



New Mexico State Personnel Board

State Personnel Office

Michelle Lujan Grisham
Governor

Pamela D. Coleman
Director

State Personnel Board
Christine B. Romero, Chair
Laura A. Liswood, Vice Chair
Carmen V. Chavez, Member
Jerry Manzagol, Member

State Personnel Board Meeting
State Personnel Office
Electronic/Telephonic Meeting via ZOOM
Friday, October 16, 2020
MINUTES

- I. Procedural Items
 - Call to Order
Chair Romero called the meeting to order at: 9:02 a.m. Friday, October 16, 2020
 - Pledge of Allegiance
Director Coleman led the Pledge and called for a moment of silence.
 - Moment of Silence
 - Roll Call
Director Coleman took roll for the board members - Chair Romero, Vice Chair Liswood, Member Chavez and member Manzagol responded as present.
 - Call for Public Comment
Chair Romero asked if there was any of the participants who would be making public comment during the general session. There were no requests for comment
 - Approval of Agenda
Chair Romero asked for a motion to accept the agenda as presented. Member Chavez moved, Member Manzagol second. Director Coleman called roll – unanimously adopted
 - Approval of Minutes – August 28, 2020
Chair Romero asked for a motion to accept the minutes from the August 28, 2020 meeting as written. Vice Chair Liswood moved, Member Manzagol second. Director Coleman called roll – minutes unanimously adopted as written.
- II. General Public Comment Chair Romero – no public comment requested.
- III. Director's Report – Director Coleman presented the following report.
 - Thank you to Board, State Personnel staff, and to the Community of HR Professionals
 - This is now our FIFTH Zoom meeting. A continued thank you to Prakash Bhakta, Drew Lovelace and Denise Forlizzi, for helping to orchestrate this electronic meeting.
 - I'd like to wish Drew Lovelace all the best as he starts his next State govt chapter next week at DOT. We will miss him and are proud of his next step.

- Joining us today are Nicole Macias, DFA, and Connor Jorgensen, LFC
- Our last meeting was August 28.
- COVID. Our numbers are rising. Yesterday, 672 new cases. The number of New Mexicans who have died is now at 922. Department of Health has detected community spread and is investigating cases with no known exposure.
- **All New Mexicans have been instructed to stay home except for outings absolutely necessary for health, safety and welfare.**
- The state's operative emergency public health order will expire today; it will be extended, with amendments. Included area:
 - Food or drink establishment in New Mexico serving alcohol must close at 10:00 p.m. each night
 - Maximum occupancy restrictions will be reduced to 60 percent (from 75%) for places of lodging that have completed the [N.M. Safe Certified training program](#) and to 25 percent (from 50%) for places of lodging that have not completed the training program
 - All individuals arriving from higher-risk states, the list is updated each Wednesday at DOH, must self-quarantine for a period of no less than 14 days or for the duration of their stay in New Mexico, whichever is shorter.
 - Mass gatherings of more than 5 individuals are once again prohibited
- State employees continue to telework – a fact of the virus
- The economic implications of the coronavirus continue
 - Our LFC Hearing is scheduled for October 29.
 - Board will recall that all State agencies were instructed to reduce their FY22 budget by an additional 5% from their FY21 budget which had already been reduced by 4% from our initial budget proposal.
- We continue to manage the process for Paid COVID Leave and Emergency FML consistent with the Families First Coronavirus Response Act.
- The freeze on hiring and personnel actions except in limited circumstances, announced on April 21, continues.
- Last week, we held the first HR Council meeting in several months. It was good to “see” everyone at least virtually.
- As you know, I am the Chair of the Statewide Complete Count Commission for the 2020 Census. After a flurry of court battles, early this week the Supreme Court allowed the US Census to end the Census as of midnight last night, October 15.
- Finally, we ask a lot of our State Personnel staff and our community of HR professionals. We expect them not only to be kind and compassionate with employees, we also expect them to implement processes that keep the trains running on time and on the tracks!

- To the greatest extent possible, we work with our partners to minimize disruption and to provide guidance on new or improved processes. As you will hear in the Rulemaking Hearing that directly follows, rule changes have been proposed that will impact process in the SHARE Human Capital Management system, administered by our remarkable friends and colleagues on the SHARE team.
- The SHARE team has worked with us to build the “backend computer code” into the SHARE system to help the HR Community work with and track these processes as smoothly as possible.
- I will end where I began – to thank the Board, the State Personnel staff and the entire HR Community.
- It is not enough to say that we are living in challenging or even extraordinary times. Every day we are explorers in an unfamiliar world while every day we are ambassadors demonstrating our values as public servants and it’s an honor to work with this group.
- Thank you. I stand for questions.
No questions from the board members.

IV. Executive Session

Chair Romero asked for a motion to move in to Executive Session – Member Chavez made the motion and Member Manzagol second. Roll call taken - motion to enter in to closed session carried unanimously entered closed session at 9:15 am.

Limited Personnel Matters. *See* NMSA 1978, Section 10-15-1(H)(2)

Administrative Appeal. *See* NMSA 1978, Section 10-15-1(H)(3)

1. *Martinez v. New Mexico Public Education Department*; Docket No. 18-045.

Chair Romero stated the Board is back in open session and on the record. The current time is 9:51 am. Let the record show that 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.

Valerie Joe AAG, before the NM Personnel Board read the Compliance order:

COMPLIANCE ORDER TO NEW MEXICO PUBLIC EDUCATION DEPARTMENT AND NEW MEXICO DIVISION OF VOCATIONAL REHABILITATION

This matter came before the New Mexico State Personnel Board (the “Board”) on Appellant’s September 18, 2020 Motion (“Motion”) and Appellee’s October 6, 2020 Notice of Non-Opposition to Appellant’s Motion. Pursuant to the District Court’s August 14, 2020 decision in the matter of Richard Martinez v. New Mexico Public Education Department, First Judicial District Court Docket No. D-101-CV-2019-02841 (“Decision”), the Board orders the following:

1. In compliance with the District Court’s Decision, Appellant Richard Martinez’s termination is reversed, and he shall be reinstated as of December 8, 2018. Within thirty (30) calendar days of this Order, Mr. Martinez shall be awarded back pay and benefits from December 8, 2018 until October 16, 2020, pursuant to 1.7.12.23(A) NMAC.
2. Within ten (10) business days of this Order, Appellant Richard Martinez shall provide New Mexico Division of Vocational Rehabilitation (“DVR”) with a sworn statement of gross earnings, unemployment compensation, and any other earnings, including but not limited to disability benefits

- received by the Appellant since December 8, 2018, the effective date of the disciplinary action, as required by 1.7.12.23(B) NMAC.
3. Appellant Richard Martinez will begin as DVR Staff Manager Position # 10299 on October 17, 2020.
 4. Within ten (10) business days of this Order, Appellee New Mexico Public Education Department and DVR shall remove from Mr. Martinez's personnel file and the SHARE system all disciplinary notices and other records related to his December 8, 2018 termination.
 5. A copy of the District Court's Decision shall be placed immediately in the Report of Decisions maintained by the New Mexico State Personnel Office pursuant to 1.7.12.24 NMAC.

IT IS SO ORDERED.

Motion to adopt was made by Vice-Chair Liswood, member Chavez second – roll call – compliance order unanimously adopted.

- V. Adjudication Litigation Update
Janelle Haught the update, there were no questions for Ms. Haught.
- VI. Public Hearing for Proposed Rule Changes to Board Rule 1.7.7.8 NMAC: Annual Leave, 1.7.7.9 NMAC Donation of Annual and/or Sick Leave, and 1.7.7.17 NMAC Personal Leave Day.
Chair Romero began the public hearing calling it to order at 9:58 a.m. and read from the public hearing script reminding all that the Public Hearing is being recorded.
Board members introduced themselves along with meeting personnel:
Chair Romero, Vice Chair Liswood, Member Chavez, Member Manzagol, Director Coleman, board administrator Denise Forlizzi, technical moderator Prakash Bhakta, technical moderator Drew Lovelace and general counsel Jessica Cooper.
Chair Romero began the formal proceeding and mentioned that recordings of the hearing become a part of the permanent record.
Chair Romero read instructions for the hearing.
- Chair Romero began the Public Hearing
1.7.7.8 NMAC: Annual Leave
Proposed rule change which was read by both Chair Romero and Director Coleman
Poll taken for comment
1 person hit yes, accidentally. No public comment
- 1.7.7.9 NMAC – Donation of Annual/Sick Leave
Director Coleman read the proposed rule
Two people asked for the opportunity to make a public comment
Stephanie Sloman, NMENV – question – does rule allow donation to own agency only? Clarified that donation of leave was only to those within their own agency.
1 of the Yes responses was made in error. There were no questions for Ms. Sloman.
- 1.7.7.17 NMAC – Personal Leave Day
Director Coleman read the proposed rule
Poll set for comment
No comment requested
- Chair Romero asked if there were further comments regarding any of the proposed rule changes. There being none, the Public Hearing was adjourned at 10:22 a.m.

The rule hearing is now concluded and general session will resume.

VII. Discussion and Potential Adoption of Rule Changes to 1.7.7.8 NMAC Annual Leave, 1.7.7.9 NMAC Donation of Annual and/or Sick Leave, and 1.7.7.17 NMAC Personal Leave Day. Chair Romero asked if there were any questions to the proposed amendments? If there are no amendments, Motion to adopt 1.7.7.8 NMAC as written. Roll call – unanimously adopted. 1.7.7.8 NMAC is hereby adopted.

1.7.7.9 NMAC– Donation of annual or sick leave
No discussion
Roll call – unanimous adoption of 1.7.7.9 NMAC is hereby adopted.

Rule 1.7.7.17 NMAC
Personal Leave Day
Entertain a motion to adopt 1.7.7.17 NMAC as written
Roll call – unanimously adopted
Adoption for 1.7.7.8 NMAC, 1.7.7.9 NMAC and 1.7.7.17 NMAC adopted by consensus vote.

Proposed rule changes will be published in New Mexico Register as required by law.

VIII. Other Business

- Next Meeting Date: December 11, 2020 at 9:00 am
- Adjournment – Member Manzagol motioned to adjourn, Member Chavez second. Roll call – Motion to adjourn unanimously approved. Meeting adjourned at 10:35 after Chair Romero gave thanks to the staff.

Approved by:

Christine B. Romero, Chair
State Personnel Board

Attest:

Pamela D. Coleman, Director