

New Mexico State Personnel Board

State Personnel Office

Michelle Lujan Grisham
Governor

Ricky A. Serna
Acting Director

L. Teresa Padilla
Deputy Director

State Personnel Board
Laura A. Liswood, Chair
David F. Cunningham, Vice Chair
Cristin M. Heyns-Bousliman, Member
Carol A. Parker, Member

State Personnel Board Meeting **Electronic/Telephonic Meeting via ZOOM** **Friday, January 14, 2022** **MINUTES**

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

- Acting Director Serna led the Pledge of Allegiance and conducted the roll call – Chair Liswood, present, Vice Chair Cunningham present, member Parker and Member Heyns-Bousliman present - a quorum was established.
- Chair Liswood asked if anyone in attendance would be making public comment. A poll was launched on Zoom – no public comment requested.
- Approval of Agenda – Chair Liswood moved the agenda be adopted; Vice Chair Cunningham second; roll call. Agenda adopted
- Approval of Minutes - Chair Liswood asked if there were questions on the minutes from the December 19, 2021 meeting. No questions – Chair Liswood moved that minutes be approved as written, Member Heyns-Bousliman second; Acting Director Serna called roll – minutes unanimously approved.
- 2022 State Personnel Board Election of Officers – Chair Liswood opened the nominations for board chair. Member Parker nominated Laura Liswood who stated she would be pleased to serve in that capacity; Vice Chair Cunningham second – roll call; unanimously approved. Nominations for Vice Chair – Member Heyns-Bousliman nominated David Cunningham and Member Parker second; roll call; unanimously approved.

General Public Comment – none requestedDirector's Report Acting Director Serna presented the following:

- Requested an extension of the deadline for the social media (SoMe) report requested at the last meeting. The board agreed.
- CDC guidelines have been updated and we made critical changes to guidance and COVID mitigation policy which have been negotiated with the unions. The updates will be sent later this morning.
- Rapid Hire update – multiple events have been planned and scheduled across state agencies. This is an opportunity for agencies to post vacancies, screen and interview applicants in one location and extend offers. We have had over 300 applicants over 4 dates; today we are focusing on IT positions and next week we have multiple agencies over three days. SPO has been working tirelessly with DWS to prepare agencies for these events and coordinating the events in our building.
- Reminded the board they should be receiving an email from Secretary of State regarding financial disclosure which needs to be submitted by January 31, 2022. If you have not yet received the request, let Denise Forlizzi know.
- Legislature update - Pre-session jitters are in the air as the 30-day session begins Tuesday at noon. SPO has had a lot of involvement on 2 priorities. \$1.1 M increase requested in SPO operating budget, a 33% increase. We will be looking at marketing expenditures, staff, administrative law judge support, HR support, and hiring key HR personnel in FY23. Another measure for the session – an overall compensation recommendation for which the Governor has asked SPO to take a leadership role in to moving this bill forward. AFSCME and CWA are working together in our effort to raise minimum pay to \$15/hr. while also addressing compaction. SPO is proposing a recommendation that yields that outcome, with an increase of 4% at the minimum and up to 40% for the lower-level positions.
- Stand for questions. The next few weeks will be very interesting.
Vice Chair Cunningham had 2 questions. First regarding COVID and new guidance – in private sector the issue is when you let people come back. Testing doesn't cut it. You need to get a doctor release to come back to the office. How, in the new guidance is that dealt with? Acting Director Serna stated that DOH reduced the quarantine time from 10 to 5 days. Can come back to work after 5 days if asymptomatic. 5 days resets from day they experience symptoms for at least 24 hours. CDC states people can test positive for up to 90 days. Also, doctor appointments are difficult to get for surveillance purposes only. Vice

Chair Cunningham asked if this was more like an honor system; Acting Director Serna stated guidance requires self-screening prior to reporting to work, which includes screening questions. Telework available and paid COVID leave are offered.

Member Heyns-Bousliman had no questions; Member Parker had no questions

Chair Liswood asked about the request for more time regarding SoMe policies – the next meeting will be appropriate. Tabled to next meeting.

Chair Liswood commented on the \$1.1 M increase in budget with good initiative to where to apply the increase. Then she asked if we get half, what are the priorities? Acting Director Serna asked that the board look at recommendation in the budget that was approved. ALJ support, marketing support and HR support. Additional would be used for marketing expenses, HR support and the ability to surge to other agencies when needed. Acting Director Serna shared key slides for his LFC presentation this week and illustrated the perspective that we are one person short of our budget for full-time employees (FTE).

Vice Chair Cunningham noted that the State has a 23% vacancy rate. What you just showed us reflects vacancies that have the funding, correct? Serna stated yes, the calculations were based on authorized FTE. There is a forced vacancy rate and staffing that the agency may have brought in using outside help to staff an agency rather than FTE. Based on the budget, we have funds to fill those positions. Vice Chair Cunningham questioned if they ask you what the real number was? DFA and LFC analysts are on the team to explain. What we do from year to year is to minimize what budget dollars SPO reverts back. That is the measure we point to at the end of a fiscal year.

Chair Liswood thanked Acting Director Serna stating she appreciated the comprehensive report,

2022 State Personnel Board Open Meetings Resolution

Acting Director Serna presented the resolution for adoption. Resolution is to ensure compliance with the Open Meetings Act (OMA). Lays out obligations and notice requirements and ensures clear direction about participation via teleconference. AAG Joe stated the resolution is similar to last year. Chair Liswood asked if there were substantive changes? AAG Joe stated just date changes. Chair Liswood - Any feedback from public about the length of time? Joe stated no, it is the minimum required by OMA. No other questions. Chair Liswood asked AAG Joe if she could verbally indicate her approval to use her electronic signature to Ms. Forlizzi. Joe said yes. Chair Liswood motion to approve, Vice Chair Cunningham second, Acting Director Serna roll call. Open Meetings resolution unanimously adopted. Chair Liswood authorized Ms. Forlizzi to use her electronic signature.

2022 State Personnel Board Operating Procedures

Acting Director Serna presented the operating procedures which are customarily presented at the beginning of each year. The procedures contain per diem schedules, additional clarification on mileage, etc. Section 2 includes an outline of duties, how meetings will take place and procedures for meetings. Note deadlines, the meeting calendar reflects requirements based on the previously approved meeting dates. Vice Chair Cunningham stated he sees in the rules that the director is the secretary and a member of the board. Serna clarified that the State Personnel Act articulates the role of director and board secretary, and the director is a non-voting member. Member Parker stated a quorum is 3 members and we are currently a board of 4, she asked if there was a move afoot to add members to SPO board? Acting Director Serna said yes, and he will work with Chair Liswood to identify another board member to get to 5 members as quickly as possible. Chair Liswood moved to adopt the 2022 Operating Procedures. Member Heyns-Bousliman second. Acting Director Serna roll call – operating procedures adopted unanimously. Chair Liswood authorized Ms. Forlizzi to use her electronic signature.

2021 Annual Pay Plan and Compensation Report

Chair Liswood stated there was a working session January 11, 2022, to review the annual compensation report that had been submitted to the board late in 2021. She stated it was an excellent meeting. Chair Liswood asked if there were additional questions on the report. Having no questions from Vice Chair Cunningham, Members Heyns-Bousliman or Parker, Chair Liswood moved to approve the 2021 Annual Pay Plan and Compensation report as presented. Member Heyns-Bousliman second; Acting Director Serna conducted a roll call. Unanimously approved.

Cliff McNary made a point of order that the board not only approve the Annual Compensation report and Pay Plan, but to adopt it as their own approving it to be presented the Governor's office and legislative finance committee

Chair Liswood amended the motion to approve the 2021 Annual Pay Plan and Compensation Report and approve the report to be submitted to the executive and legislative branches. Vice Chair Cunningham second; Acting Director Serna roll call motion carries as amended.

Class Study for the State Purchasing Division Procurement Specialist

Cliff McNary, SPO Classification and Testing Manager, presented the new class series stating it was a long time coming and highly necessary in that the purchasing division has the sole procurement authority for all of state government. Currently, they are misclassified as purchasing agents and these positions are not equal to that. These classifications and procurement specialists require the ability to negotiate, renegotiate, to fix and renew and problem solve any contract issues that any of the state agencies have. The position has a higher programmatic

authority, and the four levels are set far apart from the average purchasing agent classification. These positions require a great deal of experience in procurement and purchasing. Qualification standards are much higher and through job evaluations, makes them bigger jobs. Mr. McNary requests approval for the classification series and pay bands as presented. Stand for questions. General Services Department (GSD) representatives included Cabinet Secretary Duffy Rodriguez, Michael Lujan, ASD Director Purchasing division, Eunice Moya, HR Manager, Mark Hayden, SPD Division Director and Valerie Paulk, Division Deputy Director. They are ready to answer any technical questions the board may have.

Vice Chair Cunningham – no questions; member Heyns-Bousliman – no questions.

Member Parker asked are these positions filled or vacant? Mr. McNary stated they are currently filled with a couple of vacancies. There are some positions misclassified under a couple of other titles due largely to pay band issues and in order to retain people in these positions. They will all now will all be unified in this series as procurement specialists. Right now, they are predominantly purchasing agents which is a total misclassification for jobs this size.

Vice Chair Cunningham asked if someone could explain the difference between the categories presented and explain the rationale for the categories? Mr. McNary asked a State Purchasing SME to answer the question and when no one came forward, he answered the question to the best of his ability. McNary explained that the job evaluation is based on the recommended experience and education for full performance, which is essentially the mid-point of the job's value. The entry level position was not really seen as entry level due to the high qualifications in the series. Were able to identify 4 levels of work. Each classification handles differing complexities of procurement and acquisitions and contracting. As you move up in the series, the work becomes more complicated and requires a greater amount of know-how, which is what we look for in compensable value in jobs and job evaluations. This could be combination of education and experience, along with problem solving skills, which becomes increasingly more complex as you move up the job series. The manager has total control of functions and entire operations in purchasing. Mark Hayden, Director of State Purchasing stated Mr. McNary summarized it well and they wanted to structure this in such a way as to have two entry level positions which they could train and advance; along with several directors who will supervise the two other positions. No other questions.

Chair Liswood stated the board appreciates the work and thought that went into the study and added anything that helps to clarify what we need and to communicate that is an excellent step in the right direction. Mr. McNary went on to explain we did extensive state-to-state comparison for this job of Procurement Specialist and Managers, and we are markedly behind comparator

market in eight surrounding states. The ability to plan for the future and be able to fill positions with qualified people within the state and the internal market supported higher pay bands.

Chair Liswood asked a more philosophical question, she assumes the procurement specialists are going out to suppliers for state needs to obtain bids. McNary agreed stating we have an extensive vendor list from the Secretary of State's office, so there is a huge opportunity for procurement contracts across all categories. He mentioned IT has two dedicated procurement specialists alone due to the amount of hardware and software they deal with. The manager in this series is already overseeing those positions as well as other types of procurement contracting. Liswood clarified the purpose of her question is that in the private sector and some government agencies, it is now mandatory to procure from diverse companies such as black-owned businesses and women-owned businesses, often there is a percentage that is required. What does the state do? Mr. Hayden answered that now the state procurement code requires preferences be given to veterans and to New Mexico resident businesses, we do not yet have "quotas" for minority owned businesses as state vendors. Agencies can choose to select those minority businesses in their contracting procedures.

Chair Liswood commented that this is a choice, not a policy. Chair Liswood then asked Acting Director Serna for his thoughts on this issue. Serna stated perhaps we can communicate with state agencies the benefit to the state's economy to make these conscious choices and he will work with the Cabinet Secretary Duffy Rodriguez to find ways to communicate the benefit to the state economy in securing vendors including minority-owned businesses

Vice Chair Cunningham asked if the vendor list is a public document – what does the state do to increase the list of vendors for more minorities? Mr. Hayden replied it is public information and it is available, it is not private and can be disclosed. Selection of particular minority groups was proposed during the last legislative session in SB53, it did not pass. Legislation has been pre-filed for this session, extending veterans preference but at this time, did not add minority requirements or preferences in the bill. Chair Liswood likes the idea that Acting Director Serna send out a highly encouraging commentary and asked Mr. Hayden to think about how they can further this particular goal. Member Parker asked Acting Director Serna as part of that conversation about bringing to agencies and heightened awareness of the fact that the list does not give that type of information, perhaps but they not only look at but and provide feedback to purchasing department regarding their willingness to identify women- and minority-owned businesses as they identify the veterans' and New Mexico residents' business information. Acting Director Serna can get a conversation going with leadership at GSD and state purchasing division to find out what obligations we have to state vendors and what options we have and how it falls in line with state rules and procedures. Do what we can to give New Mexico businesses a thriving

opportunity with state government. Chair thanked Mr. McNary and Mr. Hayden for their efforts and good faith conversation around the supplier issue.

Chair Liswood moved to approve the class study as presented, member Heyns-Bousliman second; Acting Director Serna roll call; motion to approve as presented carries unanimously.

Adjudication Litigation Update

Administrative Law Judge Haught presented the update. As of the start of the third quarter, we have 44 open cases; we have received two new cases in the third quarter and disposed of four; presently 28 appeals are scheduled for hearings. Judge Baca and she are working on seven recommended decisions. Three cases pending settlement. Received request for mediation on one case and still have four cases pending district court procedural issues.

With respect to appeals to district court - activity on 2 of them

Amy Landau v NM Attorney General case, Ms. Landau filed petition to court of appeals on January 10, 2022; Madrid v NM Department of Health, DOH filed motion to dismiss for lack of jurisdiction on December 21, 2021. Not yet set for hearing. Vice Chair Cunningham stated Valencia case had no activity since October 16, 2021 and the court issued a notice of inactivity; no activity since that notice was filed. Cunningham asked, so in the normal course, who would file a motion to dismiss? Ms. Haught deferred the question to AAG Joe who stated the district court could dismiss when there is no activity, or a party can file a motion so it becomes active again. Cunningham asked why this case is still inactive, AAG Joe hasn't looked into the case recently. Vice Chair Cunningham asked that AAG Joe please update at the next meeting. No other questions. Chair Liswood stated to Ms. Haught that she appreciates the layout of the update for the board and their understanding.

Executive Session

Chair Liswood moved to enter closed session to address the administrative appeals listed on the agenda pursuant to the Administrative Adjudication exception to the Open Meetings Act, NMSA 1978, Section 10-5-1(H)(3); Vice Chair Cunningham second; Acting Director Serna roll call – unanimously carried. Board entered closed session at 9:57 am and are off the record. Public is welcome to stay while in executive session.

At 11:04 am, Chair Liswood announced we are back in general session and on the record and that the matters discussed during closed session were limited to those specified in the motion for closure.

AAG Joe stated on the record that she was not involved in any conversation regarding the Regulations and Licensing Department discussion; she recused herself from that portion of discussion.

Motion on Administrative Appeals

On the Blea matter, member Heyns-Bousliman moved to adopt ALJ decision that affirmed 5-day suspension in Blea v NMCD docket 20-016; Member Parker second. Acting Director Serna roll call; motion approved unanimously.

On the Giron matter, member Parker moved to adopt ALJ recommended decision that affirms 1-day suspension in Giron v. NMCD, docket number 20-011. Vice Chair Cunningham second; Acting Director Serna roll call; motion carries unanimously

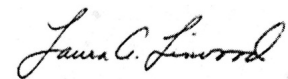
Other Business and adjournment

Chair Liswood asked for other business, no other business. Chair Liswood requests a working session to review operating procedures so the board can operate at maximum efficiency and capabilities in relationship with SPO. Would like Acting Director Serna to facilitate. Member Parker requests delay of that until after legislative session due to her involvement until the close of session.

The next meeting of the board is Friday, March 4, 2022 at 9:00 am.

Chair Liswood thanked the State Personnel Office and all who are working so diligently during these times, the board itself and the public for their participation in this meeting. Vice Chair Cunningham moved to adjourn, member Heyns-Bousliman second. Acting Director Serna called roll. Meeting was adjourned at 11:09 am.

Approved by:



Laura Liswood
Board Chair
State Personnel Board

Attest:



Ricky A. Serna
Acting Director
State Personnel Office