



# New Mexico State Personnel Board State Personnel Office

**SUSANA MARTINEZ  
GOVERNOR**

**State Personnel Board**  
Christine Romero, Chair  
Dennis L. Garcia, Vice Chair

**Justin Najaka**  
Director

Megan Muirhead Ted H. Hazard

**Nivia L. Thames**  
Deputy Director

**State Personnel Board Meeting  
State Personnel Office  
2600 Cerrillos Road  
Santa Fe, NM 87505  
August 27, 2015  
Minutes**

## **I. Procedural Items**

### **Call to Order**

The meeting of the State Personnel Board (SPB) was called to order by Chair Romero at approximately 9:00 a.m. on August 27, 2015 at the State Personnel Office (SPO), Santa Fe, New Mexico.

**Invocation**                      Stuart Hamilton

**Pledge of Allegiance**        Michael McEuen

### **Roll Call**

Director Justin Najaka called roll and a quorum was established with the following members present:

Christine Romero, Chair  
Dennis L. Garcia, Vice Chair  
Megan Muirhead, Board Member

Board Member Ted H. Hazard was absent.

### **Approval of Agenda**

Vice Chair Garcia moved to approve the agenda; seconded by Board Member Muirhead. Motion carried.

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

**Approval of Minutes** – August 6, 2015

**Board Member Muirhead moved to approve the August 6, 2015 State Personnel Board meeting minutes; seconded by Vice Chair Garcia. Motion carried.**

**II. Executive Session**

**Board Member Muirhead moved that the State Personnel Board meeting be closed. The authority to close the meeting is under Open Meetings Act NMSA 1978, Section 10-15-1 (H)(3), for deliberations in connection with an administrative adjudicatory proceeding for matters listed on the agenda; seconded by Vice Chair Garcia. Director Najaka called roll and all members in attendance voted in the affirmative. Motion carried.**

**The Board met in Executive Session from approximately 9:05 a.m. to 9:24 a.m. For the record, the matters discussed in closed session were limited to these specified in the Motion to close.**

1. *Rojo, Jeantete, Apodaca and Rodriquez v. New Mexico Department of Military Affairs*; Docket Nos. 13-057, 13-058, 13-059 and 13-060.

- **After careful consideration of the proceedings and the administrative law judges recommendations in *Rojo, Jeantete, Apodaca and Rodriquez v. New Mexico Department of Military Affairs*; Docket Nos. 13-057, 13-058, 13-059 and 13-060. The Board moves to adopt the Administrative Law Judges recommended decision in respect to the termination of Robert Rojo and George Jeantete. The Board moves to reverse the Administrative Law Judges recommendation with respect to Myranda Rodriquez and Ernestine Apodaca and moves that they be terminated. Board Member Muirhead moved to approve. Motion seconded by Vice Chair Garcia. Motion carried.**

**III. Director's Report**

Director Najaka provided the following updates:

- 1) **Legislative Finance Committee Hearing:** On August 20, 2015, Director Najaka appeared before the Legislative Finance Committee in Taos, New Mexico to give an update on Occupational Based Compensation Structures. Director Najaka spoke on the impact of the structures and identified five key areas that SPO is currently focusing on and they are as follows: IT, Corrections, Children Youth and Families Social Workers, Corrections Protective Services and Health Care. These five pay structures were moved to the top of the list in order to address pay discrepancies.
- 2) **Department of Labor (DOL) FLSA changes:** DOL has proposed changes to Fair Labor Standards Act full time positions. The US Department of Labor is proposing to increase the minimum salary for white collar exceptions threshold from \$23,600 to \$50,440 per year. There are currently approximately 1600 employees that are currently FLSA exempt that would be FLSA nonexempt under the new changes and subject to overtime provisions. The

Department of Labor is also proposing to change the highly compensated exemption from \$100,000 to \$122,148. This is not currently used by the State of New Mexico and should not have an impact on the State. Both of these salary numbers are estimates tied to the current 40<sup>th</sup> and 90<sup>th</sup> percentile of actual earnings. SPO has requested the following information from state agencies in order to submit a consolidated response to the Department of Labor: number of employees in the agencies to include actual and future projected overtime expenditures potentially affected by the rule changes; appropriateness or inappropriateness of the proposed changes to include minimum salary level, HCE salary level, flat salary levels vs automatic indexing to earnings percentiles for future changes, etc.; proposed changes to current duties tests; and, general comments from the agencies relating to any other areas of the FLSA that agencies feel are relevant to this issue. The National Association of State Personnel Executives (NASPE) is also planning to send a response on behalf of some states since some states have different issues with the proposed changes. Director Najaka is not certain if New Mexico will be part of that response. As far as fiscal impact, it has not been determined what the impact would be on the State of New Mexico.

- 3) **SPO Fourth Quarter Report:** Multiple Components Of Pay (MCOP) are highlighted on page 7 of this report. There are 2,708 In Pay Band salary adjustment increases are not based on an appropriation from the General Appropriation Act. These salary pay bands adjustments are done at the agency level with the exception of 1500 approved in an appropriation based on Senate Bill 313. Two million dollars was appropriated to retain positions at CYFD, Corrections and the NM Livestock Board. On Page 10 are highlights on overtime costs and usage. This may change once the new occupationally based salary structures are put into place. The new occupationally based salary structures would assist in getting additional staff into positions and would reduce the overtime cost and usage. Pages 16-19 outline the number of days to fill a position. This has improved by 4 days and the number of days to refer a list by the human resource managers at the agency level has decreased by 3 days. Pages 18 and 19 show the average number of days it's taken to advertise and refer applicants by agency. If a position is a union covered position, it may take longer because per union contracts, union covered positions must be advertised for 14 days. Page 22 outlines the salary structures. SPO is in the process of adjusting the salary structures and midpoint should represent full performance and target rates.

Vice Chair Garcia asked, with the possible change to FLSA, what would be the effect on overtime, what would the total dollar amount be if the current 1600 employees who are currently not eligible for overtime would be eligible? Director Najaka stated that number of employees is an approximate number and agencies have been asked to provide information on the number of employees and dollar amounts. Director Najaka stated the two agencies with the highest dollar amount for overtime are Corrections Department with \$30 million and CYFD with \$15 million, respectively. Chair Romero asked for clarification about the changes of FLSA and if it doubles the amount of overtime, Director Najaka stated that it will just change the threshold and, at this point, we do not know which employees fall within the threshold. It will be based off FY15 data and numbers.

Chair Romero asked about the timelines on the average days to fill positions for the Office of the Public Defender and the Department of Public Safety. Director Najaka stated that some positions within the Department of Public Safety are the specialized positions and require extensive background investigations and that's why it does take longer to fill the positions. The Public Defender's Office became an exempt agency effective July 1, 2015 and positions



were filled at the time. Because the agency was experiencing budget restraints and the hiring to fill their positions occurred after July 1, 2015, the positions were advertised during the third quarter and the hiring took place in the fourth quarter.

#### **IV. General Public Comment**

**There were no individuals that signed up for General Public Comment**

#### **V. FY17 SPO Appropriation Request-Stuart Hamilton CFO, SPO**

Stuart Hamilton CFO presented the FY17 SPO Appropriation Request. The request for FY17 has increased by \$75,000. The total amount of the expansion request is \$150.0 for two positions. \$110.0 for a full time position to serve as Program Manager to monitor this project as it moves to completion. The project is to digitize current employee personnel records and modernize business processes for Executive agencies through the use of software and automated process. The goals of the project are as follows: data capture, scanning and direct entry of data, management, workflow automation, storage and preservation. This is to ensure data is secure and only allows access to the appropriate users. Recently, the project was brought before the Project Certification Committee (PCC) at NMDOIT to request an additional \$230.0. A total of \$1.25 million has been appropriated for the project. The PCC must approve any expenditure for the project. The project is now in the initiation phase which includes finding vendors to present their product in order to determine which software vendor will be used. The second request is for a part-time paralegal position to assist SPO's General Counsel. The total amount of the appropriation request is \$4,801.3, an increase of 4.92% from FY16. This request provides a 2% vacancy rate. Vice Chair Garcia thanked SPO for providing the FY17 appropriation request to Board members in a timely manner. He advised it gives the members enough time to review the data. He also wanted to ensure the Program Manager is able to come on board and be given the ability to truly oversee the project given the fact that by the time individual is hired the vendors would have already been selected. CFO Hamilton assured the Board that this individual will be brought up to speed on the project, especially since the position will report to him and Deputy Director Thames who have been involved in the project from the beginning. Several agencies have been asked to be a part of the project implementation process and have HR and records staff provide input. They will also view the vendor's presentations in early October 2015. The project will be rolled out to all Executive agencies by June 2018. Board member Muirhead asked if all aspects of the files will be digitized including disciplinary portions of the personnel files. Deputy Director Thames clarified that all aspects of the files will be digitized including confidential portions; however, access to those files will be limited. CFO Hamilton stated that the digitization project is a Governor's initiative.

**Vice Chair Garcia moved to approve the FY17 SPO appropriation request seconded by Board Member Muirhead. Motion carried**



**VI. Litigation Update – Annette Lopez - Paralegal with the Adjudication Division**

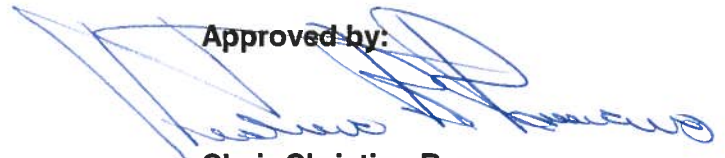
In July and August 2015, the Adjudication Division received 7 new appeals and disposed of 31 with 39 appeals still pending. A notice of a new appeal to District Court by Amy Landau, one of the Assistant Attorney General's, has filed an appeal of the Board's decision to dismiss her appeal on jurisdictional grounds. Of the remaining six district court appeals: In Martinez v. CYFD, a precedent hearing has been set for September 9, 2015; Bargas v. CYFD, a hearing on the department's motion to dismiss and motion to strike has been set for September 15, 2015. There are no other final decisions or dispositive actions.

**VII. Other Business – Next Meeting Date: October 23, 2015**

**VIII. Adjournment**

With no further business, **Vice Chair Garcia moved to adjourn the State Personnel Board meeting at approximately 10:06 a.m.; seconded by Board Member Muirhead. Motion carried.**

Approved by:



**Chair Christine Romero  
State Personnel Board**

Attest:



**Justin Najaka, Director**

