



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
Fred Radosevich, Member

State Personnel Board Meeting

Willie Ortiz Building

Friday, June 3, 2022

Minutes

I. Procedural Items

Meeting was called to order at 9:01 a.m. by meeting moderator member Heyns-Bousliman.

- Acting Director Serna led the Pledge of Allegiance and then Introduced Fred Radosevich as a new and 5th board member, filling our board roster. Mr. Radosevich was appointed by the Governor on April 25, 2022. Acting Director Serna thanked Mr. Radosevich adding he brings unique experience to the board. He is a retired police chief and currently manages a consulting firm and teaches criminal justice courses at CNM.
- Acting Director Serna called roll – Chair Liswood present via telephone; Vice chair Cunningham absent, member Parker, member Heyns-Bousliman and member Radosevich present, a quorum was established.
- Call for Public Comment - Member Heyns-Bousliman asked Board Administrator, Ms. Forlizzi if she had received any emails requesting public comment, she had not. One person, Shawn Correll, had signed up for public comment in person, the roster was given to moderator Heyns-Bousliman. Call for public comment was closed.
- Approval of Agenda member Parker offered a motion to approve the agenda as presented, member Radosevich second; Acting Director Serna roll call – unanimously adopted.
- Approval of Meeting Minutes – Member Heyns-Bousliman stated there is an amendment on the minutes as presented. Please note on page 13 of 14, the number of new cases is amended to 7. Motion to approve as amended made by member Parker, member Radosevich second; roll call; minutes adopted as amended.

II. **General Public Comment** – Member Heyns-Bousliman referred to the sign-up sheet for Public Comment and called Shawn Correll forward. Officer Correll represented the NM Conservation Officers Association on agenda items 6 and 7 stating they support the changes presented today. He appreciates the SPO board considering these items to approve the pay band in order to make their agency more competitive when it comes to compensation. This will go a long way to help recruitment and retention and the association appreciates your support.

III. **Director's Report**

Acting Director Serna called for a moment of remembrance for those impacted by the shootings in Uvalde and those impacted by the wildfires in New Mexico. Opportunity and responsibility to give back.

Acting Director Serna honored Andrea Rivera Smith who passed away on April 29. She played a vital role in Human Resource Operations for close to 17 years. Andrea was a great facilitator, a wonderful Mentor to many, a mom, wife and friend. We miss her. A Moment of silence was observed for Andrea and all those facing very challenging times. Acting Director Serna reported the following:

Training Division Update:

- Delivered 32 instructor-led trainings to approximately 800 State employees
- Launched 14 new eLearning courses on ELM, including 9 courses that form the majority of a new “Essentials of Supervision and Management” program
- Debuted a new course for State Human Resources professionals on the Employee Discipline process
- Developed and delivered training and resource materials for Mentors in the State's Summer Internship Program

Comp and Class Update:

- Completed 3 Class studies completed
- In Process:
 - 4 Class studies
 - 2 Classification series to be reevaluated

Agency Update:

Acting Director Serna recognized SPO General Counsel Jessica Cooper for her work and collaboration on the following:

- We issued the SPO Guidance on EO 2022-010 allowing the use of OTC rapid tests for weekly testing.

- We negotiated and issued the revised COVID Mitigation Policy removing the mandatory masking requirement and aligning it with the current PHO requiring masks only in congregate care settings.

Recruitment Update:

- The Recruitment Bureau has been working with DoIT on upgrades for the SHARE Recruitment system – all aimed at streamlining the system process for recruitment actions. This project is ongoing and will include how to revise the training materials available for recruiters.
- Special thanks to Sheila Zamora, Theresa Sherman and Nichole Medina-Stone for leading the charge on getting the 2022 Summer Intern Program up and running. More than 50 intern positions were created at agencies across the state. SPO will facilitate cohort activities to ensure the internship experience is supported with development and networking opportunities.

Stand for questions

Moderator Heyns-Bousliman thanked Acting Director Serna for his report and extended condolences to SPO team on behalf of the board.

IV. Salary Structure Adjustments

Max Cordova came forward and made the following request:

The State Personnel Office (SPO) recommends, that the State Personnel Board approve the following proposed classified salary schedule adjustments.

The FY23 Budget Bill (HB2) includes salary increases for incumbents in agencies governed by the State Personnel Act, to be effective the first full pay period after July 1, 2022. SPO has worked in partnership with Union representatives on a compensation strategy that will achieve a \$15/hr. minimum pay rate for State of New Mexico employees while also addressing compaction. The proposed classified salary schedule adjustments are reflective of the compensation strategy and create 2 approaches for structure adjustment:

- General Salary Schedule- variable increase percentage based on FY23 salary increases and aligned to a linear regression model.
- Occupational Salary Schedules- a four percent (4%) increase.

The updates to the salary schedules will be pivotal to allow agencies to continue to leverage State Personnel Board rules to recruit, retain and appropriately place employees.

Probationary employees may be temporarily below minimum until successful and satisfactory completion of probationary status. Upon State Personnel Board approval, the Salary Schedules will be updated and published to reflect the following current salary schedule (Appendix 1) change to the proposed salary schedule (Appendix 2) encompassing the FY23 legislative increase with an effective date of July 9, 2022.

Member Heyns-Bousliman asked if there were questions from members, there were none. Member Parker motioned to approve the Salary Structure as presented, member Radosevich second. Acting Director Serna called roll; unanimously approved.

V. **Out-of-Cycle Safety Sensitive Positions Request**

Cynthia Anaya gave the following presentation.

In accordance with Subsection D. of 1.7.8.9 NMAC, Designation of Safety Sensitive Positions, the State Personnel Board (SPB) shall review and approve out-of-cycle requests for additions and deletions of Safety Sensitive positions.

Safety Sensitive positions are identified as positions in which the impairments of drug or alcohol use would constitute an immediate and direct threat to public health or safety. State Personnel Office requests approval of the following changes:

Children, Youth and Families Department (CYFD) reclassified forty (40) positions, with the changes of classification and duties the positions no longer require Safety Sensitive Designation:

- Positions have been moved from the Juvenile Justice Services department into other classifications and/or divisions

Department of Health (DOH) is requesting the removal of Safety Sensitive designation on two (2) positions and the addition of Safety Sensitive Designation on twenty-seven (27) positions:

- Positions have been reclassified and will no longer require Safety Sensitive designation
- Positions will have access to chemicals, controlled substances and biological materials that will require these positions to have Safety Sensitive designation

Department of Public Safety (DPS) is requesting the removal of Safety Sensitive designation for one (1) position:

- Position has been reclassified and will no longer require Safety Sensitive designation

Department of Transportation (DOT) is requesting the addition of Safety Sensitive designation for seven (7) positions. Four (4) positions are new positions and three (3) positions that were reclassified:

- Created positions into classifications that require Safety Sensitive designation
- Positions were reclassified into positions requiring Safety Sensitive designation

Office of Superintendent of Insurance (OSI) is requesting the addition of Safety Sensitive designation to one (1) new position and the removal of Safety Sensitive designation from one (1) reclassified position:

- Creating a new position that will require Safety Sensitive designation
 - Position was reclassified into a position requiring Safety Sensitive designation

Taxation and Revenue Department (TRD) is requesting the removal of Safety Sensitive designation from two (2) positions:

- Position was reclassified into a position requiring Safety Sensitive designation
- Position no longer requires Safety Sensitive designation

In addition to the above listed changes, in 2020 an initiative came out to inactive all positions that have been vacant for more than two (2) years. Upon review there are 129 inactive positions from various agencies that are currently approved as “Active Safety Sensitive” positions, I am requesting the removal of these positions as they are no longer being utilized.

Upon review and analysis of the above requests, I concur with the agencies and recommend SPB approval for the out-of-cycle requests for additions and deletions of Safety Sensitive positions.

Ms. Anaya introduced members present to answer any questions:

- HC Hawkins, HR Director and Dr. Michael Edwards, Division Director from Department of Health
- Jose Marquez, Jr. Risk Manager from Department of Transportation
- Robert Baca, Division Director from the Office of Superintendent of Insurance
- Karen Spehar, HR Director from Taxation and Revenue Department
- Tisha Maes, HR Director and Angelina Quintana, Organizational Development HR Manager for Children, Youth and Families Department
- Gloria Quintana, HR Senior Analyst for Department of Public Safety

Ms. Anaya then stated that in 2020 there was an initiative to inactivate all positions that are no longer being utilized. There are currently 129 positions from various agencies that are currently approved as active safety sensitive positions. She requests inactivating the positions previously approved and listed as active, as the positions are no longer being utilized. With that, we stand for questions.

Member Heyns-Bousliman asked if this request was to inactivate all positions that were vacant for more than 2 years is this inactivating them period? Or is this inactivating them from the safety sensitive designation period. Ms. Anaya stated that they were inactivated in 2020, but still showed up on the December list for approval from board. The request is to remove them, so numbers match up. Member Heyns-Bousliman thanked her for the clarification.

Member Parker no questions; member Radosevich no questions; Chair Liswood no questions. Member Parker moved to approve the out-of-cycle safety sensitive requests as presented, including the inactivation of the 129 positions; member Radosevich second; Acting Director Serna called roll; unanimously approved.

VI. Conservation Officer Classifications

Melanie Morgan stated to the board that she served as the lead for the Class Study we performed for the Department of Game and Fish Conservation Officer Series. I ask for your approval of the new Conservation Officer Program Manager, Lieutenant, Captain, Major and Colonel classifications under the authority of State Board Rule Subsection B. of 1.7.3.8 NMAC. She explained the study defined the unique qualifications for Department of Game and Fish (DGF) that all will be certified law enforcement officers. This will create career paths and attract new applicants. DGF will monitor and will document recruitment and retention categories. Colonel Cimbal and Major Sanchez are the subject matter expert and present for questions.

Colonel Cimbal came forward and stated he appreciates all the work Ms. Morgan and the team have done. He explained that the agency hopes the changes will attract officers from around the state and hopes they will be willing to relocate for these positions. In addition, it will attract other well qualified officers who were not interested before due to low pay. The agency was not getting the best candidates. Officers were not willing to take on the higher-level jobs due to low pay. Higher level officers are eligible for retirement very soon, so recruitment and training now is timely.

Member Heyns-Bousliman commented to Col. Cimbal's passion for what you do is apparent. Thank you for your comments.

Member Parker asked that the board receive a report in 1 year to see if the idea resulted in recruitment and retention and can be seen as a success.

Major Sanchez came forward and stated he is a career officer who will be retiring in 2 years. Captain interviews when he began, we were very competitive, recent opportunities had only 3 applicants. To make ends meet, many have had to take on 2nd mortgages, so approving this will help retain institutional knowledge. Thank you for your time. Chair Liswood echoed member Parker's request.

Motion to approve the Conservation Officer Classification made by member Parker; member Radosevich second. Acting Director Serna called roll; unanimously approved.

VII. **Transfer DGF Certified Peace Officers to the Peace Officer Occupational Salary Schedule**

Max Cordova stated the State Personnel Office (SPO) recommends, in accordance with State Personnel Board Rule NMAC 1.7.4.11, that the State Personnel Board approve the following proposed transfer of the Department of Game and Fish Wardens Basic, Operational, Advanced and Supervisor Classifications to the Peace Officer Salary Schedule that was approved by the board April 22, 2022. Transfer of the Game and Fish Wardens will aid retention efforts as they will recognize the unique skill sets, education and certifications employees must have to qualify and succeed within these classifications.

This action will affect 61 classified employees, none of whom will fall below the minimum of their pay band, thereby avoiding any cost impact to agencies.

No questions from members of the board.

Member Parker motion to approve transfer Department of Game and Fish Warden to peace officer occupational salary schedule; member Radosevich second. Acting Director Serna called roll; unanimously approved.

VIII. **NMLB Chief Administrative Law Enforcement Officer and Regional Operations Managers Classifications**

Lora Olson presented the following: The Compensation and Classification team at the New Mexico State Personnel Office (SPO) has completed a Class Study for the New Mexico Livestock Board. The results of the study, the classification descriptions as they correlate with an existing salary structure within the Classified Service are outlined within this narrative report. After review, we ask for the approval of the new Classifications from the State Personnel Board, under the authority of State Board Rule Subsection B,1.7.3.8 NMAC.

Asking that Chief Administrative Law Enforcement Officer and Regional Operations Managers be moved to the peace officer salary schedule. Team met with the Livestock Board agency representatives and found the current classifications for some of the management positions did not fully capture the knowledge and range of duties performed by these positions in the field. Aid in attracting applicants to the officer positions at current market pay utilizing appropriate placement. With proper pay, we anticipate the postings will see many more applicants and we will be able to measure retention rates and see promotional opportunities. Stand for questions.

asked if there was anyone from NMLB in the audience to speak to this. Ms. Olson stated there was not.

Member Heyns-Bousliman stated she appreciated the pro-active approach to these positions and asked if the current vacancies for these are high. Ms. Olson stated they

are not, and Mr. Cordova followed by stating that the 4 impacted positions right now are currently filled, and most, if not all will come to retirement within 2-years.

No questions from board. Member Parker moved to approve NMLB Chief Administrative Law Enforcement Officer and Regional Operations Managers Classifications, member Radosevich second. Acting Director Serna called roll; unanimously approved.

IX. **Auto Service Technicians and Mechanics Classifications Job Re-evaluation: Auto Service Tech & Mech B, O, A, and Supervisor**

Lora Olson gave the following presentation: the Compensation and Classification team at the New Mexico State Personnel Office (SPO) has completed a re-evaluation of the Auto Service Technicians and Mechanics B, O, A, and Supervisor Classifications. The results of the re-evaluation afford the Classifications to be evaluated with current technology and know-how in consideration and bring the Classifications in line with the market when assigned appropriate pay bands. After review, we ask for the approval of the new pay bands from the State Personnel Board, under the authority of State Board Rule Subsection B, 1.7.4.9 NMAC.

General Services Division team met with SPO to address recruitment barriers the agency is experiencing and felt the existing pay bands did not effectively meet the current market and was limiting the applicant pool. The job evaluation results were obtained and distributed to agencies impacted. Eunice Moya and James Chavez are present for GSD. Currently, there are 36 positions in these classifications of those, 27 filled and 9 are vacant resulting in a 25% vacancy rate throughout the family in state government. Ms. Olson called upon James Chavez from GSD for his comments. Mr. Chavez thanked the board for taking a look at this stating we cannot compete in the categories with the private sector. Technology in vehicles is changing rapidly these changes are needed to better recruit, train and retain qualified technicians and mechanics, we ask for the approval of these classifications.

Ms. Moya added that the pay bands will assist in attracting qualified applicants. Vacancies are attributed to low base pay; we greatly appreciate your approval.

Member Heyns-Bousliman requested an update in one year as 25% vacancy rate is very high and would like to see the results of the changes.

Member Parker asked if these are safety sensitive positions, Ms. Olson stated yes, they are. Member Radosevich, no questions; Chair Liswood no questions

Motion to approve the auto service technicians and mechanics classifications reevaluation made by member Parker; member Radosevich second; Acting Director Serna called roll; unanimously approved.

Acting Director Serna asked to make a comment as he wanted to underscore what happened today as there are some landmark things that have been going on. State government has been struggling with recruitment as an employer in the space of

competitive pay. For many years, this used to be the place to work. That has changed with private sector, municipalities, counties have been increasingly competitive not only in terms of pay, but also in retirement benefits, and it has become very competitive out there especially over the last few years. Pay is something we have struggled with for some time.

This change in the general salary schedule is enormous and a landmark for state government. If you look at pay bands 25 – 65 where over 60% of our workers are compensated, we went from an average mid-point of \$16.43 to an average mid-point of \$20.78 average increase in pay of \$9,000 per year for those workers. Look at the action approved for the Department of Game and Fish to the Peace Officers Salary Schedule the low end \$19 to \$24.42 represents a \$10,400 annual change. Even the Auto Tech basic current mid-point of \$13.29 has just been increased to \$19.37 or \$12,600 per year. We have workers who just make more money to take care of their families across the board.

Acting Director Serna thanked the Comp & Class team, our partners at DFA who have been helping us to do some really creative things with compensation, thank you to the Legislature who gave us this money. Over the past several years we have been wanting to move the needle to this degree so thank you to the Board who helped to make this happen, the SPO staff for making this happen and 16,000 employees are very appreciative of what you all have just done.

Member Heyns-Bousliman thanked Acting Director Serna for his leadership and the staff of the State Personnel Office as well. It is wonderfully heartwarming to have days like this.

X. Adjudication Division Update

Judge Haught began by introducing Judge Baca who joined us today from Albuquerque. Judge Haught gave the Q4 update as follows:

Adjudication Docket (Q4)	37
a. New cases in (Q4)	[4]
b. Disposed of (Q4)	[4]
c. Pending RDs:	10
d. Pending Motions	1
e. Scheduled Hearings:	17 (through November)
f. Mediation:	3
g. Pending Settlement:	2
h. Dist Court Procedural Issues:	4

Member Heyns-Bousliman stated it sounds like things are moving faster and getting scheduled things scheduled more quickly.

Judge Haught replied the delays were not in hearing cases, but in getting parties who agreed to settle to actually get documents to us. We are right on track. Member Heyns-Bousliman thank Judge Haught for the update, no questions from the board.

XI. **Executive Session**

Member Heyns-Bousliman made a motion to move to executive session; member Parker second. Acting Director Serna roll call - motion carried. Member Heyns-Bousliman stated AAG Joe will recuse herself from any participation on the Landau matter; Michael Heitz will serve as counsel for the board during that discussion. The board entered closed session at 9:55 a.m. and are off the record

XII. **Motions on Administrative Appeals**

Member Heyns-Bousliman announced the board is back in open session and on the record at 10:48 am.

The board would like to request that going forward that the Administrative Law Judge include a section within the recommended decision that explains any extenuating circumstances that impacted the timeline between the filing of the appeal and the recommended decision.

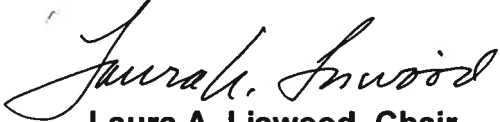
- **Guynn** - Member Parker moved to adopt ALJ recommended decision in the Guynn matter to affirm the cause of dismissal of the appellant; member Radosevich second; Acting Director Serna roll call; motion carried. Motion approved unanimously.
- **Sanchez** – Member Radosevich moved to adopt ALJ recommended decision to overturn the 1-day suspension of the appellant; she receives back pay and benefits and is issued a formal letter of reprimand pursuant to department policy. Member Parker second; roll call; motion carries unanimously.
- **Landau** - member Heyns-Bousliman read the following board statement regarding Amy Landau’s motion for the board: We will now take up Appellant Landau’s appeal of ALJ Haught’s Order on Appellant Landau’s Motion to Recuse and Disqualify ALJ Haught, all SPO Employees and Board Members Due to Tainted Proceedings Violating NMAC 1.7.12.10, dated April 11, 2022. In the Order, ALJ Haught found that 1.7.12.10 does not provide the ALJ with jurisdiction to make a determination on Appellant Landau’s request to disqualify the SP Board and all SPO employees. ALJ Haught denied Appellant Landau’s request to recuse and disqualify ALJ Haught.
The Board is not aware of any mechanism or provision allowing Appellant Landau to move to disqualify Board. Even if there were, there is no basis for disqualification. The Board has no conflict, no bias, and has no reason to disqualify itself here. There have been no discussions between the Board, AAG Joe, or ALJ Haught during executive session regarding the Landau v AGO matter. There have been no discussions on the record in open session regarding the merits of the Landau v AGO matter.

No argument or evidence has been offered to support the request to disqualify all SPO employees. Appellant Landau has identified no SPO employees other than ALJ Haught that she seeks to have disqualified. Appellant Landau's request to disqualify the SP Board and all SPO employees is therefore denied. The Board has reviewed the appeal by Appellant Landau of ALJ Haught's Order, the Appellee's Response, and Appellant's Reply. Member Parker moved to adopt ALJ order on Ms. Landau's motion to recuse and disqualify ALJ Haught. Member Radosevich second; Acting Director Serna roll call; motion to adopt ALJ order on Ms. Landau's motion to recuse and disqualify ALJ Haught is approved unanimously.

XIII. Other business and adjournment

Member Heyns-Bousliman asked if there was any other business from the board? No other business – the next meeting of the board is July 29, 2022 at 9:00 am. Member Parker moved to adjourn; member Radosevich second; roll call unanimously approved. Meeting adjourned at 10:55 a.m.

Approved:


Laura A. Liswood, Chair
State Personnel Board

Attest:


L. Teresa Padilla, Director
State Personnel Office