

NEW MEXICO

STATE PERSONNEL OFFICE

Michelle Lujan Grisham
Governor

L. Teresa Padilla
Director

State Personnel Board

Laura A. Liswood
Chair

David F. Cunningham
Vice Chair

Cristin M. Heyns-Bousliman
Member

Carol A. Parker
Member

Fred Radosevich
Member

State Personnel Board Meeting

Willie Ortiz Building

2600 Cerrillos Road, Santa Fe, NM

Friday, August 18, 2023 – 9:00 AM

MINUTES

Vice Chair Cunningham called the meeting to order at 9:00 a.m.

Pledge of Allegiance and Roll Call conducted by Director Padilla. A quorum was confirmed with Vice Chair Cunningham and Members Parker and Radosevich present. Chair Liswood and Member Heyns-Bousliman were absent.

Call for Public Comment

Ms. Forlizzi reported there was one person who signed up for public comment in-person and that no requests for public comment had been received via email. The list was provided to Vice Chair Cunningham.

Approval of Agenda

Member Radosevich moved to approve the agenda; Member Parker second; roll call; agenda adopted unanimously.

Approval of Minutes

Member Parker moved to approve the minutes for June 23, 2023 as written; Member Radosevich second roll call; minutes adopted as written.

General Public Comment

Helen Quintana – HR and Constituent Service Coordinator at ECECD came forward. She was there to acknowledge SPO and thank the team for the work done for their agency. The recent speed recruiting event had 24 available positions and without the help of the Workforce Planning team, they would not have gotten those positions filled. She also recognized Sheila Zamora and the recruiting team as well as Ms. Densmore their DFA analyst. The results were 20 positions posted with 292 applicants; 54 interviews and 19 hires from the event and 11 have already begun.

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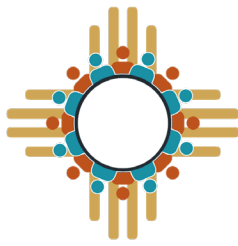


Director's Report

Director Padilla gave the following updates and results from FY23:

Highlights from FY23:

- The work done by the Comp and Class team is the foundation to the compensation and classification actions processed within the classified service. During FY23, the Comp and Class team worked with state agencies to conduct 16 class studies, resulting in the creation or modification of 60 classifications. This includes the completion of the HR Class Study that was ongoing for over 4 years. Comparatively, this number is nearly double the 9 studies conducted in FY22.
- The Workforce Planning team processed nearly 6,700 actions for SPO Director approval.
- The Recruitment Team has been busy working with agencies to advertise, promote and feature job openings on our website and in social media. They also continually work to evaluate and streamline processes.
- Our Shared Services supports eleven state agencies on a continual basis. We also assist agencies when they have vacant positions, or when they have HR employees on extended leave on a situation-by-situation and month-to-month basis.
- SPO has assisted multiple agencies on procedures for personnel records archiving. Thanks to our summer interns who scanned documents in over thirty boxes, we were able to clear out file storage space.
- In collaboration with NM State University, the first of the NM EDGE Certified Human Resource Certification program courses will launch September 13. The response to the announcements of the program and SPO's scholarship offering has been tremendous.
 - Since July 31, 2023, we have over 90 applicants for the 7 scholarships offered by SPO with a week still left to apply.
 - NM EDGE staff have received over 300 emails from individuals interested in the program and/or individual classes in the program.
 - As of August 14, 2023, NM EDGE had registered 21 people for the program.
- The close out of FY23 is going smoothly. All Purchase Orders have been closed. We are working on final payments this week. Since we did not have budget authority for our Shared Services Revenue until after the legislative session, we had a surplus in



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the Personnel Services line item. Rather than reverting the funds, we contributed \$224K to the solvency of the State Health Benefits Fund.

- We are on-track and have begun preliminary work for the External Audit which is due to the State Auditor later this year.
- Labor Relations Updates:
 - Communication Workers of America (CWA) agency classification listings have been finalized and certified by the Public Employee Labor Relations Board (PELRB) for eleven (11) agencies. Three (3) agencies are pending finalization and certification.
 - American Federation of State, County and Municipal Employees (AFSCME) agency classification listings have been finalized for all seventeen (17) AFSCME covered agencies. Ten (10) classification listings have been certified by the PELRB. Seven (7) classification listings are pending certification by the PELRB.
 - The AFSCME collective bargaining agreement (CBA) has been finalized by SPO and AFSCME, and the final proof was sent to State Printing. Printing will commence next week, and it will take 7-8 weeks to produce the CBA. Distribution will follow. The electronic version of the CBA will be updated and released on the SPO website by the end of the month.
- Staffing changes:
 - Aaron Baca's last day in Adjudication is today. He will has accepted a position in District Court in Albuquerque. We are in the final stages of selection for the position.
 - Chantel Martinez was promoted to the Labor Relations Team.
 - On Monday we have a new employee, Alex Romero, starting at the front desk as Administrative Services Coordinator.
- Lastly, this will be my last Director's Report. One of the greatest benefits of working for the State of New Mexico is the amazing pension retirement plan. After many years of public service, I am happily retiring at the end of the month and am looking forward to the time I will spend with my family and friends.
- As the Director I'm most proud of the SPO team and the more collaborative partnerships with State agencies.
- I am eternally grateful to Governor Michelle Lujan Grisham for the opportunity to be the State Personnel Director. It has been my pleasure to serve this Board. I



appreciate your attention and thoughtful consideration to the matters the office presents to you.

- SPO General Counsel, Dylan Lange, will assume the responsibilities as Acting Director, effective September 1, 2023.

Stand for questions.

Vice Chair Cunningham asked if the amount contributed back to health benefit fund was required. Padilla said she reviewed the process with GSD and DFA and the money was transferred to the fund under GSD. It was discussed and approved, nothing was required.

Padilla stated the State vacancy rate is still around 23%. Some agencies have done better lowering the vacancies, but the larger agencies are still struggling. Ongoing and continuous recruitment efforts such as speed hiring and rapid hires are aimed to support agencies getting positions filled as quickly as possible.

FY25 Budget Appropriation

Jaime Trujillo, SPO ASD fiscal and administrative manager, presented the FY25 appropriation request. Trujillo highlighted \$203K for HR shared services revenue. The budget reflects a 3.46 percent overall increase from FY24 - 3 percent coming from the general fund and the balance is an increase in the shared services revenue.

Member Parker observed there does not seem to be additional needs beyond what the request is. Trujillo said we are confident about what we need in FY25. The Governor's office gave us a baseline for the conversation, and we feel confident about where we are and the possibilities for expansion in FY26.

Vice Chair Cunningham – how does the shared service money work?

Director Padilla explained that we enter Memorandums of Understanding (MOU's) with some smaller agencies who do not need an FTE for HR. SPO does all advertising, onboarding, consulting on discipline, processing payroll - all that an HR person in the agency would do. We budget revenue for each agency in our presentation and the agency budgets for the expense, so it balances out.

Member Parker moved the budget be approved unanimously; Member Radosevich second; roll call; motion carried.



Request for approval to initiate the process to amend rule 1.7.8 NMAC - Drug and Alcohol

Jessica Tolle, SPO Assistant General Counsel, requested approval to initiate the rulemaking process. With board approval, SPO will develop proposed amendments to the rule. Public rule hearing is targeted for October. This rule was last amended in 2010 and addresses the legislative changes which now makes cannabis legal. The changes will apply to Drug and Alcohol testing.

Member Parker asked what specific items are under review in the changes? Tolle responded that we are specifically looking at those actions related to the testing of cannabis. We are limiting it to that because we have received questions from agencies requesting clarity.

Member Radosevich asked how are we going to propose rules that don't conflict with federal laws? Tolle replied we are taking a deep dive into how this change will impact that.

AAG Rubin added that there are some instances where there's enough entanglement. Radosevich asked if there could be an effect on federal funding. Rubin is not worried about losing funding. Radosevich agreed the rules need to be clarified, asks we don't overlook the federal piece as well as insurance coverages. Want to be careful and limited in scope so it does not become a liability to the State down the road.

Vice Chair Cunningham added that pueblos have different rules and asked that we keep the pueblo rules in mind during the process.

Member Parker moved to approve the rulemaking process initiation for 1.7.8 Member Radosevich second; roll call; motion carried.

New Mexico Livestock Board Meat & Poultry Inspector Series Class Study

Request for approval made by Melanie Morgan, SPO Compensation and Classification Analyst, stating the class study includes 5 levels that coordinate and meet the federal standards and will aid recruitment efforts.

Belinda Garland, Executive Director, asked for approval for this line of positions. The reason for the structure is that USDA has preemption over all states. We must present a program at least equal to or better than the federal requirements.



Vice Chair Cunningham stated up until now, the federal government has been doing this job. Garland explained that before 2007 the state did have an in-state meat inspection program. Some of those concerns created the decision to turn it back to the federal government. The legislature has requested that we stand up the program in the state. Gives more food security to New Mexicans. Cunningham asked if they are adequately staffed. Garland said they have enough positions now to stand up the program.

Meat & Poultry Inspector Director Tim Hanosh added that when the program is up and running the federal government will still have presence in the state as an auditing body to ensure the federal standards are being met.

Member Radosevich moved to approve the NM Livestock Board Meat & Poultry Inspector Class Series; Member Parker second; roll call; motion carried.

IT Business Analyst Supervisor Class Study

Request for approval made by Melissa Gutierrez, SPO Compensation and Classification Analyst, who referenced appendix 2 of the report. DoIT has requested a new classification as this is the only family without a supervisor.

Alex Canett, Division Director, DoIT said when they introduced the SHARE state-wide system there were 3 suites for applications, and we have a team of 17 great individuals that roll up their sleeves every day to do great things for the employees of NM. Business Analyst 2, we had to combine mid-level employees with upper level as there is not a supervisor in place. Since 2006, the agency has been operating on a flat organizational structure. This helps to classify the team correctly, so they are well compensated and reflect the job they are actually doing. Director Padilla acknowledged the IT team and identified them as partners.

Member Parker commented that organizational hierarchy is wise and Member Radosevich added that these are probably the most important positions right now and deserve to get this done.

Vice Chair Cunningham asked about the need for a supervisor. Business Analysts talk to agencies to get the functionality in place. Max Cordova, SPO Systems and Quality Director, stressed the importance of the IT family and the line of communication from users and developers. They are the bridge to get what we need. IT salary schedule is why a supervisor was never created for this family and we are creating this to fix the void.



Member Parker moved to approve the IT Business Analyst Supervisor Class Study; Member Radosevich second; roll call; motion carried.

Department of Homeland Security and Emergency Management Fire Inspector Class Study

Request for Approval made by Melissa Gutierrez, SPO Compensation and Classification Analyst, who stated the reevaluation of this class was needed due to retention and a primary issue is that the current pay band is not at market. Moving this from a pay band 65 to 70 enables agencies to be competitive within and outside the state.

Randy Varela, State Fire Marshall, said this is a career ladder position; and the agency has 51 employees that will be impacted by this study. They are requesting approval to compete with other agencies, this reclass will support the bureau so we can better retain and recruit.

Member Radosevich asked about the FSLA status? Max Cordova replied that the omission was an oversight, and they will update the document to indicate the status.

Member Radosevich asked if inspectors are stationed in SF? Yes, 3 in Santa Fe as well as Albuquerque and around the state.

Anthony Leyba, Assistant State Fire Marshall, replied that the team does well around the state, we provide calls and service to customers state-wide. Thank you for your consideration.

Member Radosevich moved to approve the DHSEM Fire Inspector Class Study; Member Parker second; roll call; motion carried.

Adjudication Litigation Update

Jannelle Haught, SPO Administrative Law Judge, presented data for FY23

She thanked Judge Baca for his service and wished him well in his next endeavor.

Member Parker commented that the board was upholding only 39% of the disciplines in the appeals which seems rather low. She would expect a higher rate of upholding discipline.

Judge Haught stated we take our job very seriously and are bound by SPO rules and the evidence. The agency must prove discipline was correct based on the preponderance of the



evidence. Haught has drafted a training for the General Counsels, but is not sure how else she can help the agencies.

Member Radosevich said his concern is that some cases seem to drag on particularly with terminations. The financial aspect is huge if a case is overturned, and the employee is reinstated. Why does a hearing take so long to get scheduled and/or rescheduled? Can she draft a timeframe, so cases do not drag on and on. That would help him with these decisions. What is the difference between an ALJ and hearing office.

Haught explained the timeframes noting that in FY22 a case was averaging 52 business days and is down to 20 business days in FY23.

Vice Chair Cunningham said he appreciates her work and asked how many overall cases did you have to begin FY23. Haught said FY23 started with 38 appeals and ended with 20.

Cunningham followed by asking how many of ALJ decisions were reversed or modified by the board? Haught stated the board reversed one of her cases and overturned judge Baca's decision.

Cunningham said the mission of the board and the ALJ is to get to a fair result and not get reversed in District Court. Haught reported we have 8 in front of District Court and she hasn't heard any result in any of those cases.

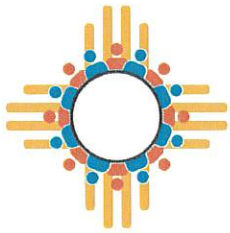
Cunningham asked for an update for the District Court results. Haught deferred to AAG Rubin as it would be inappropriate for her to update the board. AAG Rubin said he will report back to the board on status of appeals for SPO.

Member Parker asked if we have hired anyone to replace Baca. Haught replied she is optimistic that we will have a replacement soon and there will be no back up in the workflow.

Executive Session - Administrative Adjudicatory Deliberations

Vice Chair Cunningham moved to enter Executive Session as authorized by the administrative adjudication exception of the Open Meetings Act, NMSA 1978, Section 10-15-1(H)(3). Member Radosevich second, roll call and off the record at 10:30.

Cunningham stated the board was back on the record at 11:08 a.m. Pursuant to Open Meetings Act, NMSA 1978, Section 10-15-1(J) the matters discussed during the closed session were limited only to those specified in the motion for closure and that no votes or official actions were taken.



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Motions on Administrative Appeals

Nguyen, Nhan v. New Mexico Corrections Department; Docket Nos. 19-054; 21-008;
Based on the findings, Member Parker moved that the matter be remanded and the hearing be reopened; Member Radosevich second; roll call; motion to remand carried.

Trevizo, Guadalupe v. New Mexico Department of Health; Docket No. 22-027
Member Radosevich moved to adopt the recommended decision; Vice Chair Cunningham second; roll call carried.

Vega, Debra v. New Mexico Corrections Department; Docket No. 21-023
Member Parker moved to adopt the recommended decision; Vice Chair Cunningham second; roll call; motion carried.

Next in-person meeting will be October 13, 2023 at 9:00 am. Motion to adjourn made by Member Radosevich; Member Parker second; roll call. The meeting adjourned at 11:12 a.m.

Approved:

A handwritten signature in black ink, appearing to read "Laura Liswood".

Laura Liswood, Chair
State Personnel Board

Attest:

A handwritten signature in black ink, appearing to read "Dylan Lange".

Dylan Lange, Acting Director
State Personnel Office