



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
June 22, 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 June 22, 2012, at the State Personnel Office, Santa Fe, New Mexico.

Invocation David Berry

Pledge of Allegiance Ken Giles

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
Chris Sanchez
Rebecca Long

Board Member Day was absent.

2600 Cerrillos Road, Santa Fe, New Mexico, 87505 (505) 476-7759



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Approval of Agenda

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

Approval of Minutes – April 27, 2012

Board Member Sanchez moved to approve the April 27, 2012 State Personnel Board meeting minutes, seconded by Board Member Long. Motion carried.

II. Director's Report

Director Moser informed the Board about continuous upgrades at the State Personnel Office (SPO) including upgrading the sound system and replacing the projector in the auditorium. Director Moser noted that the General Services Department (GSD) will pay for the bulk of expense.

Mr. David Banes, formally located at the Department of Finance and Administration (DFA) was relocated to SPO. Mr. Banes is a member of the SHARE team and is the functional expert that works with human resource activities. Mr. Banes will also assist with redesigning SHARE HCM training. Director Moser explained that Mr. Banes is responsible for issuing passwords for HCM. New hires will be required to complete training before passwords are issued. In addition, employees will be required to attend a refresher course every one to two years to reactive their password.

At the last general election, a number of state classified employees who took administrative leave to vote were either not registered to vote or failed to vote. SPO and the Department of Finance and Administration (DFA) are working collaboratively to collect the time taken. Director Moser noted that enhanced training for managers, supervisors and employees and their role in the process is required.

SPO continues to have issues with violations of Board rules regarding running for an elected partisan position in office. Employees running for a partisan position are required at a minimum to take a leave of absence. Employees that are in HATCH Act covered positions (governed by federally funded grants) must resign their state positions as they are not allowed leave without pay. SPO is working with managers and individuals to resolve issues.

SPO is partnering with New Mexico State University (NMSU) to apply for a \$250,000 grant from the Daniels Foundation to be utilized over a three year period to develop an ethics training and on-line presentation for state employees. SPO will contribute an in-kind contribution of approximately \$200,000 primarily for staffing, facilities and coordinating activities. Initial completion is expected within six months to a year.

Department of Transportation (DOT) donated 20 computers and 20 monitors to SPO to be used in the training computer lab. SPO is in the process of rewiring and setting up computers and monitors.



SPO continues to receive pressure from agencies with respect to pay increases for employees, (i.e., in-pay band adjustments, temporary salary increases). It should be noted that this is largely driven by employees not receiving pay increases in over four years. SPO is working with agencies to reclassify positions and provide in-pay bands where possible. In addition, SPO, DFA and the Legislative Finance Committee (LFC) are scheduled to meet with the HayGroup in mid-July to discuss and develop recommendations of a systematic approach to pay structure corrections.

Director Moser noted that filming is taking place in the SPO basement and in other parts of the state for the Longmire series.

Director Moser introduced Ms. Julia Lanham, the newly hired Training Director with SPO. He explained that an extensive search was done to find a training director that possessed the skill sets required by the agency. Ms. Lanham added that she envisions alignment with Governor Martinez's initiative to provide guidance and oversight for centralized leadership development and organizational development.

Chairman Yarbrough extended appreciation to Ms. Lanham and said the Board looks forward to working with her. Vice Chairman Romero added that agencies are afraid to discipline, especially in smaller communities and require skills, tools and resources to provide effective leadership. Vice Chairman Romero advised Ms. Lanham not to reinvent the wheel and duplicate effort, but to use creativity, imagination and give agencies something to look forward to.

Vice Chairman Romero inquired about classifications falling below salary structures and asked if government has the opportunity to redirect salaries for exempt employees or employees at a higher salary that are reassigned. Director Moser said it depends on the nature of the action and that SPO is working on placing employees in pay bands. Currently over 1200 employees are over the top of pay bands.

III. General Public Comment

No public comment. Chairman Yarbrough encouraged state employees and the public to take advantage of the time given for public comment.

IV. Reduction In Force

A. Higher Education Department

Mr. Ken Giles, Executive HR Manager, Shared Services Division, SPO presented a Reduction In Force (RIF) plan for the Higher Education Department (HED). The RIF is being requested as the HED has been under the SPO, Shared HR Services arrangement since early 2012 when the HED HR Manager was assigned to work with SPO, Career Services Division to assist with the NEOGOV process. The RIF will affect one permanent classified position effective July 7, 2012. HED has determined that the Shared HR Services arrangement is meeting the human resource operational needs and business needs in the agency and the allocation of a full-time HR position at HED is not needed.



Moving under the SPO, FY13 Shared HR Services plan will also generate a cost savings for HED. The HR position will better serve the mission of HED by being appropriately classified and moved under the policy and programs area to assist with the on-going development of critical policy direction for the twenty-five (25) higher education institutions.

Mr. Giles indicated that the HED HR Manager was offered a lateral transfer to a position within SPO the week of June 18, 2012 that is the same pay band currently being held. The manager declined the offer and was subsequently informed that HED would request SPB approval of this RIF.

The SPO Career Services Division is available for the employee to find suitable positions in state government as they become available. Once application is made, the Career Services Division will contact agencies to foster interviews. SPO has traditionally worked diligently and closely with all state agencies to place potential RIF candidates prior to the effective date of the RIF.

In accordance with 1.7.10.9 NMAC, approval of the RIF plan is recommended. Upon approval of the plan, SPO will issue an official notice of RIF to the affected employee outlining all post RIF reemployment rights afforded for six (6) months by the SPB rules. SPO will continue to make every effort to place employees affected by this RIF.

Additionally, SPO sends out an applicable RIF letter to all state agencies listing the state employees with reemployment rights effective and closely monitors the recruitment to process to ensure compliance.

Dr. Bridgett Russell, Director of Operations, HED added that the SPO's Shared Services Division is more than adequately meeting the HED needs and it is not fiscally responsible for the agency to have a full-time position dedicated to HR when SPO's Shared Services Division can meet the needs at a substantial cost savings.

Board Member Sanchez moved to approve the Higher Education Department, Reduction In Force as presented, seconded by Board Member Long.

In response to Vice Chairman Romero, Director Moser clarified that there are issues and reasoning as to why the affected individual declined the lateral transfer. Vice Chairman Romero added that a loss of a state government job and benefits to any employee is of concern to the Board and requested that every effort be made for individuals to be placed in state government. Chairman Yarbrough expressed appreciation to the department and agencies for their efforts in placing employees.

Motion carried.

B. State Personnel Office

Director Moser presented a Reduction In Force (RIF) plan for the SPO to be initiated July 7, 2012 or shortly thereafter. The RIF is required due to a reorganization of activities in the Shared Services Division as well as the Career Services Division. In addition, the restructuring will result in consolidation or elimination of office support services and operational needs in order to



accommodate and meet the agency's mission. Three positions housed in the administrative services area are being impacted by the RIF; an Accountant & Auditor – A, Accountant & Auditor – O and an IT Tech Support Specialist 3. The IT Tech Support Specialist 3 has already been placed at the Department of Information and Technology (DoIT). In addition, the individual occupying the Accountant & Auditor – A has interviewed with another department and is awaiting paper work. SPO is working with other departments that have positions available for the third individual.

Board Member Long moved to approve the State Personnel Office, Reduction In Force as presented, seconded by Board Member Sanchez.

Vice Chairman Romero asked what the penalty is to an employee if there is a break in service. Director Moser said there is not a penalty from the personnel system if they are placed within six (6) months; however there is a break in the retirement system. Health insurance is covered for a period of time and then is picked up by COBRA. Employees affected by RIFs do not have to serve an additional probationary period.

Motion carried.

V. Classification Studies

A. Tax Auditor

Justin Najaka, State Compensation Director, SPO presented a class study on the Tax Auditor Classification series and pay bands. Prior to 2001, the tax auditor classification series was a separate series; however in 2001, classifications were combined into the Accountant & Auditor series. Since 2001, the Taxation and Revenue Department (TRD) has been struggling with the function of tax auditing. Individuals working as tax auditors are professionals responsible for making assessments from \$100 to millions of dollars to certain corporations depending upon the size and nature of a business. TRD has a significantly high vacancy rate due to the job description not describing the function of tax auditing and the minimum qualifications inhibiting the department from being able to recruit and identify qualified candidates.

Mr. Najaka proposed five levels to the Tax Auditor classification series; Tax Auditor I, Tax Auditor II, Tax Auditor III, Tax Auditor VI and Tax Auditor Supervisor and one alternative pay band to each classification.

Mr. Najaka recommended adoption of the proposed Tax Auditor job classifications, pay band assignments and alternative pay band assignments as presented.

Mr. John Monforte, Deputy Secretary, TRD added that individuals in the tax auditor positions play a fundamentally important role in acquiring the taxes needed to operate state government as well as a fundamental part of tax compliance. Mr. Monforte requested approval of the proposed job classifications, pay band assignments and alternative pay band assignments.

Board Member Long moved to approve the Tax Auditor classification series, pay band assignments and alternative pay band assignments as presented, seconded by Board Member Sanchez.



In response to Vice Chairman Romero, Mr. Najaka clarified that the proposed classifications are new classifications that do not currently exist. The series will have an alternative pay band that is one pay band higher than the current Accountant & Auditor. Vice Chairman Romero asked if the department provides employees, currently in auditing positions, an opportunity to obtain a degree. Mr. Terry Rester, Division Director, Audit & Compliance, TRD said yes.

Motion carried.

B. State Auditor

Justin Najaka, State Compensation Director, SPO presented a class study on the State Auditor classification series and pay bands. Prior to 2001, the state auditor classification series was a separate series; however in 2001, classifications were combined into the Accountant & Auditor series. The department is unable to attract and retain qualified auditors under the current series. There are four levels of auditors at the State Auditor's office; however the third level auditor is not included in the study. The positions provide full auditing for financial audits, fraud audits, performance audits, etc. The State Auditor has a statutory responsibility for every public sector entity within the state.

The State Auditor's office requested no substitutions for the minimum qualifications requiring a bachelor's degree. In addition, the minimum qualification for the Audit Manager is a Certified Public Accountant (CPA) plus experience.

Mr. Najaka recommended adoption of the proposed State Auditor job classifications, pay band assignments and alternative pay band assignments as presented.

Mr. Hector Balderas, State Auditor, Office of the State Auditor (OSA) added that the OSA has unlimited jurisdiction to track the tax dollar in very unpredictable situations. The OSA is down a third of its staff presenting operational dilemmas.

The OSA is required to train, certify, account and qualify every audit firm on an annual basis and is faced with the dilemma of competing with the firms to retain employees. The qualifications in the private market are lower and are driven by profit and higher salaries leaving the OSA in an uncompetitive position. Mr. Balderas noted that OSA created a system to assist other agencies and limit risk. Because of this approach, auditors are needed that are trained in a whole area of government issues.

Chairman Yarbrough asked if there was a fiscal impact to the proposal. Mr. Najaka said initial discussions do not indicate a fiscal impact. Currently there are four levels of auditor classifications. Once classifications are moved over, they should line up fairly similarly even with the alternative pay band; salaries are at mid-point or close to mid-point. Director Moser added with vacancy savings the OSA will be able to absorb salary increases if required.

In response to Chairman Yarbrough, Mr. Balderas said the OSA is responsible when asked for when or where of an issue involving funding that is not used for its intended purpose; however there are many other responsible parties that should be asking the same question. OSA has made a strong effort to work with the Taxation and Revenue Department (TRD), the State



Police, the Legislative oversight and SPO to share information. OSA's strongest enforcement provision is disclosure and reporting to the correct law enforcement agency for thorough investigation.

Board Member Long moved to approve the State Auditor classification series, pay band assignments and alternative pay band assignments as presented, seconded by Board Member Sanchez. Motion carried.

C. Certified Public Accountant

Justin Najaka, State Compensation Director, SPO presented a class study on the Certified Public Accountant (CPA) classification series and pay band. The CPA is a new and stand-alone classification of CPA's and is a non-manager classification. Currently, no state employees are slated to cross walk into the classification. Mr. Najaka noted the Department of Finance and Administration (DFA) is an advocate of creating the classification. SPO worked with the State Controller who signed off and was comfortable with the classification description as proposed.

Mr. Najaka recommended adoption of the proposed Certified Public Accountant job classification, pay band assignment and alternative pay band assignment as presented.

In response to Vice Chairman Romero, Mr. Najaka said the classification is general enough that any agency can use it. DFA was the main agency to contact SPO; however large agencies could use the classification as well if needed. Director Moser added that DFA is working on enhancing credentials for chief financial officers handling the finances of the state to understand the complexities of it.

Board Member Sanchez said to be a CPA in the state of New Mexico it is not required to be an auditor or even audit; it is just required to work for a licensed CPA. Additionally, CPA's working for individuals trying to acquire their license can work for CPA's performing tax work. The minimum qualifications and recommended education require three (3) years of public accounting and conducting financial audits, limiting the pool substantially from recruiting individuals that would hold the actual license. Mr. Najaka said in conducting research, the minimum qualifications and recommended education is basic core language. However, the minimum qualifications can be expanded if needed. Mr. Najaka recommended approving the job classification as presented, subject to further review and revision. Mr. Monforte added that he understands the concern and desire for broader language; however the proposed minimum qualifications as listed are sufficient. Chairman Yarbrough asked if historically there have been difficulties recruiting CPA's who do not have experience with conducting financial audits. Mr. Monforte said the financial aspect encompasses most of the skill sets by education alone; the difficulties are geared more towards retention. Mr. Najaka added that over the past ten years, there has not been a classification with a minimum qualification of a CPA.

Board Member Sanchez moved to approve the Certified Public Accountant classification series, pay band assignment and alternative pay band assignment subject to further review of the minimum qualifications of the position, seconded by Board Member Long. Motion carried.

D. Game & Fish Warden



Cliff McNary, State Classification Manager, SPO presented the minimum qualifications for the Game and Fish Warden – Basic. At the time minimum qualifications were established in mass, a high school diploma or GED was required to meet the minimum qualifications at the basic level for the Game and Fish Warden series. After deliberation, the agency requested new minimum qualifications for the Game and Fish Warden – Basic series to include a bachelor's degree in the various wildlife sites and animal science and forestry management degrees. Employees testify in front of several bodies and have to be knowledgeable in several areas such as depredation, whirling disease, etc.

Mr. McNary recommended adoption of the proposed minimum qualifications for the Game and Fish Warden - Basic as presented and noted no fiscal impact.

Board Member Long moved to approve the minimum qualifications for the Game and Fish Warden - Basic as presented, seconded by Board Member Sanchez. Motion carried.

E. Education Regional Coordinator

The item was tabled as requested by the Higher Education Department.

F. Supervisors

Cliff McNary, State Classification Manager, SPO presented the proposed Supervisor Classifications and Pay Bands; a continuation of the Supervisory classification project. Language was developed that is essentially consistent throughout all of the classifications where supervision exists. The proposed classifications include the Accountant and Auditor Supervisor and the Game and Fish Warden Supervisor, with a pay band of 70 for both.

Mr. McNary recommended adoption of the proposed Supervisor Classifications and Pay Bands as presented and noted no fiscal impact.

Board Member Long moved to approve the Supervisor Classifications and Pay Bands for the Accountant and Auditor Supervisor and the Game and Fish Warden Supervisor and pay band as presented, seconded by Board Member Sanchez. Motion carried.

G. Managers

Cliff McNary, State Classification Manager, SPO presented the modified Occupational Manager Classifications and said levels are not increasing. Currently there are eight generic manager classifications. Detailed manager job descriptions will occupationally identify the purpose, nature of work, and specific responsibilities and duties. Minimum qualifications as well as the pay bands and alternative pay bands remain the same and are cost neutral. Mr. McNary noted the Fish and Wildlife manager series is a new series. The managers are currently utilized at the Department of Game and Fish; the content has been built into the new classifications.

Vice Chairman Romero asked what the purpose is for changing the generic titles of general managers and making them occupational specific. Mr. McNary said it enables agencies to identify manager's roles and better enable applicants to understand what they are applying for.



Chairman Yarbrough asked why the alternative pay band for General Manager I – Physician was at 98. Mr. Najaka said pay bands were established in increments of five and alternative pay band assignments needed to be identified. The People Soft system only allows two characters to identify a pay band. The rules written into the code in the system look for a higher number. There has been discussion on renumbering the entire system in the next year or two.

Board Member Long moved to approve the modified Occupational Manager Classifications as presented, seconded by Board Member Sanchez. Motion carried.

VI. Executive Session

Board Member Sanchez moved to go into Executive Session. 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:

1. *James v. NM Children, Youth and Families Department*; Docket No. 11-009;
2. *Garcia v. NM Department of Transportation*; Docket No. 11-102;
3. *Estrada v. NM Children, Youth and Families Department*; Docket No. 11-100; and
4. *Lujan v. NM Corrections Department*; Docket No. 11-106

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

The Board met in Executive Session from approximately 11:09 a.m. to 11:33 a.m. 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 recommendation regarding *James v. NM Children, Youth and Families Department*; Docket No. 11-009, **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 *Garcia v. NM Department of Transportation*; Docket No. 11-102, **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 *Estrada v. NM Children, Youth and Families Department*; Docket No. 11-100, **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 *Lujan v. NM Corrections Department*; Docket No. 11-106, **Vice**



Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.

VII. Litigation Update

Mr. Leonard Padilla, Administrative Law Judge, SPO highlighted the case for *Martinez v. NM Department of Transportation*; Docket No. 11-087. The Board prohibited the AFSCME representative from appearing before the Board for a period of six (6) months. A Notice of Appeal was filed at the First Judicial District Court.

Mr. Padilla noted that the case for *Polito Martinez v. NM Department of Workforce Solutions*; Docket No. 12-009 was settled.

Chairman Yarbrough asked if it is practice to submit a case entered by an Administrative Law Judge for consideration at the next meeting of the SPB. Mr. Padilla said there are considerations that will move the case over to the next meeting. Once the recommended resolution is filed, the parties have a time period to file exceptions.

VIII. Other Business

Next Meeting Date: July 27, 2012

Director Moser provided an update on NEOGOV. Over 127,000 applications have been received since the beginning of November 2011. Almost 1,200 positions have been filled and there are 2,100 vacancies. Director Moser is meeting with agencies to discuss vacancies.

IX. Adjournment

With no further business, **Board Member Long moved to adjourn the State Personnel Board meeting at approximately 11:48 a.m., seconded by Board Member Sanchez. Motion carried.**

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:


Eugene Moser, Director

