



# New Mexico State Personnel Board

## State Personnel Office

SUSANA MARTINEZ  
GOVERNOR

Justin Najaka  
Director

Nivia L. Thames  
Deputy Director

State Personnel Board Meeting  
State Personnel Office  
2600 Cerrillos Road  
Santa Fe, NM 87505  
April 27, 2016  
Minutes

State Personnel Board  
Christine B. Romero, Chair  
Dennis L. Garcia, Vice Chair

Megan Muirhead Jerry Manzagol

### I. Procedural Items

#### Call to Order

The meeting of the State Personnel Board (SPB) was called to order by Chair Romero at approximately 9:03 a.m. on April 27, 2016 at the State Personnel Office (SPO), Santa Fe, New Mexico.

Invocation David Berry

Pledge of Allegiance Michael McEuen

#### Roll Call

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

Christine Romero, Chair  
Dennis L. Garcia, Vice Chair  
Megan Muirhead, Board Member  
Jerry Manzagol, Board Member

#### Approval of Agenda

Vice Chair Garcia moved to approve the April 27, 2016 agenda; seconded by Board Member Manzagol. Motion carried.

#### Approval of Minutes – March 24, 2016

Vice Chair Garcia moved to approve the March 24, 2016 State Personnel Board meeting minutes; seconded by Board Member Manzagol. Motion carried.

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## II. Director's Report

Director Najaka provided the following updates:

### 1) Introduction of Administrative Law Judge Richard Blumenfeld

Richard Blumenfeld was introduced to the Board. Mr. Blumenfeld is the Administrative Law Judge (ALJ) in the Adjudication Division. ALJ Blumenfeld was previously employed by the State District Courts from 1997-2010 and by the Public Regulation Commission from 2010-2016.

### 2) Job Fairs

The Career Services Division staff has been busy participating in job fairs, the most recent was held at the Devargas Center in Santa Fe. Many of the attendees were under the impression that the State of New Mexico is under a hiring freeze. The Career Services Division staff informed the participants that there is not a hiring freeze and assisted them in the steps needed to apply for jobs within the State. Training has been scheduled at the Santa Fe Community College to assist potential employees in applying for State jobs. SPO has also partnered with the Department of Veterans Services and participated in job fairs to assist veterans in finding employment with the State of New Mexico.

### 3) Society for Human Resource Management (SHRM) Exam

Director Najaka congratulated SPO Division Directors Andrea Rivera-Smith and Bernadette Quintana for passing the SHRM exam. They are now certified SHRM Professionals. Three other SPO employees will also be taking the exam within the next few months.

### 4) Fair Labor Standards Act (FLSA)

In 2014 President Obama instructed the Secretary of the US Department of Labor to revisit FLSA exemptions and make the necessary changes to assist employees and employers in better understanding the rules. USDOL received over 200,000 comments and on April 15, 2016 the proposed changes were given to the Office of Management and Budget which is the last step in this process. The proposed changes on the salary threshold would affect the State of New Mexico by changing positions that are currently recognized as FLSA exempt to FLSA nonexempt. There are currently 2300 employees in all three branches that could be affected with 1800 in the Executive Branch. SPO will work with agencies to assure that the State of New Mexico is in compliance with the new regulations.

## III. General Public Comment

No one signed up for General Public Comment



#### IV. Corrections FY17 Salary Structure

Justin Najaka, State Personnel Director, presented the request for the Corrections FY17 Salary Structure. The adoption of the Corrections occupationally based salary structure will provide the Corrections Department with a competitive salary structure that will be used to supplement its efforts to recruit and retain qualified custody staff. The structure is more reflective of the in-state and regional salary market and will allow the State to be more flexible and responsive to market changes. The proposal consists of 13 levels (pay bands) it captures the entry level cadet classification up to the Deputy Director of Adult Prisons in one single salary structure. There are 1,450 filled and vacant positions that will be assigned to the new structure. The 2016 legislative session has appropriated \$4.5 million in the General Fund to fund the implementation of the new salary structure. The new salary structure will assist the Corrections Department in recruiting and retaining employees. Vacancy rates are very high within the Corrections Department and there is a large disparity in the market rates between competitive/comparative markets and the State. The midpoint percentage with the new Corrections Salary structure will be 30.4% higher. The success of this structure will be measured in several ways. Vacancy rates will go down since we now have more competitive pay schedule, overtime costs will be less due to the improved recruitment and retention of employees, training monies expended now to address new academies can be reallocated to other areas of the Corrections Department. Additionally, increased employee engagement, as a result of management addressing the pay structure, in eliminating overtime will help to create a better work-life balance. No other agencies will utilize this pay structure. It should be noted that the State Personnel Board is the only entity that can approve a change in a salary structures.

Director Najaka introduced Department of Corrections Cabinet Secretary Gregg Marcantel. Secretary Marcantel thanked SPO, LFC and DFA for their collaboration on the implementation of the salary structure. Secretary Marcantel said that many times the importance of the Corrections Department positions is not always recognized. Board Member Muirhead asked that based on the comparison structures, it appears that the highest salary will be lowered and will it affect the person in that position by a decrease in pay. Director Najaka stated there's one individual who'll be affected, however, there will be no decrease in salary. Board Member Muirhead also asked how this structure will affect individuals whose salary would not be adjusted. Director Najaka said that the initial appropriation request included money to adjust employee salaries to minimum of the new salary structure and addition funds to reduce compaction. Director Najaka said the work began in 2012 and SPO will continue to survey market changes and monitor appropriately each year. Vice Chair Garcia also asked how many individuals are not at mid-point and what will be done to get employees to mid-point. Director Najaka said it will take time and money to get individuals to mid-point; however, this is the first step in getting there. Chair Romero thanked the representatives from DFA and LFC for showing their support. Chair Romero also reiterated the importance of the Corrections positions to the State of New Mexico.

**Board Member Manzagol moved to approve the Corrections FY17 Salary Structure; seconded by Board Member Muirhead. Motion carried.**



## V. Correctional Officer Classifications

Cliff McNary, State Classification and Testing Manager, presented the request for approval of Correctional Officer Classifications. The new descriptions were measured by the Job Evaluation Committee on April 15, 2016. There are seventeen (17) correctional classifications descriptors to be reviewed and approved. These classifications have the new pay bands and descriptors.

**Board Member Muirhead moved to approve the Corrections Correctional Officer Classifications; seconded by Vice Chair Garcia. Motion carried.**

## VI. Correctional Officer Specialist Classifications

Cliff McNary, State Classification and Testing Manager, presented the request for approval of the Correctional Officer Specialist Classifications. The State Personnel Office recommends that the State Personnel Board approve the proposed Job Measurement Committee Evaluation of the Correction Officer Specialist classification descriptions. These positions were approved by the State Personnel Board at the December 3, 2015 meeting. The reason for this presentation is to approve the pay bands for the new classification pay structure for the Corrections Department. Director Najaka stated the only changes are the job codes and pay band.

**Vice Chair Garcia moved to approve the Correctional Officer Specialist Classifications; seconded by Board Member Manzagol. Motion carried.**

## VII. FY 2017 SPO Operating Budget

Stuart Hamilton, Chief Financial Officer, presented the request for approval of SPO FY2017 Operating Budget. Mr. Hamilton stated the approved budget was \$4,411.0, a decrease of \$139.0 from FY2016 Operating Budget.

**Board Member Manzagol moved to approve the SPO Operating Budget; seconded by Vice Chair Garcia. Motion carried**

## VIII. Safety Sensitive Positions Review and Approval

Alicia Lucero, SPO Quality Assurance Auditor, presented the request for approval of the April 2016 out of cycle review and approval of Safety Sensitive/Omnibus Designated positions. Mrs. Lucero introduced Toby Velasquez, State Parks Director and Barry Lucero, Boating and Law Enforcement Bureau Chief from the Energy, Minerals and Natural Resources Department (EMNRD). In accordance with **Designation of Safety Sensitive Positons, Subsection D of 1.7.8.9 NMAC**, the State Personnel Board (SPB) shall review and approve out of cycle requests for additions and deletions of Safety Sensitive designated positons. The EMNRD is requesting the State Personnel Board's approval for the addition of



one (1) position that now requires a Safety Sensitive designation. An evaluation of tasks and workload of the Villanueva State Park in Northern New Mexico has resulted in the need for a position with a Peace Officer Certification. This will ensure the public's safety as well ensure that the rules and laws are adhered to. The attendance data shows an increase in attendance of 15% in comparison to FY 15's total attendance numbers. Because the park is in a rural and remote area, response time for County Sheriff's and NM State Police officers may be delayed. Having a peace officer on site will assist in a more rapid response time for law enforcement situations, search/rescue and medical emergencies. With the addition of one safety sensitive position, the revised total Safety Sensitive designated positions equals 4,344 positions. The total Omnibus designated positions equal 1,102 positions. Positions designated as both Safety Sensitive and Omnibus total 32. New Mexico State Government now maintains a total of 5,477 Safety Sensitive and Omnibus designated positions.

**Board Member Muirhead moved to approve the Safety Sensitive Positions Review and Approval; seconded by Vice Chair Garcia. Motion carried**

#### **IX. Executive Session**

**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; second by Vice Chair Garcia. Director Najaka called roll and all members voted in the affirmative. Motion carried.**

**The Board met in Executive Session from approximately 10:34 a.m. to 10:46 a.m. For the record, the matters discussed in closed session were limited to those specified below in the Motion to close.**

**1. *Aragon v. NM Corrections Department*; Docket No. 15-039**

- After careful consideration of the proceedings and the administrative law judges recommendations in *Aragon v. NM Corrections Department*; Docket No. 15-039, Member Muirhead moved to adopt the Administrative Law Judges' recommended decision. Motion was seconded by Vice Chair Garcia. Motion carried unanimously.**

**2. *Davis v. NM Corrections Department*; Docket No. 15-048**

- After careful consideration of the proceedings and the Administrative Law Judges' recommendations in *Davis v. NM Department of Corrections*; Docket No. 15-048, Board Member Manzagol moved to adopt the Administrative Law Judges' recommended decision. Motion was seconded by Vice Chair Garcia. Motion carried unanimously.**

#### **X. Litigation Update - Jessica Cooper, Administrative Law Judge, Adjudication Bureau**

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In the third quarter of FY 16, the Adjudication Division received 12 new appeals and disposed of 11. There are currently 38 appeals pending.

In District Court, a decision in *Martinez v. CYFD*, District Court Judge Ortiz upheld the Board's decision dismissing Mr. Martinez.

There is no other *dispositive* action to report in the remaining 8 district court appeals, though in *Bond v. CYFD*, the merits hearing has been scheduled for next Wednesday, May 4, before Judge Singleton.

Finally, the Adjudication Bureau received notice of a new appeal to District Court in the matter of *Parra v. DOH*. That was the matter before the Board at the March Board meeting, where the Board decided to demote, rather than dismiss, Mr. Parra on allegations of inappropriate behavior and comments toward female co-workers.

**XI. Other Business – Next Meeting Date: June 16, 2016**

**XII. Adjournment**

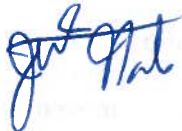
With no further business, **Board Member Muirhead moved to adjourn the State Personnel Board meeting at approximately 10:50 a.m.; seconded by Vice Chair Garcia. Motion carried.**

Approved by:



**Christine B. Romero, Chair  
State Personnel Board**

Attest:



**Justin Najaka, Director**

