire December 31, 2018, but expires January 14, 2019, at which time the lease will be paid on a month-to-month basis, until the new RFP is awarded, which will still require 30-days notice to the lessor, further delaying the commencement of the cost savings to ALTSD. January 15, 2019, will not see an immediate cost savings to the Department, as Department will have to pay for full 21,482 leasable square feet, whether they have 42 or 50 employees at the location. Forcefully relocating or laying off me and colleagues will result in wasteful spending and waste of taxpayer money. Cost savings will not result from forceful relocation or laying off, but from reducing the average number of square feet per employee in current RFP from 428 sf to 215 sf, effectively reducing the total leasable number of square feet from 21,482 to 9,675. If affected employees were included in this RFP, Department would still benefit from cost savings of over \$160,000. Mr Grano oversees Adult Protective Services budget and serves as Facilities Manager for all building leases within the Division's jurisdiction. Know my Division is not currently experiencing a budgetary shortfall and has not in the past two fiscal years. Adult Protective Services has experienced a surplus over the last two fiscal years of over \$1 million, demonstrating their financial stability to easily maintain me and my colleagues in Albuquerque. Ask the Board to not approve the RIF plan and not allow ALTSD to skirt the 35 mile rule.

Chair Romero responded that the Department cannot "skirt" the 35-mile rule, that you are either within the 35 miles or not. If not, they cannot force you to relocate, and the Department is not trying to force you to relocate. The affected employees have been given the decision to make yourself.

Member Muirhead referred to Acting Secretary Knowles' strategic planning comments and the business need to have everyone centralized and asked Mr. Grano how it would affect his position to be centralized? Mr. Grano responded that over the past 15 years, the tasks of this position have been able to be performed in Albuquerque. Any type of collaboration with folks in Santa Fe, we have technology so we can have conversations and collaborate. His job can be done from anywhere in state with available technology. We've been in Albuquerque for a long time. His understanding that the new Adult Protective Services Director was hired in Santa Fe and that's the reason why the division staff are being relocated there, no other reason. Majority of division staff is currently located in Albuquerque, and has been for over 15 years.

Member Muirhead asked if employees who choose to move, but want to look for a new job in Albuquerque will receive any extra assistance? Director Najaka responded that SPO is prepared to assist RIF'd employees for 6 months. If employees accept the transfer before the effective date of the RIF, the agency, the HR Department, and SPO will all help. If there is a need for assistance, we will help them.

Chair Romero responded that is good to hear – employees' employment and livelihoods should be prioritized and again encouraged employees to take opportunity to remain employed.

Assistant Attorney General Stephen Vigil asked if the employee does not accept the transfer, then that position itself is eliminated at some point permanently, and in the future there will be a different position, not the exact same position?

Acting Secretary Knowles responded that, yes, this is a reduction request. Those positions will be eliminated. ALTSD will re-establish those positions from scratch in Santa Fe. Cannot guarantee they will look exactly the same. But hoping staff will come join us in Santa Fe to avoid the elimination of positions.

Director Najaka clarified that State Personnel Board Rule 1.7.10.9(C)(1) NMAC states: "employees to be affected by the reduction in force (RIF) shall be provided the right of first refusal to any position to be filled within the agency for which they meet the established requirements, at the same or lower midpoint than the midpoint of the position the employee currently holds, unless there is an actual layoff candidate exercising

RIF rights for that position.” Currently statewide we do not have any other RIF candidates, so before effective date of January 2, these folks would have the right of first refusal to accept the position. These positions are scheduled to be deleted. It is a reduction in force. But there will be new positions created.

Chair Romero again strongly encouraged anybody at any time to take a relocation with full salary offered to them. The agency really does care.

Ms. Lucero asked what is the organizational need around moving our positions? Director Najaka responded that a lot of it depends on who accepts the transfer at this time. The reorganization is down the road. For example, we have seven individuals. If three accept and four do not, then have to create three positions. We will only create the positions we need.

Chair Romero clarified that by not accepting the transfer, employees will have the right of first refusal, but all other discussions stop at that point. If you accept the transfer, you’re included in what’s going to happen next and the RIF does not happen immediately.

Board Member Muirhead moved to approve Aging and Long Term Services Department Reduction in Force; seconded by Vice Chair Manzagol. Motion carried unanimously.

V. 2019 Paid Holiday Schedule

Justin Najaka, Director of the State Personnel Office presented the annual State of New Mexico 2019 Paid Holiday Schedule. The 2019 Holiday schedule shall be approved for the next calendar year pursuant to the State Personnel Board rule 1.7.6.9. Legal Holidays as designated in NMSA 1978, Section 12-5-2, with one exception, President’s Day is observed in November instead of February.

GSD will prepare and issue a State calendar once approved and SPO will post the holiday schedule on its website.

Board Member Muirhead moved to approve the 2019 Paid Holiday Schedule; seconded by Board Member Chavez. Motion carried unanimously.

VI. 2019 State Personnel Board Meeting Schedule

Justin Najaka, Director of the State Personnel Office presented the request for the 2019 State Personnel Board Meeting Schedule pursuant to the Personnel Act NMSA 10-9-9 “The Board shall meet at the call of the chairman but in the absence of such call, at least once every two months” and with the Open Meetings Act.

Board Member Chavez, moved to approve the 2019 State Personnel Board Meeting Schedule; seconded by Vice Chair Manzagol. Motion carried unanimously.

VII. Modifying the Medical Claims Coder Classification Descriptor

Cliff R. McNary, State Classification and Testing Manager presented the request to modify the Medical Claims Coder Classification Descriptor. The Department of Health and with the approval of Miners Colfax Medical Center, SPO is requesting approval of the deletion of the line “at Miner’s Colfax Medical Center” from the main purpose statement of the classification descriptor. Department of Health has similar positions in use at several of their facilities.

Vice Chair Manzagol moved to approve the Modification to the Medical Claims Coder; seconded by Board Member Chavez. Motion carried unanimously.

VIII. Continuation of Alternative Pay Bands

Cliff R. McNary, State Classification and Testing Manager presented the continuation of alternative pay bands. In accordance with 1.7.4.10 NMAC the State Personnel Office recommends the Board to approve the retention of all existing Alternative Pay Bands (APB) for another year. When pay bands are insufficient due to market pressures, an APB is assigned. On a positive note that the APB’s went from a third to now only a quarter of classifications that require APB’s, as SPO continues to create and implement new salary structures.

Chair Romero commented that temporary salary increases really need to be reviewed. The timeline for the temporary increase for employees is one year. And we probably have employees that have exceeded the one year? Director Najaka indicated that Alicia Lucero (SPO Quality Assurance Auditor) runs reports every month and she notifies agencies of those employees who’s temporary salary increases are about to expire.

Board Member Muirhead moved to approve the Continuation of Alternative Pay Bands; seconded by Board Member Chavez. Motion carried unanimously.

IX. 2018 Annual Classified Service Compensation Report

Cliff R. McNary, State Classification and Testing Manager presented the continuation of alternative pay bands. The 2018 Classified Service Compensation Report was provided to the Board ahead of time for their review. Mr. McNary apologized for not providing the report sooner to them. Mr. McNary pointed to page 11, you will find table 2 of the eight-state comparator table. That table shows that New Mexico ranks fifth. New Mexico stayed solid in fifth in comparison to the eight-states. The total comp is the wage plus the benefits. We have maintained our place and that is good, that is saying the New Mexico is staying strong. On page 15, the numbers on Table 5, these are the National Trends from major consulting firms as well as salary survey companies. Those numbers are very robust; they were a little shaky and lower in the last few years due to the downturn in 2008 and the numbers here are projections around 3.0-3.1 terms of merit increases is very, very strong. This is what we like to see every year; 3% is very bold in predictions, sometimes they do come in a little lower and that is fine too. We are members with the National Compensations Association of State Governments and I would like to point out on page 16, you will find their latest projections this year. We went to the conference this year in Ohio and the projections are very bold, again. The member States were predicting a 3.0% merit increase for FY18; the actual that came out was 2.6% but it was broken down to occupational areas that we can compare to and Engineering and Architects is projected at 2.7%. Security/Corrections is projected at 2.1%; Information Technology (IT) is

projected at 3.0%, also to point out with Corrections we had the 2% salary structure adjustment and the new two new structures, which will be implemented on December 14, 2018. The Board approved that on August 24, 2019. Structure adjustments are projected at 1.65%, we have had a couple of structure adjustments that are going to work.

Director Najaka pointed out the magic of breaking the salary structures into the market based occupational based salary structures, you will see that IT has a different trend than Engineering and Architects vs Corrections, that is the whole magic, so we can better target dollars within the State, we can target our limited dollars towards the areas that need it most.

Mr. McNary indicated that other States that are doing similar work, now we can compare occupational groups to occupational groups and we know exactly where we stand with each of those salary structures. On page 18, we had a bit of anomaly here--see the double asterisks with Nevada, we had been aging data a little too aggressively over the years because Nevada had neglected to supply us with accurate salary data. We had to project for them and we overprotected. So you will see a big drop from their average base salary of 69,000 in 2017 down to 40,000 for 2018. That is because this year for the first time, Nevada actually came forward with their numbers. So that is going to affect the eight-state average, as you will see on Appendix C-2018 on page 52. On page 27 & 28 for graph purposes, I want to point out our salary band widths, the General Classified has been brought to 74% wide to 78%; IT is now 67% wide. These are the widths of our pay bands, essentially structures are the same, but each pay band is similar. Social Services and Attorneys pay bands that the Board approved are now at 60%. The reason why we do that is that we try to get where the industry is in terms of structure width not just because of the midpoint but also because of where it takes their minimums and it brings their minimums up, which makes us more competitive if we are going to be hiring in lower in the pay band, it really obligates us to pay more and stay competitive, so we want to stay where they are at. On page 33, to address the issue Madam Chair had with the over utilization of temporary salaries. Graph 14 shows that we at a much greater use of In Pay Bands (blue column), 1,235 In Pay Band for FY18, which is showing that we are using pay mechanisms better for two reasons. Paying employees what they are worth the maintain a talented workforce but at the same time it helps us as we create more of these new salary structures closer where we capture them in a new pay band, it cuts down on the cost of us to bring them to the minimum of the new pay band when we implement these new structures.

Chair Romero said that it is not that she wants the temporary salary increases to end. There are reasons for temporary salary increases but to compensate an employee to stay, if you are extending the temporary salary increase past a year, take care of business, properly place the employee. Because again, it is supposed to be temporary. Please stay on top those increases, it seems as that SPO staff has but just continue to be on top of the increases. Mr. McNary agreed.

Cliff McNary stated that the benefits are that we have salary structures that are starting to make sense overall. And with agencies management starting to realize that when we do that it gives them the opportunity to get there house in order and it also gives agencies the ability to appropriately place employees in those pay bands. It also decreased the numbers of APB's from a third to a fourth. On page 43, Graph 26 & 27 shows overtime usage and overtime cost by fiscal year. He pointed out that we continually reduced the hours of overtime by 500,000 hours, with a cost savings of over 2 million dollars from FY16 to FY18. We are doing something right and agencies are responding. FY18 30.5 million –represents a continually 7 year low for the State and reflects continued careful management by agencies and improved recruitment and retention in key classifications.

SPO recommends the SPB approve the annual report, as presented, and the adoption by the Board of this report as its own report that will go to the Governor's Office for approval and will be presented in front of the LFC on December 13, 2018. Director Najaka clarified that this is SPB's Report to the Governor.

Vice Chair Manzagol asked if this report would be given to the transitional team. Director Najaka said it would be provided to the transition team.

Chair Romero is pleased with the report and with the improvements the report reflects.

Vice Chair Manzagol moved to approve the 2018 Annual Classified Service Compensation Report as submitted; seconded by Board Member Chavez. Motion carried unanimously.

X. 2019 Annual Review of Safety Sensitive Positions

Alicia Lucero, SPO Quality Assurance Auditor presented the 2019 Annual Classified Service Compensation Report accordance with Designation of Safety-Sensitive Positions, Subsection C. of 1.7.8.9 NMAC, the State Personnel Board shall review and approval positions designated as Safety Sensitive on an annual basis. Safety Sensitive positions are recognized as positions in which the impairments of drug or alcohol use would constitute an immediate and direct threat to public health or safety, these include but are not limited to: Peace officers; Correctional officers; Employees who are required to regularly carry firearms; Employees who regularly transport other people as their principle job; and positions involving use of equipment that could pose a risk to public health or safety. Additionally, in accordance with the Omnibus Transportation, Employee, Testing Act of 1991, Subsection D. of 1.7.8.8 NMAC, the SPB shall be advised annually of Omnibus designated positions covered by the Omnibus Act. Omnibus positions are recognized per the Federal Omnibus Transportation Employee Testing Act of 1991 and Employees Covered Under DOT Testing Regulation 49 CFR Part 40 which defines an Omnibus Positions. These positions include but are not limited to positions that operate a commercial motor vehicle; operate and perform service on railroad's, performs aircraft and flight crew functions, performs revenue vehicle operations performs functions on a pipeline or liquefied natural gas line facility. However, it is not required for the SPB to approve these positions as Omnibus as each position is recognized by federal law. A few select agencies request SPB's approval for either the removal or addition of the designation of safety sensitive positions or Omnibus positions due to varies reasons. A total of twenty-eight (28) positions will have the Safety Sensitive designation removed. A total of seven (7) positions that are currently Omnibus now require that a Safety Sensitive designation be added. A total of twenty-six (26) positions will have the Safety Sensitive designation added. Therefore, the SPB approval is requested for all Safety Sensitive positions and review of Omnibus positions which is as follows: 4,373 Safety Sensitive positions, 113 Omnibus positions, 1,097 both Safety Sensitive and Omnibus positions. For a combined total of **5,583** designated positions for all state agencies for 2019. I recommend SPB approval of the 2019 of Safety Sensitive and Omnibus Designated positions in accordance with the State Personnel Board Rule-Designation of Safety Sensitive Positions, Subsection C. of 1.7.8.9 NMAC and Omnibus Transportation Employee Testing Act of 1991, Subsection D. of 1.7.8.8 NMAC. Lastly, the State of New Mexico will continue to provide state agencies with two vendors who can provide drug and alcohol testing services. The vendors are Norton Medical and Phamatech. The cost and fees to test each employee is an approximate cost of 48.00 with Phamatech and 47.50 with Norton Medical.

Other associated costs may occur varying from the services rendered.

No questions from the Board.

Board Member Chavez moved to approve the Safety Sensitive Positions as presented; seconded by Vice Chair Manzagol. Motion carried unanimously.

Board Member Muirhead moved that the State Personnel Board meeting be closed. 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; and to include NMSA 1978, Section 10-15-1(H)(7) for pending litigation; seconded by Vice Chair Manzagol.

Director Najaka called roll and all members voted in the affirmative.
Motion carried unanimously.

The Board met in Executive Session from approximately 11:03 a.m. to 11:21 a.m.

For the record, the matters discussed in closed session were limited to those specified in the Motion to close.

1.)Gallegos v. New Mexico Children, Youth and Families Department; Docket No. 17-031
After careful consideration of the Administrative Law Judge's proposed findings of fact, analyzes of the relevant law and/or policies in light of the proposed findings of fact of the Recommended Decision and the parties' exceptions to the Recommended Decision, if any, in Gallegos v. New Mexico Children, Youth and Families Department; Docket No. 17-031, **Board Member Muirhead moved to adopt the Administrative Law Judge's Recommended Decision. Motion seconded by Vice Chair Manzagol. Motion carried unanimously.**

XI. Litigation Update

Jessica Cooper, Administrative Law Judge for the Board, presented a brief Litigation Update. In October and November, Adjudication received 8 new appeals and disposed of 9. There are currently 24 appeals pending. No new appeals of Board decisions have been filed, and there is no dispositive action to report in the eight Board decisions currently on appeal.

No questions from the Board.

XII. Other Business – Next Meeting Date: Friday, January 18, 2019

XIII. Adjournment

With no further business, Vice Chair Manzagol moved to adjourn the State Personnel Board meeting at approximately 11:25 a.m.; seconded by Board Member Chavez. Motion carried unanimously.

Attest:

11/18/19
Pamela D. Coleman, Director

Approved by:

Christine B. Romero, Chair
State Personnel Board