



# 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 Rebecca Long

State Personnel Board Meeting  
State Personnel Office  
2600 Cerrillos Road  
Santa Fe, NM 87505  
April 29, 2013

### Minutes

#### I. Procedural Items

##### Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:05 a.m. on April 29, 2013, 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 Chairman  
Rebecca Long  
Devon Day

Director Moser advised that Chris Sanchez resigned from the Board.

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### **Approval of Agenda**

Chairman Yarbrough requested an amendment to the agenda moving Item IV, Reduction In Force – Developmental Disabilities Planning Council to the first item immediately after the approval of the minutes. **Board Member Long moved to approve the agenda as amended, seconded by Vice Chairman Romero. Motion carried.**

### **Approval of Minutes** – March 8, 2013

**Board Member Day moved to approve the March 8, 2013 State Personnel Board meeting minutes, seconded by Board Member Long. Motion carried.**

## **II. Reduction In Force – Developmental Disabilities Planning Council**

Clara Mares, HR Manager, HR Shared Services, SPO presented the request for approval of a Reduction In Force (RIF) for the Developmental Disabilities Planning Council (DDPC) in accordance with State Personnel Board Rule 1.7.10.9 NMAC. The RIF is requested pursuant to State Personnel Board Rule 1.7.5.12 NMAC, due to DDPC's relocation to Albuquerque. The move to Albuquerque will result in a cost savings of \$35,000 per year and will affect two (2) permanent classified positions effective July 1, 2013. SPO is working closely with the two (2) DDPC employees to find suitable positions in state government so they may apply as positions become available. SPO is also contacting agencies to facilitate interviews and placement.

Upon approval of the RIF, the SPO will issue an official notice of reduction in force to each affected employee outlining all post RIF employment rights afforded for six (6) months in accordance with State Personnel Board Rules. The SPO will continue to make every effort to place employees affected by this RIF.

Additionally, the SPO sends out an applicable RIF letter to all state agencies listing the state employees with reemployment rights effectively and closely monitoring the recruitment process within all departments statewide to ensure compliance.

Agnes Maldonado, Executive Director, Developmental Disabilities Planning Council added that the agency has been working on the move for ten months and the reason for the move is to consolidate offices. Currently, DDPC has an office in Albuquerque and one in Santa Fe. The center for self-advocacy is located in Albuquerque and the move will provide special care for people with developmental disabilities.

In response to Vice Chairman Romero, Ms. Maldonado said the total number of FTE is 15, one temporary position through a federal grant and two part-time advocates.

**Board Member Day moved to approve the Reduction In Force for the Developmental Disabilities Planning Council, seconded by Board Member Long. Motion carried.**



### **III. Director's Report**

Director Moser reported that key staff traveled to the state of Utah for a review of their human resource system. It was confirmed that other states are faced with the same type of issues as New Mexico.

SPO is assessing the NEOGOV system that has now been set in place for over a year. Director Moser provided information on the number of days it takes to process an action through the personnel system in order to start the hiring process, as well as the number of days it takes for an agency to process, conduct interviews and make a selection. In assessing the NEOGOV system it was determined that in most cases the delay in hiring was at the interview stage. In addition, positions were analyzed to determine what is increasing the average number of days to fill a position within an agency. In some cases, it is taking 200 to 300 days to fill a position while others are filled timely.

Chairman Yarbrough asked if there were preliminary conclusions as to why there is such a length of time in order to fill positions. Director Moser said in some cases significant management changes are being made. The Department of Transportation (DOT) was given the ability to hire temporary employees during the winter months with the understanding that once the department was able to fill positions off a certified list, those employees hired as temporary had to be certified for regular employment. Other occupations are difficult to hire for because of geographic locations. In other situations, the pay structure may not be adequate. The SPO is working on creating multiple pay plans that focus on the disciplines of particular occupations.

### **IV. General Public Comment**

Luciano "Lucky" Varela, State Representative, expressed interest in personnel not only for classified employees, but exempt employees as well. HR 2000 was the last general review of all classifications for all levels of government. Representative Varela requested the executive total classification number and compensation total to determine where the state is in terms of the market and competitiveness with the private sector and the federal government. A personnel plan may be addressed during the interim and it is requested that the SPO Director and the Chairman or Vice Chairman of the SPB participate with the Legislative Finance Committee (LFC) to address the plan.

Representative Varela noted the Legislature provided salary relief for public employees including a 1.5 percent swap to be restored in the base budget and a cost of living adjustment.

Representative Varela addressed the amount of time it is taking to hire a public employee including the levels of approval at the agency level, the Budget Division, and at the SPO.

### **V. Annual Review of Safety Sensitive Positions**

Vince Velarde, HR Consultant, HR Services, SPO requested the approval of 12 additional safety sensitive positions; 11 positions to be added by Miners Colfax Medical Center (MCMC) (deemed direct health care positions) and one law enforcement position to be added by the

Energy, Minerals and Natural Resources Department (EMNRD). In addition, two (2) additional Omnibus positions will be added to EMNRD based on Commercial Driver's License (CDL) requirements of the position.

In accordance with Designation of Safety Sensitive Positions, Subsection C of 1.7.8.9 NMAC, the Board shall approve any additional positions designated as safety sensitive.

In accordance with Omnibus Transportation Employee Testing Act of 1991, Subsection D of 1.7.8.8 NMAC, the Board shall be advised of any additional positions covered by the Omnibus Act. It is not required for the board to approve these positions as safety sensitive as they are already designated that status by Federal Law based upon requirements such as CDL or certification by the Federal Aviation Administration (FAA).

Jamie Mares, HR Manager, MCMC clarified that expired positions will be deleted and new positions were created. There is not a change in the overall FTE count.

**Board Member Long moved to approve the 12 additional safety sensitive positions for 2013 as presented, seconded by Vice Chairman Romero. Motion carried.**

#### **VI. FY13 Classified Services Salary Schedule – Pay Band 99**

Justin Najaka, Compensation and Classification Director, SPO requested the adoption of a new pay band. The current salary structure includes 18 pay bands ranging from 25 to 98. The SPO is requesting an additional pay band of 99 with the minimum of \$91.73 per hour to a maximum of \$163.08 per hour. The new pay band would be utilized by physicians. Mr. Najaka noted the two main users of physicians are the Department of Health (DOH) and the Miners Colfax Medical Center (MCMC). Currently, the MCMC is attempting to recruit employees in a very rural area and the market rate for physicians is very high. Agencies are currently utilizing alternative pay mechanisms such as shift, recruitment and retention differentials and overtime. With the addition of the pay band, MCMC will be able to capture the pay rates needed to attract and retain qualified positions to provide services to citizens of New Mexico.

Mr. Najaka clarified that the current salaries paid to physicians would be cost neutral with the adoption of the new pay band. Director Moser added that most physicians are funded through Medicaid and Medicare reimbursements. The agency is losing the funding stream because the agency does not have positions on staff. Vice Chairman Romero asked why it was not more beneficial for the agency to hire on contract versus classified positions. Mr. Najaka said the pay band is a critical need in rural areas; a lot of individuals do not have access to general surgeons. Hiring individuals on contract will cost more. Shawn Lerch, CEO, MCMC added that there is a shift in physicians moving from private practice to direct employment with hospitals. Physicians will have liability malpractice plus a guaranteed type of salary. A study based on modern healthcare indicates by the end of 2014, 80 percent of all private practice will be gone. In addition, fair market valuation is used to determine a physician's salary.

In response to Chairman Yarbrough, Mr. Lerch said MCMC is the primary healthcare provider for delivery of services. Currently, there are four physicians in the community. National data is used to determine the salary; however the agency utilized an independent consultant that considered regional data from the southwest as well.



**Board Member Long moved to approve the FY13 Classified Services Salary Schedule with the addition of Pay Band 99, seconded by Board Member Day. Motion carried.**

## **VII. FY14 Classified Service Salary Schedule**

Justin Najaka, Compensation and Classification Director, SPO presented the FY14 Classified Service Salary Schedule. Effective the first pay period following July 1, the Legislature authorized a one (1) percent salary increase for classified employees as well as classified employees in other salary organizations. The salary structure has not moved since 2007, prior to that it was moved 1.75 percent. The proposed FY14 Classified Service Salary Schedule includes the appropriated one (1) percent for all 18 pay bands except pay band 99. During the next fiscal year, the SPO will create multiple pay structures to adjust the current single pay structure.

**Board Member Long moved to approve the FY14 Classified Service Salary Schedule, seconded by Vice Chairman Romero. Motion carried.**

## **VIII. Classification Studies**

### **A. Construction – Project Manager**

Stuart Hamilton, Compensation & Classification Senior Analyst, SPO presented the Construction – Project Manager Classification and assigned pay bands. There are no current incumbents in the classification as it is a new classification for utilize to more accurately classify incumbents who will be expected to perform job duties delineated in the description. Implementation of this classification study has no cost impact.

Mike Unthank, Deputy Cabinet Secretary, General Services Department (GSD), added that for some time, individuals have been hired for a position that has not accurately described the job duties. The new classification clarifies that individuals applying for the position should come from an industrial commercial background and not necessarily a residential construction project background. In addition, the Governor signed into law a merger that would consolidate the Building Services Division and the Property Control Division to become the Facilities Management Division of GSD. The classification will apply to both divisions in the merger.

**Board Member Day moved to adopt the Construction – Project Manager Classification and assigned pay bands, seconded by Board Member Long. Motion carried.**

### **B. Department of Homeland Security and Emergency Management – IT Communications Manager**

Stuart Hamilton, Compensation & Classification Senior Analyst, SPO presented the Department of Homeland Security and Emergency Management (DHSEM) – IT Communications Manager Classification and assigned pay bands. There are no current incumbents in the IT Communications Manager – DHSEM Classification as it is a new classification for the agency to more effectively and efficiently pursue its mission. The implementation of this cost study has not cost impact on positions at DHSEM. The current position expected to perform these duties is currently classified as a Line Manager II – IT.



Robert McGee, Chief Information Officer, DHSEM, added that the classification helps recognize the emerging technical specialty in the field of communications for emergency services and for homeland security. Previously, the position had a focus in emergency management. The new classification will allow the agency to compliment the existing emergency management focus with a technical specialty in information technology and security.

In response to Vice Chairman Romero, Mr. Hamilton said because of the unique nature of homeland security, a more generic classification cannot be used. The position handles emergency communications and emergency IT applications.

**Board Member Long moved to approve the Department of Homeland Security and Emergency Management – IT Communications Manager and assigned pay bands, seconded by Board Member Day. Motion carried.**

### **C. Regulation and Licensing Department – Electrical Bureau Chief**

Cliff McNary, State Classification Manager, SPO presented the Regulation and Licensing Department – Electrical Bureau Chief classification and pay band. This position oversees the entire construction inspection function for the agency. This classification impacts one (1) incumbent currently classified as an Admin Ops II Manager; however the pay does not change or the pay range. Implementing the classification study will not have any fiscal impact on the agency or the individual.

Vice Chairman Romero asked if the Electrical Bureau Chief was at one point an exempt position recently converted to a classified position. Mr. McNary said the position answers to an exempt or Governor Exempt position. Similarly, there will be other classified bureau chief classification studies that will be presented to the Board for approval.

**Board Member Long moved to approve the Regulation and Licensing Department – Electrical Bureau Chief Classification and pay band, seconded by Vice Chairman Romero. Motion carried.**

### **D. Physicians Series**

Cliff McNary, State Classification Manager, SPO presented the Physicians Series Classifications and pay bands. The series includes a Hospital Physician and Physician Manager. Implementation of the classification will have no cost impact on any agency or employee involved. The classification will allow MCMC, Department of Health (DOH) and possibly one other agency to reclassify their current positions from their current classifications into a proper physician classification.

Chairman Yarbrough asked if it is envisioned that all physician positions within state government might eventually move into pay band 99. Mr. McNary said yes where it is necessary to be marketably competitive for physician salaries.

**Board Member Long moved to approve the Physician Series (Hospital Physician and Physician Manager) Classifications and pay bands, seconded by Vice Chairman Romero. Motion carried.**

#### **E. STIU Investigator**

Theresa Rogers, Classification and Compensation Analyst, SPO presented the Security Threat Intelligence Unit (STIU) Investigator Classification and pay bands. The classification is a new series and the current incumbents filling this role are classified as Probation and Parole Officers II. There are 16 FTE (14 filled and two (2) vacancies). There is no fiscal impact to the department.

Richard Price, STIU Manager, Corrections Department added that the department covers the entire state's fugitive apprehension.

**Board Member Day moved to approve the STIU Investigator Classification and pay bands, seconded by Board Member Long. Motion carried.**

#### **F. UI Tax Representative Series**

Theresa Rogers, Classification and Compensation Analyst, SPO presented the Unemployment Insurance (UI) Tax Representative Classification series and pay bands. The series consists of three titles: UI Tax Representative, UI Tax Representative Senior and UI Tax Representative Supervisor. Current incumbents are misclassified and will be transferred over into a more specific and specialized classification. There are 29 current incumbents.

Board Member Long expressed about the automated telephone system. Janelle Rodriguez, HR Manager, Workforce Solutions Department (WSD) said the automated telephone system was implemented January 1, 2013. There are still amendments being made to the system and staffing has increased. Ms. Rodriguez explained that when the cues fill up, claimants receive a recording to call back. In addition, claimants are encouraged to apply for services on-line.

**Board Member Long moved to approve the UI Tax Representative Series and pay bands, seconded by Vice Chairman Romero. Motion carried.**

#### **VI. Executive Session**

**Vice Chairman Romero 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; seconded by Board Member Long:**

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

The Board met in Executive Session from approximately 10:44 a.m. to 11:28 a.m. For the record, 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 recommendations in *Salazar v. New Mexico Department of Health*; Docket No. 12-001-S, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, with the following modification:**

**Section VII, paragraph 14 is amended to read as follows: "Pursuant to Conclusion of Law No. 13 above, Salazar's separation is rescinded and Salazar is reinstated to employment with the Department of Health," seconded by Vice Chairman Romero. Motion carried.**

- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Fernandez v. New Mexico Corrections Department*; Docket No. 12-011, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, with the following modification:**

**Section VII, Paragraph 11, is amended to read as follows: "There may exist personal motive for certain NMCD employees to retaliate against Fernandez. However, no retaliation is found as a Conclusion of Law," seconded by Board Member Long. Motion carried.**

- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Mohney v. New Mexico Aging and Long-Term Services Department*; Docket No. 12-002-S, **Board Member Day 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 recommendations in *Morales v. New Mexico Corrections Department*, Docket No. 13-012, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Vice Chairman Romero. Motion carried.**

## **VII. Litigation Update**

Leonard Padilla, Chief Administrative Law Judge, SPO reviewed a decision and order in the matter of *Robert Michael Hagen v. New Mexico Regulation and Licensing Department*. Judge Singleton, First District Court ordered that the case be remanded to the State Personnel Board.

**Vice Chairman Romero moved to direct the SPO Administrative Law Judges to schedule a hearing as set forth in Judge Singleton's decision and order, seconded by Board Member Long. Motion carried.**

## **VIII. Other Business**

Mona Valicenti, Assistant Attorney General, advised the Board that the Open Meeting Act was amended and signed by the Governor changing the availability of the agenda to the public from 24-hours to 72-hours in advance of a board meeting effective June 19, 2013. Therefore, the Open Meetings Resolution requires an amendment to reflect the change. The Board will need to adopt the revised resolution at the next scheduled meeting.





**Next Meeting Date:** June 24, 2013

**IX. Adjournment**

With no further business, **Vice Chairman Romero** moved to adjourn the State Personnel Board meeting at approximately 11:45 a.m., seconded by Board Member Long. Motion carried.

Approved by:

  
Chairman Yarbrough  
State Personnel Board

Attest:

  
Eugene Moser, Director

