



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

Dennis Garcia Rebecca Long

**State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
March 26, 2014**

Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:04 a.m. on March 26, 2014, at the State Personnel Office, Santa Fe, New Mexico.

Invocation Stuart Hamilton

Pledge of Allegiance Michael McEuen

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 Chairman
Rebecca Long
Dennis Garcia

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Approval of Agenda

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

Approval of Minutes – January 24, 2014

Board Member Long moved to approve the January 24, 2014, State Personnel Board meeting minutes, seconded by Board Member Garcia. Motion carried.

II. Director's Report

Director Moser introduced new staff.

Director Moser provided an update on implementing compensation adjustments. The Legislature authorized a three percent across the board increase which the Governor acknowledged with the exception of elected officials and district attorneys; however, staff in those areas will receive the increase. The increase pertains to employees outside of their probationary status; adjustments will be made for employees as they become permanent. Both the entry level and maximum of the pay structure will be adjusted accordingly. Implementation of adjustments on the compensation plan for a whole series of classifications will be deferred until the impact of the FY09 union lawsuit is resolved.

With regards to pay structures, most agencies are hiring at mid-point. The Legislature budgeted vacant positions at mid-point rather than at entry level. The Legislature also eliminated FTE's from the budget document freeing up the opportunity for funding at the end of the fiscal year.

Beginning the next fiscal year, SPO will address critical occupations that absolutely have to have their pay plan adjusted in order to be competitive. Occupations are in the Corrections Department, Children, Youth and Families Department and Information Technology. Separate pay plans will be established to address disciplines.

SPO is working with agencies on implementing training plans that are related to process improvement. SPO is looking at implementing a mandatory type supervisor/manager training program that will take a week to complete. Director Moser noted that Nivia Thames, Deputy Director and Julia Lanham, Training Director, SPO will be traveling to Denver, CO to look at a program that utilizes Six Sigma concepts. The process improvement process will also incorporate staff. The Motor Vehicle Division is currently in process of implementing a similar type of program and they are experiencing tremendous success.

Director Moser provided an update to labor negotiations and collective bargaining. Fair share is a major obstacle. SPO receives a number of complaints from employees inquiring about the mandatory contributions to fair share. Employees refusing to participate in fair share are being sent to collection agencies. The contract dictates that if the union brings it to the state's attention, the employee should be fired.

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Director Moser encouraged Board Members to review recruitment data. The impact on recruitment is huge; however, during the last year it was almost equal to the number of people who left state government due in part to the changes in the retirement structure.

SPO is in the process of redesigning its website.

The adjudication bureau is seeing a dramatic decrease in the number of actions that have been sitting idle. Appeals are being resolved as a result of negotiations. In addition, disciplinary appeals through the collective bargaining process are also being resolved.

In response to Board Member Garcia, Director Moser said a taskforce consisting of several agencies' staff is actively engaged in working on the FY09 union lawsuit.

Board Member Garcia asked what the timeframe is to complete the reclassification process. Director Moser said the process to align classifications is complete; however, there have not been any adjustments to pay ranges resulting in an 80 percent spread from entry to maximum levels. On average, entry salaries are closer to midpoint. It will cost the state approximately \$80 million out of general fund to make adjustments.

Board Member Garcia expressed concern with removing the FTE count from the appropriations bill and using funding for salary increases. Salary adjustments will become ongoing operation expenses. Director Moser said actions are submitted to the Department of Finance and Administration (DFA) to ensure appropriations are available. They are then submitted to SPO to review job duties and pay history to determine adjustments and comparisons.

In regards to Six Sigma, Board Member Garcia asked if staff has attempted to quantify the greater amount of training needed statewide to implement the process. Director Moser said SPO is working with other agencies and is in the process of setting up a model.

In response to Vice Chairman Romero, Director Moser said currently, there are a number of management training programs in place. Julia Lanham, Training Director, SPO added that the Training Bureau has three lines of business: core training, LEAD NM and organizational development. The core programs are statutory training. In addition to the core line of business that is instructor lead trainings, the bureau offers on-line trainings. LEAD NM is a multi-tier training program and is competency based. The program is in design and is being partnered with New Mexico State University. The organizational development training accustoms solutions for agencies. Vice Chairman Romero noted to make sure midsize and small agencies are included because their perspective and needs are different. Board Member Garcia recommended utilizing University of New Mexico for additional resources.

Chairman Yarbrough expressed concern with industry leaving New Mexico and said the health of state government exists based upon the health of the private sector, the health of the tax base and the people of the state. State government cannot become the substitute for the loss of industry. The long-term health and ability to continue to increase salaries and attract people to state government is discouraging. The behavior of the unions is also discouraging and is unacceptable; it has negative effects throughout state government.



Chairman Yarbrough commended the Adjudication Hearing Officers for assisting with the backlog in the Adjudication Bureau.

III. General Public Comment

Liz Ramirez, Treasurer for Local 2029, AFSCME Council 18, provided comment in regards to Children, Youth and Families Department (CYFD), Investigative Worker caseloads and retention; it is the largest area in which workers are complaining about. Because of the high caseload, in order to set up community based services and work with families to prevent filing and placing children into foster care, investigative workers are not having time for face-to face contact. All efforts are being exhausted in terms of all legal courses of action and foster homes are near maximum capacity.

Ms. Ramirez provided research on statistics on the recommended average caseload for investigators. The Child Welfare League of America who works closely with the Department of Health and Human Services at the national level recommends 12 active cases per month. In Bernalillo County, the average worker sees 25 to 30 new cases every month. The back log is anywhere between 90 to 100 cases.

Ms. Ramirez requested a continuous job posting for investigative workers to be hired until caseloads and workloads are appropriate and to the standard recommended at the national level. Ms. Ramirez also requested review and updates to policies and procedures in the hiring process, specifically for this CYFD position, as well as work with CYFD, Prevention and Development Bureau.

Director Moser added that some concerns are not within SPO's control. In some instances, it is taking two to three months to hire within an agency. Director Moser also said he has heard legislation presented to the Legislature on this issue and no action has been taken. Ms. Ramirez added that items to propose to the Legislature will be brought forth in the next year.

IV. Alternative Pay Band Assignment – Process Improvement Analyst

Cliff McNary, State Classification and Testing Manager, SPO, presented the adoption of the Alternative Pay Band Assignment for Process Improvement Analyst. The Process Improvement Analyst was presented to the Board at its June 24, 2014, meeting with an approval of an alternative pay band of 75. Upon further survey analysis and market analysis, an alternative pay band of 85 is now requested giving Taxation and Revenue Department (TRD) the ability to hire a Six Sigma classification and providing a better competitive pay range opportunity. Mr. McNary requested approval of an alternative pay band 85 for the Process Improvement Analyst classification.

Director Moser noted that a presentation on Six Sigma will be presented at the next Board meeting.

Vice Chairman Romero expressed concern with presenting, for approval, the same classification within a year's time. Mr. McNary explained that there was not any precedence as to what fair market value is for a private sector position; the job does not exist in the public sector. TRD made a fair effort to market and recruit for the job. Mark Williams, Director, Motor



Vehicle Division, TRD added that the advantage of the position is to be the guru for some of the other process improvement initiatives in state government.

Board Member Long moved to approve the alternative pay band assignment 85 for the Process Improvement Analyst, seconded by Board Member Garcia. Motion carried.

V. Classification Studies

a. Administrative/Operations Manager – Nursing

Cliff McNary, State Classification and Testing Manager, SPO, presented the Administrative/Operations Manager – Nursing Classification. The classification is a continuation of an ongoing project to include the contents into a job title. Mr. McNary requested adoption of the classification to include the content, purpose, qualifications, responsibilities and duties outlined in the new classification scripter.

Board Member Garcia moved to approve the Administrative/Operations Manager – Nursing Classification, seconded by Board Member Long. Motion carried.

b. District Resource Specialist

Cliff McNary, State Classification and Testing Manager, SPO, presented the District Resources Specialist Classification and Pay Bands. There are 12 FTE dedicated to a high level of leasing contract work that produces \$1 billion in state lease trust land revenues. Mr. McNary noted the classification existed before the consolidation in 2000, and is being brought back in an effort to better capture the responsibilities and size of the job. Mr. McNary requested adoption of the classification with the recommended pay band of 70.

Board Member Garcia asked if the proposed pay band is consistent with current salaries. Mr. McNary said current salaries can be captured within the proposed pay band.

Board Member Long moved to approve the District Resources Specialist Classification and Pay Bands, seconded by Board Member Garcia. Motion carried.

c. Attorney

Cliff McNary, State Classification and Testing Manager, SPO, presented the Attorney IV and General Counsel Classifications and Pay Bands. The series is designed to dovetail into the new classification template, new classification structure and new pay lines. Currently, attorneys across the board are very generic and are utilized in a number of ways. This study allows qualifications to be tightened and defines the utilization of an administrative lawyer. These are fully licensed attorneys and specialize in assigned areas. The series will be usable for all agencies. Mr. McNary requested adoption of the Attorney IV and General Counsel Classifications and Pay Bands.

Bill Brancard, General Counsel, Energy, Minerals and Natural Resources Department (EMNRD) added that EMNRD has always had a classified general counsel and provided a background on attorney duties within the department.



Chairman Yarbrough expressed concern about the limited license to practice law issued by the New Mexico Supreme Court under Recommended Education and Full Performance. Mr. McNary explained there is currently a motion before the Supreme Court of New Mexico and the State Bar about reciprocity of interstate license recognition. New Mexico does not have an instant reciprocity or interstate compact. Chairman Yarbrough explained there is no such thing as a limited license to practice law except for out of state counsel who are *pro hac vice*. There is a movement to try allow for reciprocity; however if out of state attorneys are able to receive reciprocity they would receive a full license to practice law. Chairman Yarbrough suggested changing the language to: "licensed with the Supreme Court of New Mexico or eligible for limited license issued by the Supreme Court of New Mexico." Preference is to remove the language of "eligible for limited license issued by the Supreme Court of New Mexico."

After discussion, it was agreed to modify the language under Recommended Education and Full Performance to read as follows: "Current license as an Attorney issued by the Supreme Court of New Mexico or will sit for and pass the next available State Bar examination and five (5) to seven (7) years of experience in the practice of law." It was noted that there is not an immediate budget impact unless an agency chooses to promote staff into these new classifications and pay ranges.

Board Member Long moved to approve the Attorney IV and General Counsel Classifications and Pay Bands with the modification under Recommended Education and Experience for Full Performance with minimum qualifications to read as follows: "Current license as an Attorney issued by the Supreme Court of New Mexico or will sit for and pass the next available State Bar examination..." seconded by Board Member Garcia. Motion carried.

d. Workers' Compensation Specialist

Cliff McNary, State Classification and Testing Manager, SPO, presented the Workers' Compensation Specialist Classification and Pay Band. This new classification will be tied to the Assigned Risk Pool Board which oversees all Workers' Compensation issues involving employers around the state. Mr. McNary requested adoption of the Workers' Compensation Specialist Classification and Pay Band.

Board Member Long moved to approve the Workers' Compensation Specialist Classification and Pay Band, seconded by Board Member Garcia. Motion carried.

e. Spaceport Series

Christine Anderson, Executive Director, Spaceport Authority, provided a presentation on the development and status of the Spaceport Authority.

Cliff McNary, State Classification and Testing Manager, SPO, presented the Spaceport Classification Series and Pay Bands. The series is introduced to fulfill the eventual mission of the established Spaceport America. Mr. McNary provided an overview of each position's function in the classification series. Mr. McNary requested adoption of the Spaceport Classification Series and Pay Bands.



In response to Vice Chairman Romero, Mr. McNary explained that the survey data for similar jobs in similar areas show competitive pay ranges. Vice Chairman Romero expressed concern with the pay bands being too low. In response to Chairman Yarbrough, Ms. Anderson said there is seven other commercially licensed spaceports supported by the FAA; they are all different and some are more federally tied than others. Chairman Yarbrough asked if any positions would be within the bargaining unit. Mr. McNary said no.

Board Member Garcia moved to approve the Spaceport Classification Series and Pay Bands, seconded by Board Member Long. Motion carried.

VI. Executive Session

Vice Chairman Romero 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; seconded by Board Member Long:

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

The Board met in Executive Session from approximately 12:28 p.m. to 1:04 p.m. For the record, the matters discussed in closed session were limited to those specified in the Motion to close. Director Moser recused himself from the second item.

1. Castillo v. NM Department of Health; Docket No. 12-089

- After careful consideration of the Motion to Reconsider Designation of Hearing Officer in the matter of *Castillo v. NM Department of Health; Docket No. 12-089*, **Board Member Long moved to table the administrative law judge's recommended decision until the next meeting of the State Personnel Board, seconded by Board Member Garcia. Motion carried.**

2. Robert Rojo, George Jeantete, Ernestine Apodaca and Myranda Rodriguez v. NM Department of Military Affairs; Docket Nos. 13-057, 13-058, 13-059 and 13-060

- After careful consideration of the Joint Motion and Supplements by the parties in *Rojo et al v. NM Department of Military Affairs; Docket Nos. 13-057, 13-058, 13-059 and 13-060*, **Board Member Garcia moved to grant the joint motion and supplements and moved that the State Personnel Board appoint an outside hearing officer to preside over this matter, seconded by Board Member Long. Motion carried.**

VII. Litigation Update

Richard Levine, Administrative Law Judge, SPO provided an update to pending cases and said there has been no substantive movement in any cases that have been appealed, except for a motion to excuse Judge Ortiz from proceeding over the Kneal case; the motion was granted. There recently has been a state of withdrawals and dismissals.



Jessica Cooper, Administrative Law Judge, added that to date for calendar year 2014, ten (10) new appeals were received, 17 appeals were disposed; 14 appeals were through settlement or withdrawal. There are currently 41 cases pending. Mr. Levine noted that some of the pending cases are actively engaged in mediation and settlement discussions. Ms. Cooper has conducted one (1) hearing and another hearing is scheduled within the week.

VIII. Other Business - Next Meeting Date: April 28, 2014

Board Member Garcia moved to change the June 23 2014, State Personnel Board meeting to May 28, 2014, seconded by Board Member Long. Motion carried.

IX. Adjournment

With no further business, Board Member Long moved to adjourn the State Personnel Board meeting at approximately 1:14 p.m., seconded by Board Member Garcia. Motion carried.

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:



Eugene Moser, Director

