



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
October 20, 2017
Minutes

State Personnel Board
Christine B. Romero, Chair
Jerry Manzagol, Vice Chair

Megan Muirhead Carmen V. Chavez

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 October 20, 2017, at the State Personnel Office (SPO), Santa Fe, New Mexico.

Invocation Armida Zamora

Pledge of Allegiance Michael McEuen

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
Carmen V. Chavez, Board Member
Board Member Megan Muirhead was absent from the October 20, 2017 State Personnel Board Meeting

Approval of Agenda

Vice Chair Manzagol moved to approve the October 20, 2017, State Personnel Board Agenda.; seconded by Board Member Chavez. Motion carried.

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Approval of Minutes – August 25, 2017

Board Member Chavez moved to approve the August 25, 2017, State Personnel Board minutes, seconded by Vice Chair Manzagol. Motion carried.

II. Director's Report

Director Najaka provided the following updates:

1. Human Resources (HR) Consolidation

Director Najaka gave an update on the HR Consolidation

Executive decision to hold off implementing federally funded and restricted in state/other state fund agencies until July. GF and unrestricted other fund agencies will consolidate this winter.

Regular meetings with the New Leadership team were set up for 9/26/17, and 10/18/17. The next two will be held on 11/1/17 and 11/15/17. These meetings with the Leadership Team will be scheduled every two weeks. There are plans to meet with the full HR community on 11/8/17. Chair Romero asked that the Board members be notified when the meetings are held in the event that the Board Members would like to attend.

HR staff were assigned to workgroups on August 26, 2017 and assigned to develop 127 work flows. On October 19, 2017 a group of HR professionals came together to review the first 75 and cross reference each of them to see if they overlap each other

Facilities work is progressing in the Albuquerque location at 5550 San Antonio. The lease is 99.99% complete. SPO is working with GSD and contracted architects on the masterplan to reconfigure certain areas of the Willie Ortiz Building.

Workflow, policy, branding, communications and Onboarding teams continue to meet.

SPO is still refining the enterprise rate formula. The formula will be Total HR costs divided by the number of agency FTE.

Director Najaka met with the LFC on October 13, 2017 to discuss the Consolidation, the meeting went well. The LFC Budget hearing is scheduled for October 25, 2017 at 2:30. It may need to be rescheduled in order to attend the Voting Leave Hearing court hearing.

2. Voting Leave

SPO General Counsel Moses Winston gave the Board an update on the lawsuit filed by AFSME/CWA on behalf of 2 state employees. The Board and Director Najaka were served with a lawsuit on October 3, 2017 regarding the voting leave with allegations that the Board and Director Najaka violated the Election Code. Outside legal counsel has been hired to represent the Board and Director Najaka. An injunction will be requested prior to the City of Albuquerque Mayoral run-off election scheduled for November 14, 2017. Chair Romero asked if the union is questioning whether municipal elections should have been included in the rules. General Counsel Winston stated the issue is whether the employer has to pay an employee to vote in the municipal elections. State of New Mexico has provided guidance as to which elections they will give employees administrative leave time to vote.



3. HR Digitization Program

Three agencies have scanned into the Perceptive Content System. SPO appeared before the C2 Committee on October 13, 2017. Two requests have been made for FY19. \$335,000. for Workflow Approver Software Licenses and \$200,000 to contract with a third party vendor to scan the majority of approximately 18,000 active personnel files. Chair Romero asked which smaller agencies records have been scanned. Shared Services Division Director Leane Madrid stated that the Office of African American Affairs, Indian Affairs and the Governor's Commission on Disability.

Director Najaka stated that SPO has the licenses and the goal is to scan the Shared Services Agencies first.

4. New SPO Staff

Two employees have or will be leaving SPO.

Roberta Arguello has left the Labor Relations Division to work with the Law Offices of the Public Defender.

Ashley Quintana will be leaving Agency HR Services to work for the New Mexico Department of Transportation.

Director Najaka introduced new staff at SPO

Marie Fitzpatrick from DFA.

Stephanie Rice comes to SPO from the private sector and has fifteen years of human resources experience

Charlie Phelps comes to SPO from private sector and has thirty years of human resources experience and taught HR classes on line at New Mexico Highlands University for three years.

On October 23, 2017 Mr. Jeff Peters will be starting at SPO. Ms. Rice, Mr. Phelps and Mr. Peters were hired at the HR Rapid Hire event.

Chair Romero asked if SPO is a cabinet agency. Director Najaka stated it is not.

III. General Public Comment

No individuals signed up for General Public Comment.

IV. Department of Public Safety (DPS) Reduction in Force (RIF)

Cynthia Anaya, SPO Human Resource Consultant with SPO Agency HR Services addressed the Board regarding the DPS RIF. Ms. Anaya introduced from the Department of Public Safety: Vicki Bowser, Human Resource Director and Emergency Communications Director Terri Thornberry. The Department of Public Safety has been working on the consolidation of Communications Centers throughout New Mexico and intends to close the Gallup Communications Center consolidating it with the Albuquerque Communications Center. The closure will assist the agency to improve the effectiveness and efficiency of dispatch operations and reduce related expenses to providing these services.

Currently Department of Public Safety operates four Communication Centers and at one time Department of Public Safety had eighteen Communication Centers running. Within the last decade they reduced that number to eleven and within the last year the number of centers has reduced to four. This closure will complete the original consolidation plan to the three center regional approach with:

- NorCom center serving the northern district
- CenCom center serving the central district and
- SoCom center serving the southern district

This closure will result in the elimination of four (4) permanent filled Dispatcher II positions. Of the four positions one employee has agreed to transfer to the Albuquerque Communications Center. The State Personnel Office Career Services Division will be available to assist employees affected by the Reduction in Force plan to find other employment within State Government for which they qualify for.

Department management met with all affected employees in the Gallup Communications Center on October 4, 2017; at this meeting they did extend support to any employee that may request a transfer to one of the three centers (NorCom, CenCom and SoCom). Management also extended assistance for resume writing and with the NeoGov application process. In addition, Human Resources staff offered to contact potential employers in support of external applications for employment. Chief Kassetas will also provide a letter of reference for each employee requesting one. Administrative leave is also being offered for employees to attend interviews for positions, inclusive of travel time, to further support the employees and maximize terminal leave payout for employees who separate from state government or are laid off.

Upon approval of the plan, State Personnel Office will issue an official notice of reduction in force to the affected employees outlining all post Reduction in Force reemployment rights afforded pursuant to State Personnel Board Rules for a six (6) month period. State Personnel Office will continue to work with the employees to find a suitable position within state government.

Vice Chair Manzagol, moved to approve the Department of Public Safety Reduction in Force; seconded by Board Member Chavez. Motion carried.

V. Consolidation and Update of the Attorney Classification Series

Cliff McNary, Classification and Compensation Manager, presented the request for approval of the Consolidation and Update of the Attorney Classification Series.

In an effort to better organize the legal occupational group, SPO recommends the approval and adoption of the newly reconstituted and realigned Attorney Classification Series.

Currently the law professional in the Classified Service are housed in three different titles: Lawyers, Attorneys and General Counsel. Aligning all these jobs in the proper sequence requires they be titled as Attorney I, II, III, IV, Attorney Supervisor and General Counsels I and II. Updating the series will mitigate any confusion management or job applicants may have.

This update will affect 147 FTE, but will have no cost impact.

Board Member Chavez asked if this includes the Law Clerks and Paralegals. Mr. McNary stated that it does include those classifications as well.

Board Member Chavez moved to approve the Consolidation and Update of the Attorney Classification Series; seconded by Vice Chair Manzagol. Motion carried.

VI. Executive Session

Board Member Manzagol 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 Board Member Chavez.

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

The Board met in Executive Session from approximately 9:38 a.m. to 10:00 a.m. For the record, the matters discussed in closed session were limited to those specified below in the Motion to close.

1. *Lucero v. New Mexico Children Youth and Families Department*; Docket Nos. 16-040

- **After careful consideration of the proceedings and the Administrative Law Judges' recommendations in *Lucero v. New Mexico Children Youth and Families Department*; Docket No. 16-040.**

The Board moves to adopt the Administrative Law Judges' recommended decision in *Lucero v. New Mexico Children Youth and Families Department*; Docket No. 16-040.

Vice Chair Manzagol moved to approve. Motion seconded by Board Member Chavez. Motion carried.

2. *Luchetti v. New Mexico Corrections Department*; Docket No. 16-024

- **After careful consideration of the proceedings and the Administrative Law Judges' recommendations in *Luchetti v. New Mexico Corrections Department*; Docket No. 16-024.**

The Board moves to adopt the Administrative Law Judges' recommended decision in *Luchetti v. New Mexico Corrections Department*; Docket No. 16-024.

Vice Chair Manzagol moved to approve. Motion seconded by Board Member Chavez. Motion carried.

3. *Rojo v. New Mexico Department of Military Affairs*; Docket Nos. 13-057



- **After careful consideration of the proceedings and the Administrative Law Judges' recommendations in *Rojo v. New Mexico Department of Military Affairs; Docket No. 13-057* The Board moves to table the decision in the case of *Rojo v. New Mexico Department of Military Affairs; Docket No. 13-057* to the December Board Meeting**

Vice Chair Manzagol moved to table the decision in the case of *Rojo v. New Mexico Department of Military Affairs; Docket No. 13-057* to the December Board Meeting. Motion seconded by Board Member Chavez. Motion carried.

4. *Trujillo v. New Mexico Children, Youth and Families Department; Docket No. 17-004*

- **After careful consideration of the proceedings and the Administrative Law Judges' recommendations in *Trujillo v. New Mexico Children Youth and Families Department; Docket No. 17-004.* The Board moves to table the decision in the case of *Trujillo v. New Mexico Children Youth and Families Department; Docket No. 17-004* to the December Board Meeting**

Vice Chair Manzagol moved to approve to table the decision in *Trujillo v. New Mexico Children Youth and Families Department; Docket No. 17-004* to the December Board Meeting. Motion seconded by Board Member Chavez. Motion carried.

VII. Litigation Update – Jessica Cooper, Administrative Law Judge, Adjudication Bureau

In the first quarter of FY 18, the Adjudication Division received eleven appeals and disposed of nine. So far in October, Adjudication has received two new appeals and disposed of five. There are currently 29 appeals pending.

There are also some updates in the Board decisions on appeal to district court:

Kavanaugh v. CYFD:

Judge Mathew issued an order affirming the Board's decision to uphold Ms. Kavanaugh's termination on the basis of repeated poor performance.

We had some technical difficulty accessing Judge Mathew's order through the courts' online system, but as soon as we obtain a copy it will be forwarded to the Board members.

Bargas v. CYFD:

Judge Ortiz reversed the Board in the matter of Bargas v. CYFD, finding the Board's decision to uphold Ms. Bargas' termination arbitrary and capricious as it failed to consider the "employer's misconduct and mismanagement," the stressful working conditions Ms. Bargas experienced working at Lincoln Pines Youth Center, and Ms. Bargas' lack of training.

CYFD tried to appeal Judge Ortiz's decision to the Court of Appeals, but the appeal was denied. We have not heard what steps CYFD plans to take next, if any.

Rojo v. DMA:

Judge Mathew issued a Decision and Order in January, finding that Mr. Rojo's termination was arbitrary and capricious, in the absence of progressive discipline. Accordingly, Judge Mathew remanded the case to the Board for a determination of appropriate disciplinary action.

DMA filed a Motion for Rehearing, and on August 8, 2017 Judge Mathew denied that Motion, effectively placing the matter back before the Board.

On September 5, 2017 DMA filed a Motion for Amended Discipline, requesting the Board now impose upon Mr. Rojo a suspension from the date of his termination until the date of any order entered on the Motion.

On September 18, 2017 Mr. Rojo responded, arguing that such a lengthy suspension would violate Board rules and asking to be reinstated with a verbal reprimand. On September 25, 2017 DMA filed a reply arguing that the Board does have the authority to impose the lengthy suspension requested.

And on October 12, 2017 DMA filed a Supplemental Memorandum of Law in Support of its Request for such a suspension.

Ms. Cooper provided copies of all the recent motion papers and DMA's Supplemental Memorandum of Law for the Board members.

Ms. Cooper stated they anticipate that Appellant Rojo will file a responsive Memorandum of Law in the near future and will forward that to the Board members when it is received.

Barboa v. New Mexico Corrections Department:

The Board's decision has been appealed to district court. At its August meeting, the Board upheld Ms. Barboa's termination on the basis of her bringing a gun to work. The appeal was filed by Appellant Barboa and has been assigned to Judge Mathew.

There is no dispositive action to report in the six other Board decisions currently on appeal.

VIII. Other Business – Next Meeting Date: December 8, 2017. Director Najaka requested that the December Board Meeting be moved from December 8, 2017 to December 1, 2017

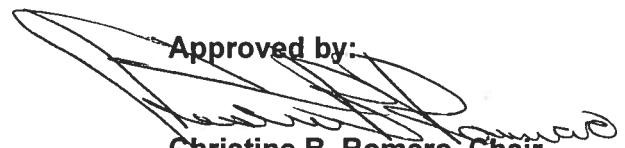
IX. Adjournment

With no further business, **Vice Chair Manzagol moved to adjourn the State Personnel Board meeting at approximately 10:09 a.m.; seconded by Board Member Chavez**
Motion carried.

Attest:



Approved by:



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



Justin Najaka, Director

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