

New Mexico State Personnel Board

State Personnel Office



Pamela D. Coleman
Director

Michelle Lujan Grisham
Governor

State Personnel Board
Christine B. Romero, Chair
Jerry Manzagol, Vice Chair
Carmen V. Chavez, Member
Laura A. Liswood, Member

State Personnel Board Meeting
State Personnel Office
Willie Ortiz Building Auditorium
2600 Cerrillos Road, Santa Fe, NM 87505
December 6, 2019
Minutes

I. Procedural Items:

Call to Order

The meeting of the State Personnel Board (SPB) was called to order by Chair Romero at 9:00 a.m. on December 6, 2019 in the Auditorium of the Willie Ortiz Building Auditorium.

Pledge of Allegiance David Berry

Roll Call

Director, Pamela D. Coleman called roll and a quorum was established with the following board members present:

Christine B. Romero, Chair

Jerry Manzagol, Vice Chair

Carmen V. Chavez, Board Member

Laura A. Liswood, Board Member

Approval of Agenda

Vice Chair Manzagol moved to approve the December 6, 2019 SPB Agenda; second by Board Member Chavez. Unanimously approved.

Approval of Minutes – October 18, 2019

Board Member Chavez moved to approve the Minutes from October 18, 2019 meeting as presented; second by Vice Chair Manzagol. Unanimously approved.

II. Director's Report

- Director Coleman began her report by thanking the board for their continued support and to the State Personnel Staff and community of HR Professionals and their great work.
- Director Coleman welcomed the newest Board member, Laura Liswood who has served as the Secretary General of the Council of Women World Leaders which is composed of 72 women presidents, prime ministers and heads of government. The Council is the only organization in the world dedicated to women heads of state and government.
- Director Coleman stated that this was our first Board meeting back in the Willie Ortiz building and very pleased to be back here.
- BIG NEWS – The Governor announced a State wide 4-day Rapid Hire event to be held next week at The Tingley Center in Albuquerque. This is unprecedented in scope. Director Coleman gave special thanks to Andrea Rivera-Smith, Prakash Bhakta, Max Cordova plus the involvement of all State Personnel staff for all their work on the set up and the HR community.
 - State Personnel office and DWS are partnering as co-hosts and are setting up for Zoom interviews for those who cannot get to Albuquerque from the more rural areas.
 - Schedule is posted on our website as well as the Governor's website.
 - Tina Tawater and DVR team were acknowledged for sponsoring sign language interpreters to assist for the blind and hearing impaired attendees, making them available for the entire 4 day event.
 - PERA & ERISA will both attend and staff the information tables for the entire event.
 - This event is focused on promoting a career in state government, and to be a place for those attending, who are not yet in state government, to get more information and apply for available positions.
- Internal rotations – We are in week 9 of pilot, which continues and we are focused on processes and procedures training
- Team met with DFA this week to streamline processes between the agencies.
- Pilot new program using PARF (Personnel Action Request Form) with DOH being the test agency for the new form, which is appreciated. The goal is to shave/save time in the process.
- Social Media Challenge #IServeNM has finished with remarkable success. More impressions, hits and clicks in the 2.5 months than in the history of Social Media prior to that.
- Developing an Opinion piece with #IServeNM theme
- Innovation Lab pilot moved to December 16. Invited all deputies – a morning and afternoon session will take place in HEC - 1950 Siringo Road, Santa Fe, NM
- Climate Report was issued by Special Representative Martinez and Marko Satarain from State Personnel.

- LFC hearing on our budget that the Board approved in the last meeting was presented a few weeks ago.
- C2 Request submitted and presented with requests for IT improvement pilots. Went in with a big number and anticipate the best.
- Compensation report presented by Cliff McNary during this meeting will be presented to LFC next week, pending board approval of that document.
- Union Negotiations continue. Relationship with each continue to improve.
 - In the beginning phase with CWA
 - AFSCME is in the final phase
 - Since the last meeting, Connie Derr, President Council 18, AFSCME and I did a joint presentation to NM PERLA, we both felt very pleased about that.
- The Governor has nominated Early Childhood Development & Care Department new Secretary Designate, Elizabeth Groginsky who is from Washington, DC. She and I will be meeting next week.
- Intern program update – already receiving interest for summer 2020 which we will continue. State Personnel hired Erika Lopez as a result of her participation in the 2019 intern program
- Comp/Class team has been very busy as you will hear from Cliff McNary shortly.
 - We announced a Comp and Class Study for the HR community CC which has not been done since the early 2000's. Keeping up with the market is important to our retention.
- HR Council Trainings – 6 of 6 planned and hosted (Rules, Class & Comp overview, Recruitment, Living in Union Environment)
 - The last 2 of HR trainings (Pay and Facelift PARF) completed.
 - Like the previous trainings, they are recorded, edited and uploaded to our YouTube channel in order to be shared with the HR Community.
- Training -
 - Trainers UNITE Customer Service – many received training on new customer service model both in person and online. The test agency is MVD - they will use the updated customer service module and make recommendations based on this module.
 - Jeff Young and I presented at a full day Risk Management event for lawyers CLE
 - At PED's invitation, Jeff Young will present on Discipline and Andrea Rivera-Smith will present on Recruitment for all PED managers at their request. Our team does a lot of trainings they do not get recognized for regularly.
 - We are exploring an opportunity to develop a SHARE "Certification" course at SFCC in order to find a way to have people certified ahead of time working with DFA to streamline hiring process.
- DVR has developed a framework for our Mediation Program – We now have four current and retired mediators who have agreed to begin putting framework together (on a low budget) in order to train up our Alternate Dispute mediation team for ALJ.

- Thank you to Annette Lopez who handed off the reins and Denise Forlizzi for putting the materials together for the meeting.
- There is a public service this afternoon for the wife of Steve Moises, head of State Investment Council, who recently passed.
- Stand for questions:

Chair Romero expressed her interest in the climate committee and is glad this is an ongoing meeting. Representative Martinez replied that this is ongoing and the committee is putting together CAT Climate Action Team, a state-wide campaign based on the Governor's climate change interest. We are working on an announcement and discussing how to get all of New Mexico involved. UNM is marching at 1:00 on campus to promote new habits and reducing climate impacts. Good Stewardship – thank you.

Chair Romero asked about details for Rapid Hire event which Director Coleman provided.

Chair Romero had questions about Social Media and jobs as she receives state government notices on Facebook. The SoMe Challenge was effective in that “I work at NM because” generated videos from State agencies/employees that went “viral” meaning videos were shared widespread. We encouraged as much sharing as possible. Some jobs lend themselves to certain platforms (LinkedIn and Indeed as examples). FB is effective for entry level jobs. DFA has been more targeted in outreach. We learned a lot about which channels get the most hits. Chair Romero shared her experiences with the links.

Chair Romero then asked if there were any hiring freezes that she has heard about. Director Coleman responded that we do not have a hiring freeze – we are open for business.

III. Annual Compensation Report

- Cliff McNary, State Classification and Testing Manager for State Personnel Office, welcomed new board member Liswood and gave a bit of compensation history spanning over 6 administrations for member Liswood's benefit/education.
- Presented annual compensation report. Per board rules will be adopted as our own and then it will be presented to the LFC in next week. Highlights for your attention:
 - Page 11 Total compensation –shows the average base pay plus non-salary benefits. We are wedged comfortably with surrounding states compensation.
 - Page 13 table 5 Reflects trends and the numbers are high – job market is good, wages are going up. Aggressive projections.
 - Page 18 graph 4 indicates where we stand against 8 other state compensation averages. Meaningful relationship in that that state government is compared with other state government. Able to compare oranges to oranges.
 - Page 19, table 9 again wedged in the middle for average salary.
 - Page 25 table 12, latest implementation of structures and classifications from average salary/comp ratio. Pleased to see the numbers where they are – wasn't sure where we would stack up initially. Average comp ratios pay bands are being utilized appropriately.

- Page 26 strong average salaries for the classifications.
- Page 28 – structure adjustment history. Keeping up with structure adjustments, keeping up with the market year to year.
- Page 31 – FY19 this is encouraging. We wanted to push agencies to implement In Pay Band adjustments. And using the mechanism rather than moving them up.
- Page 37, graph 19 and 20. Average sick leave taken and cost greatly reduced compared to FY18.
- Stand for Questions- Chair Romero asked if there was a push or discussion in state government at any time to combine PTO, sick time – not that Cliff is aware of.
- Cliff thanked Director Coleman, Devin Baldwin, Leane Madrid, Alicia Lucero and Max Cordova for putting the information together for the final report. Chair Romero commented that she appreciates the graphs - it is easy to read and very much appreciates the information and how it was presented.

Board Member Chavez moved to approve the 2019 Annual Compensation Report as submitted; second by Vice Chair Manzagol. Unanimously approved.

IV. State Fire Inspector and Investigator Classification and Pay Bands

Cliff McNary, State Classification and Testing Manager for State Personnel Office, presented the classification study that State Personnel felt we needed to initiate. Mr. McNary explained that during consolidation it was decided to group Fire Inspector and Investigator in to one classification and it is not appropriate as the inspector cannot do the investigator job. There are 2 levels of work, inspector is more about compliance and investigators are more about potential criminal fires. Identifying accelerants, etc. Invited guests PRC Rene Kepler, HR director and John Kondratick, Acting State Fire Marshall to answer questions from the board. Mr. McNary stated job evaluations were done to determine classifications and pay bands and ask the board to adopt as presented.

Stand for Comments and Questions – Member Chavez asked about the different classifications. Mr. McNary stated that the matter had been an issue for quite some time and was not addressed so we at State Personnel initiated the study. Member Liswood asked how pay bands compare with those on the federal level. Mr. McNary stated that at state government, we do not compete with Feds, so we kept the study on a state government level for the inspector level. Fire investigation level - Mr. John Kondratick, Acting State Fire Marshall, stated that the investigators are not classified established as peace officers, but by statutory can conduct investigation, interview, issue subpoenas for fires only. Our investigative authority just focuses on fires.

Chair Romero asked about the levels – GFC Thank you for your hard work. Being no other discussion

Chair Romero called for a motion to accept new pay bands Member Chavez moved to approve the 2019 Compensation Report; second by Member Liswood. Unanimously approved.

V. **Public Health Data Scientist Classification and Pay Band**

Cliff McNary, State Classification and Testing Manager for State Personnel Office, presented a new one-off classification in response to legislation required DOH to serve in large health data management role. Agency approached SPO to help establish classifications. Affordable health care act spawned electronic health records that needed to be managed. This also became a huge mining operation for health information and statistics.

Hub of several data sources including public health, public education and other bodies that will feed data in to this job. This position manages the data with certain algorithms to manage that data to produce meaningful reports. Statistical info will be utilized from these reports.

Cliff McNary introduced Teresa Padilla, DOH HR Director, Heidi Krapfl, DOH Program Support Manager who oversees this unit, and Kenneth Geter, DOH Program Support Manager. Recommend approval of Pay Band as presented.

Chair Romero asked how many positions this will include. Mr. McNary stated any public body can utilize this information – taking a gigantic body of data and making sense of it all and creating meaningful reports. This is a new and emerging field – these jobs are being created across data scientists in different locations and we believe this information can and will be shared across the board.

Chair Romero stated that DOH has a portal where individuals can go to get vaccine history.

Chair Romero asked about the relevance on a federal level or state-by-state basis. Ms. Krapfl stated that different states do it differently, being able to look at different charges and cost of health care associated for various outcomes. When more states become involved, it will become more of a regional set up. Moving forward!

Chair Romero called for a motion to approve the classification and pay band - Vice Chair Manzagol moved to approve the new pay bands for Public Health Data Scientist Classification; second by Member Liswood. Unanimously approved.

VI. **Continuation of Alternative Pay Bands (APB) for the 2020 Calendar Year**

Cliff McNary, State Classification and Testing Manager for State Personnel Office, stated in accordance with section 1.7.4.10 NMAC State Personnel Office recommends board retention of existing APB for 2020 calendar year. He explained that we are hovering around 25% APB in various classifications attached to the general salary structure. When the health care study is in place and classifications are implemented, many positions will move to more classified positions, resulting in marked reduction in the use of APB.

Chair Romero commented that we are doing the work to get us there. Mr. McNary mentioned that we will be pulling 1978 FTD off of the general pay line, which will be a significant change.

Chair Romero called for a motion - Member Liswood moved to continue the Alternative Pay Bands for the 2020 calendar year; Member Chavez second, unanimously approved.

VII. Annual Review of Safety Sensitive Positions

Alicia Lucero, Quality Assurance Auditor from State Personnel Office presented the annual review of Safety Sensitive/Omnibus Positions. Ms. Lucero stated in accordance with Designation of Safety Sensitive Positions, Subsection C of NMAC 1.7.8.9, the State Personnel Board must annually review and approve existing Safety Sensitive positions inclusive of any additions and removals of Safety Sensitive designations that have been adjusted by specific agencies for 2019.

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. Additionally, in accordance with the Omnibus Transportation Employee Testing Act of 1991 and Subsection D of 1.7.8.8 New Mexico Administrative Code, the State Personnel Board shall be advised of the federally designated Omnibus positions in use within state agencies.

State Personnel Board approval is requested for all Safety Sensitive positions and review of Omnibus positions, which is as follows: 4,495 Safety Sensitive positions, 108 Omnibus positions and 1,096 both Safety Sensitive and Omnibus positions; for a combined total of 5,699 designated positions for all state agencies for 2020.

Ms. Lucero recommended State Personnel Board Approval of the 2020 Safety Sensitive and Omnibus designated positions in accordance with State Personnel Board Rule Designation of Safety-Sensitive Positions, Subsection C of 1.7.8.9 New Mexico Administrative Code (NMAC) and the Omnibus Transportation Employee Testing Act of 1991 and Subsection D of 1.7.8.8 New Mexico Administrative Code (NMAC).

In addition to the State Personnel Board approval of the Safety Sensitive and Omnibus positions, the State of New Mexico is working to contract a vendor who can provide Drug and Alcohol Testing services for state agencies. The contract bid closes on January 7, 2020.

Stand for Questions – Member Liswood asked about the consequences regarding liability in the removal of Safety Sensitive Position designation. Ms. Lucero responded that she was not aware of any, but would look in to it for the next meeting.

Chair Romero asked about drug tested prior to employment, Ms. Lucero reported that per rule 10% random drug testing over the year. State Personnel Office requests 15% for each agency. Chair Romero asked what happens if someone proves positive are they given an opportunity for a second test? Ms. Lucero reported that she works with medical review officer with our vendor who works with the agency for further discipline or assistance.

Chair Romero called for a motion - Member Liswood moved to approve the Safety Sensitive Positions as presented; seconded by Board Member Chavez. Unanimously approved.

VIII. Proposed 2020 Board Meeting Dates

Director Coleman presented the proposed dates for the 2020 State Personnel Board Meeting Schedule pursuant to the Personnel Act NMSA 10-9-9 with the Open Meetings Act. Director Coleman reviewed the calendar with Ms. Forlizzi and stated that all the dates fell on a Friday with the exception of the January 22, 2020 meeting, which was a Wednesday. Member Liswood stated she would not be available for the January meeting. Director Coleman also stated that the Governor is appointing a 5th board member shortly and recognized Vice Chair Manzagol for serving ably and well and appreciates his continued service.

Chair Romero called for a motion - Board Member Chavez, moved to approve the 2020 State Personnel Board Meeting Schedule; seconded by Vice Chair Manzagol. Unanimously approved.

IX. Proposed 2020 Paid Holiday Schedule

Director Coleman presented the annual State of New Mexico 2020 Paid Holiday Schedule. The 2020 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 which reduces the vacancy rate dramatically.

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

Chair Romero asked for a motion - Board Member Chavez moved to approve the 2020 Paid Holiday Schedule as presented; seconded by Board Member Liswood. Unanimously approved.

X. General Public Comment

Chair Romero called for general public comments, there were no comments by those in attendance.

XI. Adjudication Litigation Update

Janelle Haught, Administrative Law Judge for the board updated the board with the following:

- Adjudication received four new appeals and disposed of four appeals since November
- There are currently 35 appeals pending.

Update on appeals of Board decisions.

- The Board's October decision in the matter of *Richard Martinez v. New Mexico Public Education Department* has been appealed to District Court. As you recall, the Board upheld Mr. Martinez's dismissal for omitting relevant, material information from his employment application. The appeal was filed by Appellant Martinez and has been assigned to Judge Francis Mathew.
- We have only minimal new information about the AG cases. If you recall, the New Mexico Court of Appeals found that the AG appellants were covered by the State Personnel Act, the New Mexico Supreme Court declined to take the AG Office's appeal of that decision, and the New Mexico Court of Appeals then remanded the case to the District Court on October 9 for further proceedings. Adjudication has been in touch with the courts and was told the Court of Appeals will issue another remand directly to the Board. To date, we have not received any remand or mandate. We also have not received any communication from any of the AG appellants requesting a hearing. We will continue to monitor the situation closely.
- There is no dispositive action to report in the five other existing appeals of Board decisions.

Chair Romero commented on how long the Martinez case has been pending and it was determined approximately 6 years. Chair Romero thanked Ms. Haught for the report.

XII. Public Hearing of State Personnel Board Rules 1.7.1 and 1.7.7

Public Comment and testimony on Proposed Rule Changes to 1.7.1 and 1.7.7 NMAC

Chair Romero opened the hearing at 10:02 a.m. and read from the Public Hearing script provided by Assistant Attorney General, Miguel Lozano. The purpose is for the board to hear public comment on the proposed rule changes to NMAC. Chair Romero asked that all those in attendance sign a sign-in sheet which will be entered as an exhibit after the hearing. Chair Romero laid the ground rules for the hearing as required.

Elena Cardona representing the NMERB introduced herself and will be making a public comment for the hearing.

Director Coleman was asked to introduce exhibits and stated she had pre-labeled exhibits 1-6 which are required and stated each by name. Director Coleman introduce exhibit 7 written comment received from Jan Goodwin, Executive Director of New Mexico Educational Retirement Board.

Chair Romero asked for questions from Board members, there being none, stated "Exhibits 1 through 7 are hereby admitted into the record." Being no other preliminary matters, the hearing will proceed with introduction of proposed rule changes.

Rule 1.7.1 – General Provisions

Director Coleman presented the summary of the proposed amendments to Board Rule 1.7.1 as follows:

1. 1.7.1 – Definitions section.
2. 1.7.1.8 Approval Authority.

3. 1.7.1.12 Employment Records.
4. 1.7.1.13 Settlement Agreements.

Chair Romero asked for comments or testimony to the proposed Board Rule. There were no comments or testimony.

1.7.7 - Absence and Leave

Chair Romero asked for a summary of the proposed rule changes, including each section that would be effected.

Director Coleman presented the summary of the proposed amendments to Board Rule 1.7.7 as follows:

1. 1.7.7 Definitions.
2. 1.7.7.12 Sick Leave – FMLA
3. 1.7.7.14 Administrative Leave
4. 1.7.7.15 Educational Leave
5. 1.7.7.16 Military Leave

Chair Romero asked for public comment and testimony on any of the proposed rule changes to Rule 1.7.7

Ms. Elena Cardona spoke on behalf of the New Mexico Educational Retirement Board and spoke of the support of this rule change 1.7.7.15 Educational Leave and read Exhibit 7 from Executive Director, Jan Goodwin.

Chair Romero asked that the hearing sign-in sheet be marked as exhibit #8. A copy of the rulemaking be compiled and added to Sunshine Portal.

The hearing was adjourned at 10:18 a.m.

Board Meeting resumed.

XIII. Board Discussion of Rule Changes to 1.7.1 and 1.7.7 NMAC

Rule changes to 1.7.1 – there being no changes or amendments, Chair Romero asked for a motion to adopt the proposed rule as written.

Vice Chair Manzagol moved to adopt rule 1.7.1 as written and Member Chavez second. Unanimously approved.

Chair Romero declared the changes are hereby adopted and Director Coleman will ensure the adopted rule be published in the New Mexico Register as required by law.

Rule Changes to 1.7.7 – there being no changes or amendments, Chair Romero asked for a motion to adopt the proposed rule as written.

Member Liswood moved to adopt rule 1.7.7 as written, Vice Chair Manzagol second, unanimously approved.

Chair Romero declared the changes are hereby adopted and Director Coleman will ensure the adopted rule be published in the New Mexico Register as required by law.

XIV. Other Business

Next Meeting Date: Wednesday, January 22, 2020

XV. Adjournment

Member Chavez moved the meeting be adjourned, Vice Chair Manzagol second.

Meeting adjourned at 10:22 a.m.

Approved by:



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

Attest:



Pamela D. Coleman, Director