



# New Mexico State Personnel Board State Personnel Office

SUSANA MARTINEZ  
GOVERNOR

Eugene J. Moser  
Director

Nivia L. Thames  
Deputy Director

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

Devon Day Chris Sanchez  
Rebecca Long

**State Personnel Board Meeting**  
**State Personnel Office**  
**2600 Cerrillos Road**  
**Santa Fe, NM 87505**  
**February 10, 2012**  
**9:00 AM**

## Minutes

### I. Procedural Items

#### Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:00 a.m. on February 10, 2012, at the State Personnel Office, Santa Fe, New Mexico.

Invocation                      Stuart Hamilton

Pledge of Allegiance              Scott Summerfield

#### Roll Call

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

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

#### Approval of Agenda

**Board Member Sanchez moved to approve the agenda, seconded by Board Member Long. Motion carried.**

Approval of Minutes – December 16, 2011

**Board Member Long moved to approve the December 16, 2011, State Personnel Board meeting minutes, seconded by Board Member Sanchez.**

Chairman Yarbrough suggested the following change:

Page 8, third line, add "positions" after policymaking.

**Board Member Sanchez moved to approve the December 16, 2011, State Personnel Board meeting minutes, as amended. Motion carried.**

II. Election of Officers

**Board Member Long moved to appoint Paul Yarbrough as Chairman of the State Personnel Board. Motion carried.**

**Board Member Long moved to appoint Christine Romero as Vice Chairman of the State Personnel Board. Motion carried.**

III. Annual Open Meetings Resolution

Mona Valicenti, Assistant Attorney General, Office of the Attorney General explained that under the Open Meetings Act, every public board is required to adopt a resolution that delineates the notice requirements the board will follow in order to give notice to the public for regular meetings, special meetings and emergency meetings, as well as rule hearings.

Ms. Valicenti offered to provide a short presentation on the Open Meetings Act and the Inspection of Public Records Act at a future meeting. Director Moser recommended a future presentation to the Board. Chairman Yarbrough agreed.

**Board Member Long moved to approve the Annual Open Meetings Resolution as presented, seconded by Board Member Sanchez.**

Chairman Yarbrough suggested that special meetings and emergency meetings be posted on the State Personnel Office website and recommended additional language in paragraph 6.

Chairman Yarbrough suggested that language for a Spanish-Language interpreter be included in paragraph 7. Board Member Long asked who pays for interpreters. Director Moser explained that the state pays for interpreters and the language in paragraph 7 refers to disability; language from the Open Meetings Act. Adding additional language may impede the ability to move forward. Chairman Yarbrough also suggested removing the language "or as soon as possible." Board Member Sanchez proposed that if an individual requests to be heard in front of the Board and has a special language situation, it would be upon them to provide an interpreter. Vice Chairman Romero agreed that the language in paragraph 7 refers to disabilities; language is a separate situation.

Chairman Yarbrough suggested adding language to have video conferencing available in paragraph 8. Director Moser said the SPO will have wireless WI-FI available in the next couple of months allowing for video conferencing as well as SKYPEing.

**Vice Chairman Romero moved to table the Annual Open Meetings Resolution until the next regular meeting of the State Personnel Board, seconded by Board Member Long. Motion carried.**

#### IV. State Personnel Board Operating Procedures

**Vice Chairman Romero moved to approve the State Personnel Board Operating Procedures as presented, seconded by Board Member Sanchez.**

In response to Chairman Yarbrough, Director Moser said the State Personnel Board Operating Procedures are identical to the current State Personnel Board Operating Procedures with the exception of the Board Actions which were compiled into the correct columns.

Chairman Yarbrough noted that under Section III, Organization of the Board, paragraph A, there is a typo in statutory citation, which should read Section 10-9-12.

Chairman Yarbrough asked if the mileage rate had been adjusted beginning January 1. Director Moser indicated that the rate had changed and will be adjusted.

In response to Chairman Yarbrough, Director Moser said a signature page will be added to the document.

**Motion carried as amended.**

#### V. Director's Report

Director Moser provided a legislative update and said HB2; the General Appropriations Act (GAA) cleared the House with a vote of 70-0 in favor of the bill. Budget Adjustment Request (BAR) language was not included allowing the Shared Services Bureau to take over human resource services for small agencies and bill for services. Director Moser noted he is working with members from the Senate Finance Committee (SFC) to include an amendment allowing BAR authority for SPO.

The Shared Services Bureau is assuming human resource activities for the State Investment Council (SIC), Board of Professional Engineers and Surveyors (BPES), Higher Education Department (HED), Tourism Department, Public Employee Retirement Association (PERA), Public Education Department (PED), Regulation and Licensing Department (RLD) and Public Regulation Commission (PRC). Director Moser noted that the PED, RLD and PRC are large agencies that requested assistance with restructuring their systems. A transition of human resource functions will shift back to the large agencies on July 1, 2012.

Director Moser presented the SPO quarterly report and highlighted information on the workforce, multiple components of pay, overtime, sick and annual leave usage as well as recruitment.

The average number of days to fill a position has increased by 20 days since the first quarter due to the holiday season and transition issues with NEOGOV. However, the number of job postings has dramatically increased due to NEOGOV; job postings increased 43.6 percent this year compared to FY11 and 61 percent compared to FY10. By statute, the State Personnel Office (SPO) is required to competitively rank applicants. SPO is also required to provide testing; however it will be delayed three to four months.

Director Moser noted that applicants are not filling out applications properly. A series of supplemental questions have to be answered for each job in order to rate each qualification. Approximately three quarters of names submitted to an agency did not qualify for positions placing a burden on SPO staff. SPO is working with the six largest agencies to assist with certifications.

Director Moser attended the National Association of State Personnel Executives (NASPE) mid-year meeting in Washington, DC which paid for all accommodations and included roundtable discussions with approximately 30 personnel executives in attendance.

Director Moser is also involved in reviewing manager evaluations and developing work plans for the next year. Performance appraisals for management staff has not occurred for the last three years.

The HR Council is actively engaged in reviewing legal ramifications for background checks for new employees as well as current employees that may transfer into other occupations. Statutory authority to conduct background checks is required and will be requested during the next legislative session. The HR Council is also reviewing drug testing for all new hires as well as reviewing additional safety sensitive positions. In addition, the HR Council is reviewing the performance appraisal process.

SPO has begun to work on digitizing personnel files and will have a Request for Quote (RFQ) available by the summer. SPO will work closely with the State Records Center and Archives (SRCA) to make sure compliance is met.

A process for rule revisions is scheduled for mid-summer and will be presented to the Board for approval. Director Moser noted he would like to have rule revisions presented to the Board every six months.

In response to Board Member Sanchez, Director Moser explained the difference between temporary recruitment differentials and temporary retention differentials and said in essence they are same. Board Member Sanchez asked who composes the questions for the deeper ranking philosophy in regards to the scoring system. Director Moser responded that the Compensation and Classification Bureau was involved with the agencies to propose questions and tie them back to the job duties. Board Member Sanchez asked if there was a way to differentiate the weight of the question based on numerical ranking. Director Moser responded that staff is currently working on that process.

Vice Chairman Romero asked if there would be opportunity to request BAR language in an additional Legislative committee hearing if it is not included in the GAA. Director Moser responded that the BAR authority is back on the table for discussion; however if the request is not included in the GAA, discussions will take place with the Governor to request supplemental funding.

Vice Chairman Romero asked about the status of union negotiations. Director Moser responded that there are no contracts in place; however the contracts that were set to expire on December 31, 2011 will continue until a successor is negotiated.

Vice Chairman Romero asked how a state agency and/or SPO know if an agency is extending temporary salary increases (TSIs). Director Moser responded that each of the analysts write an analysis of proposals and make recommendations. Director Moser clarified that the Governor did not have a hiring freeze in place; however budget has to be available to fill positions.

Vice Chairman Romero said there is a lot of concern regarding the time it is taking for agencies to receive eligibility lists. Director Moser said on average, it is taking approximately five days to produce a list. With assistance from the six large agencies, they are helping to reduce the timeframe. Vice Chairman Romero requested an update on NEOGOV at the next scheduled Board meeting.

Chairman Yarbrough asked if the unions are still trying to force state agencies to terminate state employees who do not want to pay union dues. Director Moser responded that it is a main point of contention in negotiations. Under the current contract fair share requires employees' to pay less than dues while still representing union activity. This is a permissive subject of bargaining that will not be negotiated; the union is looking at alternatives. The current contract states employees will be terminated if they refuse to participate in fair share. The unions are not enforcing termination; however they are sending collection agencies after employees who refuse to participate in fair share.

Chairman Yarbrough asked if NEOGOV could be programmed to determine if proper documents are attached to an application creating a more streamlined process. Director Moser said the department is working on a resolution with the vendor as well as with other states.

Chairman Yarbrough addressed the annual and quarterly average number of days to fill a vacant position and said staff is taking a more careful approach and working to make sure that individuals are qualified for the jobs they are applying for. Director Moser agreed and added that the average number of days to fill a vacant position for the second quarter is a seasonal average.

#### VI. General Public Comment

No public comment

#### VII. Class Study – Corrections Department, Correctional Managers & Supervisors

Justin Najaka, Compensation Director, State Personnel Office presented the class study on Corrections Department, Correctional Officer Managers and Supervisors. The proposed classifications study creates three brand new classifications in the classified service: Correctional Officer Major, Correctional Officer Captain and a Correctional Officer Lieutenant. The job description was created in a joint effort with the agency.

The class study was presented to the Job Evaluation Committee on February 2, 2012. The pay band assignments are a 55, 60 and 70 respectively and includes a two-band alternative pay band assigned in line with the Correctional Officer basic, operational and advanced non-manager classifications.

Mr. Najaka recommended the Board approve the classification description for the Correctional Officer Lieutenant, Correctional Officer Captain and Correctional Officer Major with the assigned pay bands and effective alternative pay bands of 65, 70 and 80 respectively to be reviewed at the end of the calendar year as all alternative pay band assignments will be reviewed.

Chairman Yarbrough asked if the proposal was revenue neutral. Mr. Najaka responded that there is not fiscal impact related to the study.

**Board Member Long moved to approve the Corrections Department, Correctional Managers and Supervisors classification and pay bands respectively as proposed, seconded by Board Member Day. Motion carried.**

VIII. Class Study – Department of Health, Advanced Practice Registered Nursing

Cliff McNary, State Classification Manager, State Personnel Office presented the new class study for the Department of Health (DOH), Certified Nurse Midwife and Clinical Nurse Specialist. The class study represents the completion of the Advanced Practice Registered Nursing profession. These two new jobs are equal to the Certified Nurse Practitioners; however the difference is in the area of specialization. The proposed classifications require a master's degree in nursing or higher in an area of specialization and certification and licensure from the New Mexico Board of Nursing as a registered nurse, at a minimum. The CNPs and CNSs are sanctioned and licensed by the New Mexico Board of Nursing; the Nurse Midwife is licensed by the DOH. DOH cannot hire a licensed Nurse Midwife into a certified Nurse Practitioner or a Clinical Nurse Specialist job.

Mr. McNary recommended the adoption of the two new titles and alternative pay band of 85. Mr. McNary noted the jobs are equal in size; however they specialize in different areas and will have the same recruitment and retention difficulties that most health care professions deal with.

In response to Chairman Yarbrough, Dr. Margaret Gallaher, acting director, Public Health Division, DOH said there are two kinds of midwives; the Certified Nurse Midwives require a master's level education and licensing through the Board of Nursing as well as through the DOH. Direct Entry Midwives requires only a high school education and minimal training. Certified Nurse Practitioners, Certified Nurse Midwives and Clinical Nurse Specialists most often work as part of a larger team with physicians; they are mid-level and expand the scope of practice especially into rural and underserved areas in the state. DOH mid-level Nurse Practitioners provide most clinical services with back up from the regional health officers and the medical director. DOH does have a limited scope of practice that is clearly defined within professional standards and licensing. The occupation descriptions are consistent with the licensing and professional standards.

**Board Member Day moved to adopt the Advanced Practice Registered Nursing classifications and pay bands as proposed, seconded by Board Member Long. Motion carried.**

IX. Class Study – Department of Transportation, Surveyor

Cliff McNary, State Classification Manager, State Personnel Office presented the class study for the Department of Transportation (DOT), Surveyor. Prior to 1979, licensed surveyors were not required to have a degree in order to earn a license. After that time, a four-year surveying degree was required. In setting up new classifications of surveyors with minimum qualifications, it was discovered that the latter of the standards were followed and individuals who are currently licensed, grandfathered by statute without a degree, were not meeting the minimum qualifications on job postings. The class study augments the language of the qualifications to strike out any mention of a degree allowing pre-1979 licensed surveyors and post-1979 surveyors to compete equally for many surveyor job postings.

In response to Vice Chairman Romero, Mr. McNary said the license is inclusive of minimum qualifications with the education. The license is not attainable without the education or without the degree itself.

**Board Member Sanchez moved to approve the adoption of new qualifications for the Surveyor Classification as presented, seconded by Vice Chairman Romero. Motion carried.**

X. Executive Session

**Vice Chairman Romero moved to go into Executive Session, pursuant to NMSA 1978, Section 10-15-1 (H) 2 and 3 to discuss the following personnel matters and appeals:**

1. *Trujillo v. NM Department of Health*; Docket No. 11-052;
2. *Pennell v. NM Corrections Department*; Docket Nos. 11-013 & 11-014;
3. *Dhagumudi v. NM Secretary of State*; Docket No. 11-023;
4. *Curry v. NM Children, Youth and Families Department*; Docket Nos. 11-051;
5. *Gonzales v. NM Human Services Department*; Docket No. 11-082;
6. *Martinez v. NM Department of Transportation*; Docket No. 11-087; and
7. *Baca v. NM Department of Transportation*; Docket No. 11-044

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

The Board met in Executive Session from approximately 10:48 a.m. to 11:35 a.m. The State Personnel Board discussed in closed session only those matters specified in the motion to close.

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Trujillo v. NM Department of Health*; Docket No. 11-052, **Board Member Sanchez moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Pennell v. NM Corrections Department*; Docket Nos. 11-013 & 11-014, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Sanchez. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Dhagumudi v. Secretary of State*; Docket No. 11-023, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Day. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Curry v. NM Children, Youth and Families Department*; Docket No. 11-051, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Sanchez. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Gonzales v. NM Human Services Department*, Docket No. 11-082, **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 recommendation regarding *Martinez v. NM Department of Transportation*, Docket No. 11-087,

**Vice Chairman Romero moved to table the Administrative Law Judge's recommended decision until the next regular meeting of the New Mexico State Personnel Board, seconded by Board Member Sanchez. Motion carried.**

After careful consideration of the proceedings and the Administrative Law Judge's recommendation regarding *Baca v. Department of Transportation*, Docket No. 11-044, **Board Member Sanchez moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Day. Motion carried.**

XI. Selection of Administrative Law Judge Pro-Tem

Leonard Padilla, Administrative Law Judge, State Personnel Office presented and recommended Administrative Law Judge Pro-Tems for *Romero v. NM State Personnel Office* and *Martinez v. NM Workforce Solutions Department* for the Board's approval.

**Vice Chairman Romero moved to appoint Phyllis Huang Bowman, JD, as the Administrative Law Judge Pro-Tem in the matter of *Romero v. NM State Personnel Office*, seconded by Board Member Day. Motion carried.**

**Vice Chairman Romero moved to appoint Ida M. Lujan, as the Administrative Law Judge Pro-Tem in the matter of *Martinez v. NM Workforce Solutions Department*, seconded by Board Member Long. Motion carried.**

XII. Litigation Update

Leonard Padilla, Administrative Law Judge, State Personnel Office reported the Board was provided with a written report discussing 12 cases that are currently in District Court and a discussion of court cases that were recently appealed at District Court. Mr. Padilla noted the State Personnel Board has achieved good results in the District Courts.

Mr. Padilla urged the Board to review the statistics for adjudication in the most recent quarterly report.

XIII. Other Business: Next Meeting Date: March 5, 2012

Director Moser said the department is tracking legislation proposing to consolidate all hearing officers within state government. There are issues with the legislation that require amendments as well as technical issues regarding the Board and its authority.

Background checks for Board members with the exception of Board Member Sanchez were completed by the Senate Rules Committee; however confirmations will most likely not take place during the current Legislative Session. Hearings may be dealt with during the interim.

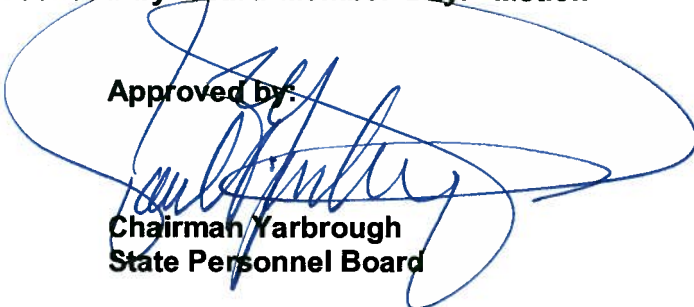
Chairman Yarbrough noted the FY13 budget hearing was presented to the House Appropriations and Finance Committee (HAFC) in January. Director Moser added the budget request was flat and no changes were made by HAFC.

Director Moser invited Board Members to attend the Cowboy Code of Ethics training on February 20, 2012 in the SPO auditorium. Governor Martinez will introduce former Governor Garrey Carruthers who will provide the training session. The session will be recorded and will be provided to agencies to conduct training within their departments.



XIV. Adjournment

With no further business, **Vice Chairman Romero** moved to adjourn the **State Personnel Board meeting at approximately 12:00 p.m., seconded by Board Member Day. Motion carried.**

Approved by:   
**Chairman Yarbrough**  
**State Personnel Board**

**Attest:**



**Eugene Moser, Director**



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