

Michelle Lujan Grisham

Governor

Dylan K. Lange

Director



State Personnel Board

Laura A. Liswood, *Chair*

Carol A. Parker, *Vice Chair*

David F. Cunningham,

Member

Sandra D. Lopez, *Member*

Fred Radosevich, *Member*

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State Personnel Board Meeting

Willie Ortiz Building

2600 Cerrillos Road, Santa Fe, NM

Friday, October 11, 2024 – 9:00 AM

MINUTES

- Vice Chair Parker called the meeting to order at 9:00 a.m.
- Director Lange led the Pledge of Allegiance and called roll. A quorum was established with the following present: Vice Chair Parker, Members Cunningham, Lopez and Radosevich. Absent: Chair Liswood
- Call for Public Comment – Ms. Forlizzi stated no requests for public comment had been received either in person or via email.
- Approval of Agenda - Director Lange asked to amend the agenda to move item 4 (Safety Sensitive removal) down and have CYFD move up the agenda. Member Cunningham moved to approve the agenda as amended; Member Radosevich seconded; roll call; motion carried.
- Approval of Minutes - Member Radosevich moved to approve the minutes of August 30, 2024 meeting, Member Cunningham seconded; roll call; minutes approved as written.

CYFD Out-of-Cycle Safety Sensitive

Kassi Lemon, SPO Data Analyst, requested approval to remove the out-of-cycle Safety Sensitive designation and introduced Secretary Casados of CYFD who addressed the board citing NMAC within Juvenile Justice System and requested a redesignation of the 11 positions. She stated all positions across CYFD are subject to an extensive background check prior to being hired and there is no history of declining an offer based on drug screening.

Vice Chair Parker asked about the other 900+ positions.

Secretary Casados stated testing is done based on reasonable suspicion regardless of the safety sensitive (SS) status. CYFD is taking vacant positions previously classified as SS and repurposing into new positions. The new positions will not need the SS designation.

Member Cunningham said this request did not move forward previously so he reviewed the statute and based on the definition in statute, saw the practice is for each agency to decide. Casados reiterated that the agency does background checks on every person in the department; reference checks, drug testing to ensure the safety of our children.

Member Lopez observed that these positions are more family centered, not one-on-one, and there are mechanisms in place to drug test for reasonable suspicion, no matter the designation.

Member Cunningham moved to approve removing the SS designation; Member Lopez seconded; roll call; motion carried.

Director Lange thanked Secretary Casados for attending and clarifying this matter for the board, her presence was appreciated.

Constructor Inspector Series Re-Evaluation Study

Melanie Morgan, SPO Comp & Testing Manager requested approval and introduced Clay Bailey, RLD Superintendent, who said that construction touches every life and recruiting is becoming increasingly difficult based on the expertise needed. Construction is economy-driven; we need to compensate to get the state back on track by recruiting good, qualified individuals and then retaining them.

Vice Chair Parker asked about vacancy rate.

Bailey said they currently have a 15.5 percent vacancy rate; 20 percent vacancy at the higher level. RLD needs to be responsive by statute, so they handle the entire state and when one area fails, they must step in. Today's market is challenging, and salary is a critical component.

Motion to approve made by Member Cunningham; Member Radosevich seconded; roll call; motion carried.

Director Lange thanked the superintendent for being here.

Request for approval to initiate the rulemaking process

Leigh Messerer, SPO General Counsel, requested approval to initiate the rulemaking process for General Provisions; Recruitment; Performance Appraisals. This will modernize language to align with what is being practiced and clear up inconsistent language.

Definitions – removing redundancies; adding definitions, and generally cleaning up for clarity. Drug and Alcohol policy related to the board's role in approving Safety Sensitive designations. In the past, it has been a ministerial function. It's become clear that approving these designations carries more weight. Allowing the agencies to designate as they really know what the positions do and remove board approval.

Vice Chair Parker agreed, saying when we were looking at this and as each agency designates, enforces violations, and process disciplinary actions, the board does not have the authority. Doesn't make sense for the board to have jurisdiction.

GC Messerer agreed, saying the agencies are in a better position to determine safety sensitive designations.

Member Cunningham asked if there is a red line version for review?

Messerer said once we receive approval to initiate the process, we will move forward with the process; we will give notice to the public. We have recognized that language in these sections is either inconsistent or does not reflect what is actually happening.

AG Rubin said the process of initiation goes through the office; they will look at the redline version delegating discretion to the committee;

Director Lange said the board has the power to rule make; there will be an opportunity for the public and the board to provide comments. We wanted to be sure of approval to move forward before providing the red line version.

Member Radosevich commented that he is concerned about giving authority to agencies, for SS positions. Last time, the board was put in a position to make a decision on rulemaking that day. Can we have a working session ahead of time?

Messerer said we'd like a member of the board to be on the committee.

Vice Chair Parker said she's hearing some concern from the board about these changes. Is a more gradual approach possible? Can the board see the red line version before the hearing?

Lange said we must comply with the state rules act; we combine rule hearing with the actual meeting for efficiency. The issue will always be that we can only change the rule based on the notice provided to the public of the proposed rule change. We welcome the board's participation.

Vice Chair Parker moved to have an additional meeting reviewing the red line prior to the board meeting where they will vote; Member Cunningham seconded; roll call; motion passed.

Vice Chair Parker then moved to approve initiating the rulemaking process; Member Lopez seconded; roll call; motion carried.

2025 Paid Holiday Schedule

Director Lange presented the State Paid holidays for 2025 noting no new holidays were added; Member Radosevich moved to approve; Member Cunningham seconded; roll call; motion carried.

2025 State Personnel Board Meeting Dates

Director Lange request approval of 2025 Board meeting dates. These dates track closely with this year's dates. If there are conflicts that anyone is aware of, please advise as we are

able to be nimble. Motion to approve made by Member Cunningham; Member Radosevich seconded; roll call; 2025 dates approved.

SPO Updates

Dylan Lange, SPO Director, gave the following update:

- LFC hearing for FY26 budget is October 24 at 10:30. We are the only agency on the calendar due to salary structure and job architecture discussion. SPO is requesting 6 more FTE.
- Personnel update:
 - Melissa Gutierrez moved from SPO to DOT
 - New ALJ starts October 15
 - Currently recruiting for the IT department
- Notice of termination of prior rulemaking completed.
- Our WFP team is conducting strategic planning meetings with agencies along with the compensation team and training team. We've been very successful; Lange has been involved in onboarding 5 new Cabinet Secretaries. A collaborative effort in our agency and he is proud of how we are providing guidance.
- On September 18, there was an article in the paper about agencies dipping into vacancy savings to increase payroll for current staff. This is not ideal; however, we are having success. We've taken away the barrier to pay increases and continue to celebrate the successes.
- Q1 – FY 25 22.3% vacancy rate; average compa 1.02. Also reflects that we are pretty competitive with market. External hires 762 from the previous quarter. The State is becoming more and more a workplace of choice. People who complete probation – 677 hired and 360 did not complete probationary period. Working with agencies on how we can support them to get that number up. We are doing a great job to promote our services and encourage agencies to utilize our expertise. Time To Fill – 63 days; some agencies really drag that out; SPO is 25-29 days which is good. We are working with agencies on how to get that number down. We're all doing better in general.
- Basic updates – rulemaking needs to be modernized. SPO opens itself up to sharing the liability when an employee brings a lawsuit around SS.
- Stand for questions.

Member Cunningham asked about the vacancy rate; how are we progressing?

Lange said that is determined at agency level, against budget. 1/3 of people we hire do not make it past the probationary period. We have an exit survey for those who want to fill it out. We do ask questions in the strategic planning meetings.

Member Cunningham stated the average time to fill is 63 days – for some agencies it's longer, is the delay based on background checks?

Lange said we include continuous postings in the statistics which creates an increase in the average position taking longer to fill. There is a disconnect often with hiring managers and HR; we need to remove roadblocks that are avoidable.

Agencies are required to submit policies annually and approved by SPO every July – Is that occurring?

Lange replied that the current rule does not read that way – SPO does not need to approve. Member Lopez referred to the last board meeting, and asked how the collective bargaining is moving along?

Director Lange said CWA and the state are currently in the first round of negotiations; bargaining back and forth. Meeting later this month to further this discussion especially around procedural changes including pay and telework. We have a great team of SME at SPO and other state agencies. Long days and we understand the “why” of these requests. Our proposals are based on us wanting more face-to-face communications at the agency level. Clean up language in the current CBA. We are in the middle of this.

Adjudication Update

Janelle Haught, ALJ, gave the following information:

For the first quarter of the fiscal year, we received 13 new appeals and disposed of 12 appeals. Presently, we have 11 hearings scheduled through April 2025, two mediations scheduled, and we are waiting on four settlement agreements. There are three cases stayed pending district court decisions and I am working on three appeals. Two recommended decisions will be presented to the Board today. At the end of the day, we will have 22 appeals.

Member Cunningham inquired about the District Court appeals. Judge Haught replied that there was no change from the last Board meeting. There are seven Final Decisions presently appealed to the District Court. Member Cunningham asked the same question of Dan Rubin, Board Counsel. Mr. Rubin said he had no update on the District Court appeals.

Executive Session - Administrative Adjudicatory Deliberation

NMSA 1978, Section 10-15-1(H)(3) Vice Chair Parker moved the board enter closed session; Member Radosevich seconded; roll call; motion carried. Off the record at 10:16 AM.

The board was back in session and on the record at 10:43 AM.

Motions on Administrative Appeals

- Regarding Nhan Nguyen v. New Mexico Corrections Department; Docket No. 19-054, Member Cunningham move to adopt the ALJ Recommended Decision; Member Radosevich seconded; roll call; motion carried.

- Regarding John Villanueva v. New Mexico Energy, Mineral & Natural Resources Department; Docket No. 23-022, Member Lopez moved to adopt the ALJ Recommended Decision; Member Radosevich seconded; roll call; motion carried.

Next meeting – Friday, December 6, 2024 at 9:00 am

Motion to adjourn made by Member Radosevich; Member Lopez seconded; roll call; meeting adjourned at 10:45 AM.

Approved:



Carol A. Parker, Vice Chair
State Personnel Board

Attest:



Dylan K. Lange, Director
State Personnel Office