

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 Special Board Meeting

Willie Ortiz Building

2600 Cerrillos Road, Santa Fe, NM

Wednesday, October 23, 2024 – 9:00 AM

AGENDA

- Chair Liswood called the meeting to order at 9:00 AM
- Director Lange led the Pledge of Allegiance and called roll confirming a quorum with the following members present: Chair Liswood, Vice Chair Parker, Members Lopez and Radosevich. Absent: Member Cunningham
- Motion to approve the agenda made by Vice Chair Parker; Member Radosevich seconded; Roll call; agenda adopted.

Discussion on Rule Amendments

Leigh Messerer, SPO General Counsel, presented the proposed rule changes highlighting the major aspects of each.

General Provision rule - Director Lange helped to clarify the questions regarding some definitions.

Cynthia Sandoval, SPO Workforce Planning Director, clarified the question around the definition of “examinations”.

DOJ Rubin supported the removal of the word “tests” in the definitions.

Service of Notice was discussed, and Member Radosevich proposed adding “certified mail” to the address on record and members concurred.

Recruitment rule – Sandoval spoke to the board about clarifying the current language and what practices are being used today. This change in language reflects what is being used and the common practices, including technological advances impacting those practices. Sandoval reviewed the definitions of “doublefill”, “overfill”, “underfill” and used examples of practical applications of those tools at the agency level which gives agencies flexibility with current recruitment challenges.

Performance Appraisals and Discipline rules – Johnna Padilla, SPO Division Director, spoke to the rule and explained the relevance of the changes proposed.

Drug and Alcohol Abuse rule – Leigh Messerer discussed proposed changes and emphasized the impact of Safety Sensitive (SS) approval in terms of liability to the SPO board.

Chair Liswood agreed about the liability piece and the lack of criteria the board has.

Messerer reminded the board that the Personnel Act is not about making rules for the safety of the public. Nothing in the act requires the board to take on this task. Safety Sensitive has been in the rule since 2001 and changed a bit in 2010. SS will remain by statute, the rules provide mechanism for implementation. Director Lange stressed that the agency has the liability, and nearly half of the Safety Sensitive positions are designated by statute. This proposed change is to clarify the board's responsibility, and without criteria, exposes the board to liability.

Member Lopez thinks the rule provides enough for agencies to manage their program. She knows the agency does a lot of work to designate SS. Liability on the agency. Reasonable suspicion is being acted on already at the agency level. She trusts agency management to manage these positions. All agencies have a drug and alcohol coordinator.

Chair Liswood stated she would like to hear from the DOJ about language that would potentially allow the board to continue to approve and also shield the board from liability. This change seems drastic and she would like a tempered approach to this matter.

GC Messerer noted there is no requirement in the Personnel Act that the board take on this role – no common law duty; duties are laid out in the act and there is no statutory violation if board does not approve SS positions.

We will notice these rule changes tomorrow; agencies and individuals can comment on these issues. Asked if board is OK with providing notice and move forward as described today.

Liswood said the board is good with moving this forward.

Drug and Alcohol rule – the proposed changes adopt the federal guidelines and standards. Lange stated this section is subject to federal rule change, in particular fentanyl. The state standard will be the federal standard.

Next meeting and Adjournment

Next meeting is scheduled for Friday, December 6, 2024 at 9:00 am. Vice Chair Parker moved to adjourn; Sandra Lopez seconded; roll call; meeting adjourned at 11:01 AM.

Approved:



Carol A. Parker, Vice Chair
State Personnel Board

Attest:



Dylan K. Lange, Director
State Personnel Office



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