

State of Colorado



John W. Hickenlooper
Governor

Neil Peck
Board Chair

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Board Director

State Personnel Board
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Meeting Minutes

December 18, 2018

The State Personnel Board met in public session on Tuesday, December 18, 2018, at 1525 Sherman Street, First Floor Conference Room 104, Denver, Colorado 80203.

The meeting was called to order at 9:00 a.m. Board Members Vonda Hall, Nora Kelly, Maurie Knaizer, Michelle Palmquist and Neil Peck were present in person.

Dana Shea-Reid, Board Director and Amy Lopez, Board Counsel were present in person. Also present was First Assistant Attorney General Eric Maxfield.

I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR]

II. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

- A. Diane Ricci v. Department of Military & Veterans Affairs, Division of Veterans Affairs, State Personnel Board case number 2019B019.

Mr. Peck moved to adopt the findings of fact and conclusions of law of the Administrative Law Judge's Initial Decision affirming Respondent's reassignment of Complainant. The motion was seconded by Ms. Palmquist. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

III. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

- A. Bridget O'Dell v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2019G014.

Ms. Palmquist moved to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing. Mr. Peck seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- B. Fayokemi Omolara Akinbode v. Department of Corrections, Corrections Training Academy, State Personnel Board case number 2019G006.

Mr. Knaizer moved to adopt the Preliminary Recommendation of the ALJ and grant the petition for hearing. Ms. Hall seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- C. Michael Wayne Morrison vs. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2019S012.

Mr. Peck moved to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing. Ms. Palmquist seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

IV. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

- A. Cleveland v. Department of Revenue State Personnel Board case number 2018B079.

Director Shea-Reid advised the Board that the Initial Decision on this appeal was issued by the ALJ on November 13, 2018 affirming Respondent's disciplinary demotion of the Complainant. Board packets had already been mailed for the November 20, 2018 Board meeting and the matter was not within the timelines to include on the November 20 Board agenda. Inadvertently, the matter was not presented to the Board on November 20 in order for the Board, on its own motion, to defer its review until the December 18, 2018 Board meeting. The 30-day review period expired on December 14, and the Board lost jurisdiction to review the ID. The Complainant, has, in the meantime, filed a designation of record on December 4, 2018 and the Board will see the Complainant's appeal of the ID on April 16, 2019 and will have a full review and deliberation of the appeal.

V. REVIEW OF THE MINUTES FROM THE NOVEMBER 20, 2018 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Palmquist moved to approve the minutes as submitted. Mr. Peck seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Mr. Knaizer and Ms. Palmquist and Mr. Peck.

VI. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS NOVEMBER 20, 2018 PUBLIC MEETING:

- A. Cassandra Clemons v. Department of Revenue, Tax Audit & Compliance Division, State Personnel Board case number 2018S065(C).

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing and referred the matter to the State Personnel Director for a Director's review.

- B. Ben Cappa v. Department of Public Health & Environment, Air Pollution Control Division, State Personnel Board case number 2018G088.

The Board voted to adopt the Preliminary Recommendation of the ALJ and grant the petition for hearing.

- C. Andrea Bonino v. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2019G015.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing and referred the matter to the State Personnel Director for a Director's review.

VII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

Board Counsel Lopez updated the Board on the status of appeals with the Court of Appeals: Singleton v. DOC was granted an extension by the Court to January 25, 2019; no opinion has been issued yet for McCauley v. Department of Revenue.

The Court issued its opinion for Stiles v. DOC on December 6, 2018 affirming the Board's Order. The opinion was not published.

B. OTHER BOARD BUSINESS

Director's Report:

- Director Shea-Reid Board reported that the e-filing project has not made much progress for the State Personnel Board and its needs. The Office of Administrative Courts has gone live on portions of the system that serve that department's needs but ongoing issues of the Board have not been satisfactorily addressed. The Director has been in contact with upper level managers in OIT who have advised her that OIT will likely provide the support to remedy system problems for the Board since the vendor under contract with OAC has used up time allotted for the project.

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

On behalf of the Board, the Director wished everyone the best for the holiday season and a happy New Year.

VIII. PROPOSED LEGISLATION OR RULEMAKING

IX. EXECUTIVE SESSION

At 9:33 a.m., Mr. Peck made a motion to enter into executive session for the purpose of receiving legal advice on specific legal questions pursuant to § 24-6-402(3)(a)(II), C.R.S. including Board options regarding the recent Court of Appeals' unpublished opinion for Stiles v. Department of Corrections. Ms. Hall seconded the motion. The motion carried on the affirmative vote of the full Board.

The Board returned to open session at 10:13 a.m.

The meeting adjourned by consensus at 10:14 a.m.

DATED THIS 15th DAY OF JANUARY, 2019.

SIGNATURES

Neil Peck, Chair

Michelle Palmquist, Vice Chair

Vonda Hall, Member

Nora Kelly, Member

Maurie Knaizer, Member