



**MINUTES OF THE ONE-HUNDRED-AND-SEVENTY-THIRD
MEETING OF THE MERIT BOARD – August 19, 2009**

**State Universities Civil Service System Office
1717 Philo Road, Suite 24
Urbana, Illinois 61802
&
(Video Conference)
University of Illinois at Chicago
Human Resources Building, Room 201D, 2nd Floor
715 South Wood Street
Chicago, Illinois 60612
&
(Video Conference)
Western Illinois University
Horrabin Hall
Macomb, Illinois 61455
&
(Video Conference)
Southern Illinois University Carbondale
Morris Library
Conference Room, 1st Floor
605 Agricultural Drive
Carbondale, Illinois 62901**

Vice Chair Maitland called the meeting to order at 10:04 a.m.

Members present at the primary meeting location were: Joanne E. Maitland, Vice Chair, representing Illinois State University; Edward McMillan, representing the University of Illinois; and Barbara Vella, representing Northern Illinois University.

Members present at the Chicago videoconference location were: Grace Dawson, representing Northeastern Illinois University; Kristi DeLaurentiis, representing Governors State University; and James D. Montgomery, representing the University of Illinois

Member present at the Macomb videoconference location was: Donald “Bill” Griffin, representing Western Illinois University.

Members absent were: David V. Dorris, representing the University of Illinois; John Simmons, representing Southern Illinois University; Richard L. Tolliver, representing Chicago State University; and Robert D. Webb, representing Eastern Illinois University.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Mary C. Follmer, Assistant Director, Legal Services; Teresa Rademacher, Secretary for the Merit Board; and Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

Consideration of participation by other Merit Board Members, not physically present at meeting site

No members requested participation by teleconference.

Introduction of new Merit Board Member

Vice Chair Maitland welcomed Edward McMillan, representing the University of Illinois, and Barbara Vella, representing Northern Illinois University. Ms. Vella replaced Mr. Strauss in July 2009. A bio for Mr. McMillan was included in the May 2009 agenda materials and a bio for Ms. Vella was included in the August 2009 agenda materials.

Executive Session

Mrs. Maitland explained that the purpose of this agenda item was to discuss personnel issues and to review previous closed session minutes from the May 20, 2009 meeting. Mr. McMillan made a motion to go into Executive Session at 10:06 a.m. Ms. Vella seconded Mr. McMillan’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Ms. Vella made a motion to reopen the meeting at 10:22 a.m. Mr. McMillan seconded Ms. Vella’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Vice Chair Maitland reported that no action was taken during the closed session.

Public Comments

The board received no requests for Public Comments.

Consideration of the Minutes of the 172nd Meeting of the Merit Board, May 20, 2009

The minutes of the 172nd meeting of the Merit Board, May 20, 2009, had been transmitted to members of the Merit Board with the agenda materials.

Mr. Montgomery moved to approve the minutes of the May 20, 2009 meeting. Ms. DeLaurentiis seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Consideration of Discharge Proceeding Number ISU-08-4 filed against Willie McGee by Illinois State University

On May 21, 2009, the Merit Board voted to delay the decision on this matter until the August 2009 meeting. The Merit Board had two questions that required additional research and clarification. Ms. Follmer reported that the hearing record did reflect that Mr. McGee had knowledge that unscheduled absences would be deemed excused if he submitted a doctor's excuse. Also, Ms. Follmer reported that she had consulted with the State Universities Retirement System, and they had formally indicated that a Merit Board decision to discharge Mr. McGee would have no impact on Mr. McGee's pending SURS disability application.

Ms. Follmer received verbal notice prior to the board meeting that Mr. May, Attorney for Employee-Petitioner, was withdrawing his Motion to Stay, so no action was taken regarding this motion at the meeting. Ms. Taft, Attorney for the Employer-Respondent, had submitted a request for Personal Appearance Before the Merit Board, as required by the Bylaws, but she informed Ms. Follmer prior to the meeting that she was withdrawing her request as well. No action was taken on this motion by the board. Of the three pending actions items regarding this case, the only one remaining is the decision of the Merit Board to either reinstate or discharge Mr. McGee.

After discussion of the case, Vice Chair Maitland asked for a motion to either discharge or reinstate Mr. McGee. Mr. Montgomery made a motion that Mr. McGee be discharged. Dr. Dawson seconded Mr. Montgomery's motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Montgomery.....Aye
 Mr. SimmonsAbsent
 Rev. TolliverAbsent
 Ms. VellaAye
 Dr. WebbAbsent
 Dr. DawsonAye
 Ms. DeLaurentiis.....Aye
 Mr. DorrisAbsent
 Mr. GriffinAye
 Mrs. MaitlandAye
 Mr. McMillan.....Aye

The following decision and order was therefore adopted.

STATE OF ILLINOIS



STATE UNIVERSITIES CIVIL SERVICE SYSTEM

WILLIE McGEE,)	BEFORE THE UNIVERSITY
)	CIVIL SERVICE MERIT BOARD
Employee-Petitioner,)	
)	
v.)	DISCHARGE PROCEEDING
)	
ILLINOIS STATE UNIVERSITY,)	NO. ISU-08-4
)	
Employer-Respondent.)	

**DECISION AND ORDER OF THE
 UNIVERSITY CIVIL SERVICE MERIT BOARD**

PROCEDURAL HISTORY

Discharge proceedings have been commenced by **ILLINOIS STATE UNIVERSITY**, employer, against **WILLIE McGEE**, employee, by service of Written Charges for Discharge by certified mail on November 19, 2008 and the Employee-Petitioner, **WILLIE McGEE**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on February 25, 2009 in conformity with the procedures set forth in section 250.110(e) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(e)). The complete Hearing Record has been certified and placed on file in this cause.

FINDINGS

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge dated November 19, 2008
2. Suspension Notice Pending Discharge dated November 19, 2008
3. Employee's timely written request for a Hearing received on December 4, 2008 from the Employee-Petitioner's Attorney
4. Acknowledgement of request for Hearing, dated December 4, 2008
5. Joint Motion for Continuance, dated December 10, 2008
6. Letter granting Motion for Continuance, dated December 18, 2008
7. Notice of Hearing to Hearing Officer, dated January 7, 2009
8. Proof of Notice of Hearing to the Employer's Attorney of Record, Employer, Employee's Attorney of Record, and Employee, dated January 7, 2009
9. Entry of Appearance filed by Illinois State University (ISU) dated February 9, 2009
10. ISU Witness List
11. ISU Exhibit List
12. ISU Post-Hearing Statement dated March 5, 2009
13. Acknowledgement of ISU Post-Hearing Statement dated March 16, 2009
14. Employee-Petitioner Written Argument in Support of Willie McGee dated March 2, 2009
15. Acknowledgement of Written Argument in Support of Willie McGee dated March 16, 2009
16. Transcript of Evidence and Exhibits
17. Request to Hearing Officer for Findings of Fact dated March 24, 2009
18. Findings of Fact, rendered by the Hearing Officer dated April 2, 2009

19. Certification of Hearing Record, dated April 7, 2009
20. Motion to Stay Proceedings Before the Merit Board, filed by Employee-Petitioner's Attorney, dated April 14, 2009 (withdrawn on August 19, 2009)
21. Motion for Personal Appearance Before the Merit Board, filed by Employee-Petitioner's Attorney, dated April 14, 2009
22. Acknowledgement of Motions filed by Employee-Petitioner dated April 21, 2009
23. Motion for Personal Appearance before the Merit Board, filed by Employer-Respondent's Attorney, dated April 21, 2009
24. Acknowledgement of Motion filed by Employer-Respondent dated April 29, 2009
25. Withdrawal of Motion for Personal Appearance Before the Merit Board, filed by Employee-Petitioner's Attorney, dated May 19, 2009
26. Motion for Personal Appearance Before the Merit Board, filed by Employer-Respondent's Attorney, dated August 4, 2009 (withdrawn on August 19, 2009)
27. Excerpts of Official Record, filed by Employer-Respondent's Attorney, dated August 4, 2009
28. Response to Motion of Willie McGee to Stay Proceedings Before the Merit Board, filed by Employer-Respondent's Attorney, dated August 4, 2009

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(e) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(e)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, supports and sustains the following charges of the employer, **ILLINOIS STATE UNIVERSITY**, against the employee, **WILLIE MCGEE** and establishes just cause for discharge, as follows:

Continued and excessive absenteeism in violation of Illinois State Universities' attendance policy which led to the following disciplinary actions:

1. Oral warning on 9/14/06 (14 unscheduled absences within a 12 month period)
2. Written warning on 12/18/06 (16 unscheduled absences within a 12 month period, 6 of those occurring in November 2006)
3. Four prior suspensions consisting of:
 - One day suspension on 3/27/07 (3 unscheduled absences in December 2006)
 - Four day suspension on 6/8/07 (10 unscheduled absences in May and June 2007)
 - Fifteen day suspension on 8/24/07 (2 unscheduled absences in June 2007)
 - Thirty day suspension on 11/20/07 (6 unscheduled absences in September 2007)
4. Written Charges for Discharge on 11/19/08 (unscheduled absences in August, September and October 2008)

DECISION AND ORDER

WHEREFORE, IT IS HEREBY ORDERED:

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **ILLINOIS STATE UNIVERSITY**, to the extent not inconsistent with the findings made herein.
2. The employee, **WILLIE McGEE** is hereby separated from the service of his employer, **ILLINOIS STATE UNIVERSITY**, and that the effective date of his discharge shall be as of August 19, 2009.

DATED AND ENTERED this 19th day of August, 2009.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ Joanne E. Maitland
Joanne E. Maitland, Vice Chair

ATTEST:

/s/ Teresa M. Rademacher
Teresa M. Rademacher, Secretary for the Merit Board

Request for Review by the Merit Board of the Executive Director’s Review Decision in Michael Rettig, Case Number MB-RD-NIU-09-1, filed by Ronald Cicinelli, Attorney for Michael Rettig, pursuant to section 250.130(b) of the Illinois Administrative code

Ms. Follmer explained that section 250.130(b) of the Code (80 Ill. Adm. Code §250.130(b)) allowed for the Merit Board to review the Executive Director’s decision on matters processed through this procedure. Mr. Morelock had rendered his decision on June 9, 2009 pursuant to Officer Rettig’s request of May 11, 2009.

Ms. Follmer gave an overview of the case – Officer Rettig was served with Written Charges for Discharge on May 23, 2008 by Northern Illinois University. Subsequently, Officer Rettig requested a hearing before the Merit Board. A discharge hearing was held on September 4, 2008 at Northern Illinois University. During the hearing proceedings, an agreement was reached by both parties and a “Last Chance Agreement” was issued by Northern Illinois University. On May 11, 2009, Mr. Cicinelli, Attorney for the Employee-Petitioner, requested a hearing before the Merit Board. Northern Illinois University had not issued any Written Charges for Discharge to Officer Rettig at that time based on the fact that Officer Rettig had violated the “Last Chance Agreement”. Northern Illinois University was of the opinion that Officer Rettig violated the “Last Chance Agreement” and had subsequently voluntarily resigned in accordance with provisions contained therein.

Ms. Follmer further stated that the University System office reviewed the case under section 250.130(a) of the Code (80 Ill. Adm. Code §250.130(a)). A decision was made by the Executive Director on June 9, 2009 that, based on the language of the “Last Chance Agreement”, Officer Rettig had waived his appeal rights under section 360 of the Act (110 ILCS 70/360) and subsequently had relinquished his right to a fact finding hearing regarding his employment separation from Northern Illinois University.

After further discussion of the case, Vice Chair Maitland asked for a motion to either affirm the Executive Director’s Review Decision as the final Decision and Order of the Merit Board or order such further review procedures. Mr. Griffin made a motion to uphold the decision of the Executive Director as the final decision of the Merit Board. Dr. Dawson seconded Mr. Griffin’s motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Griffin.....Aye
Mrs. Maitland.....Aye
Mr. McMillan.....Aye
Mr. Montgomery.....Aye
Mr. SimmonsAbsent
Rev. TolliverAbsent
Ms. Vella.....Present/Abstain

Dr. WebbAbsent
Dr. DawsonAye
Ms. DeLaurentiis.....Aye
Mr. DorrisAbsent

The following decision and order was therefore adopted.

STATE OF ILLINOIS



STATE UNIVERSITIES CIVIL SERVICE SYSTEM

In re MICHAEL RETTIG,)	BEFORE THE UNIVERSITY
)	CIVIL SERVICE MERIT BOARD
)	
REVIEW DECISION OF THE)	
EXECUTIVE DIRECTOR,)	
)	NO. MB-RD-NIU-09-1

**DECISION AND ORDER OF THE
UNIVERSITY CIVIL SERVICE MERIT BOARD**

NATURE OF THE PROCEEDING

On May 11, 2009, Officer Michael Rettig, an employee of Northern Illinois University (NIU), filed with the State Universities Civil Service System office (University System office), a written request for a Merit Board Discharge Hearing alleging he had been “constructively” discharged from employment at NIU. In response, NIU claimed Officer Rettig voluntarily resigned from his position under the terms of a Last Chance Agreement, effective May 11, 2009; therefore, he

was not entitled to a Merit Board Discharge Hearing. Following confirmation that Officer Rettig had exhausted all his administrative remedies at the University level, the Executive Director initiated an investigation as authorized by section 250.130(a) of the Illinois Administrative Code (Code) (80 Ill. Adm. Code § 250.130(a)). On June 9, 2009, the Executive Director issued a Review Decision determining that based on the language of the Last Chance Agreement, Officer Rettig had waived his appeal rights under section 360 of the State Universities Civil Service Act (Act)(110 ILCS 70/360) and subsequently relinquished his right to a fact finding Merit Board Discharge Hearing regarding his employment separation from NIU. On July 6, 2009, Ronald Cicinelli, Attorney for Michael Rettig, filed a timely request for Merit Board review of the Executive Director's June 9, 2009 Review Decision pursuant to 250.130(b) of the Code (80 Ill. Adm. Code §250.130(b)). The complete Review Decision Record has been placed on file in this cause.

DECISION AND ORDER

Now being fully advised of the matters contained in the Review Decision Record, the University Civil Service Merit Board finds that this review proceeding has been commenced and conducted in compliance with section 250.130(b) of the Code and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof and issues the following Decision and Order:

The Executive Director's Review Decision rendered in this matter on June 9, 2009, is affirmed and adopted as the Final Decision and Order of the Merit Board. A copy of said Review Decision is attached hereto, and by reference incorporated herein.

DATED AND ENTERED this 19th day of August, 2009.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ Joanne E. Maitland
Joanne E. Maitland, Vice Chair

ATTEST:

/s/ Teresa M. Rademacher
Teresa M. Rademacher, Secretary for the Merit Board

Consideration of FY 2011 Budget Recommendation for the State Universities Civil Service System Office

Mr. Morelock gave an overview of the proposed budget request for FY 2011 explaining that the final FY 2010 appropriated budget was approved with four line items – Personal Services, Social Security, Lump Sum, and Lump Sum Other, instead of the usual line items of Personal Services, Social Security, Contractual Services, Travel, Commodities, Equipment, Printing, Telecommunications, and Operation of Auto Equipment. For a small agency with a small budget, this action will have a very positive effect in that it will allow the agency more flexibility in moving money between various small line items. The FY 2011 has been prepared in the same concept with the four line items, requesting an overall increase of 3.75% or \$47,900 over the current FY 2010 appropriation. This increase was primarily contained in the Personal Services line item for a base salary increase and the employment of an additional staff person.

Mr. Morelock further stated that three staff members are eligible to retire, but the vacation and sick leave payouts for those employees were not included in the FY 2011 budget request. If any of these employees would choose to retire, the cost would have to be absorbed in the delay of filling of positions, etc. The FY 2011 budget request will be presented to the Illinois Board of Higher Education in October. Vice Chair Maitland asked for a motion.

After discussion, Dr. Dawson made a motion that the Merit Board approve the recommended FY 2011 budget as presented in the agenda materials. Mr. Griffin seconded Dr. Dawson's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Update and action on proposed rule changes to section 250.110, Separations and Demotions, and section 250.120, Seniority, of the Illinois Administrative Code

Mr. Morelock stated that at this time our administrative rules do not contain any language regarding furlough days. Due to the current economic times, there has been discussion of implementing a mandatory furlough program. The University System office has been in discussion with the Department of Central Management Services and they have published emergency rules regarding furlough days. A copy of a proposed rule change regarding furlough programs was discussed.

After further discussion, Mr. McMillan made a motion that the proposed rule revisions be circulated to the various universities/agencies for comments and to be published in the Illinois Register. Ms. Vella seconded Mr. McMillan's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Update on the rule changes to sections 250.5, 250.60, 250.70, 250.90, 250.110, and 250.120 of the Illinois Administrative Code

Mr. Morelock stated that the rule revisions to section 250.5, 250.60, 250.70, 250.90, 250.110, and 250.120 were effective July 22, 2009 and were published in the Volume 33, Issue 32 of the Illinois Register on August 7, 2009. This has been one of the largest rule revisions that this agency has undertaken. The University System office is reviewing their various procedure manuals to now update those manuals in accordance with the new rule changes.

Report of the Executive Director

Executive Director Morelock provided an agency report which included the following items:

- updated the Merit Board on the final expenditures for FY 2009 and provided the current FY 2010 expenditures and obligations
- informed the Merit Board that the Office of the Auditor General staff will be conducting a compliance audit of the agency covering the periods of FY 2008 and FY 2009
- updated the Merit Board on the Audit Program with a copy of the audit schedule included in the agenda materials
- updated the Merit Board on the recent classification/examination changes

- informed the Merit Board of interagency activities and a list of University/Agency visits was included in agenda materials

Report of the Human Resource Directors Advisory Committee – Maureen Parks

The Merit Board heard a report from Maureen Parks, Assistant Vice President for University Human Resources, University of Illinois. Ms. Parks informed the Board that the Human Resource Directors Advisory committee last met July 31 and the committee is committed to continue to address the various items of concern and to work with the University System office in a positive, collaborative approach. Dr. Dawson was pleased to hear that the HR Directors were working the University System staff in several joint ventures. Mr. Morelock further explained the pilot program to the board members.

Report of the State Universities Civil Service Advisory Committee – Barney Bryson, Chair

The Merit Board heard a report from Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. The Committee last met on July 16 and 17, 2009 at Chicago State University. A new committee member will need to be elected from Northeastern Illinois University; distributed the parliamentary rules and procedures; and the committee continues to discussion the various procedure manual changes and rule changes.

Report of Legal Counsel – Mary Follmer

Mary Follmer, Assistant Director, Legal Services, updated the Merit Board on some outstanding legal matters. Ms. Follmer reported that during FY 2009, 42 Written Charges for Discharge were served on employees by the various universities/agencies. Of those 42 cases, 8 employees had requested hearings. Thus far during FY 2010, 4 Written Charges for Discharge have been served on employees by the various universities/agencies. Two employees have requested hearings and of those two requests, one employee has resigned and one case is pending. At the time of the meeting, there were no pending litigation cases.

Ms. Follmer also stated that Governor Quinn has signed legislation regarding the Freedom of Information Act which will be effective January 1, 2010. Changes will need to be made to the Bylaws of the University Civil Service Merit Board. These will be presented to the Merit Board at a later date.

Other Items as Presented

Vice Chair Maitland announced that Ira Schoenwald, HR Director, would be retiring from Illinois State University on September 1, 2009.

The next meeting of the Merit Board is scheduled for Wednesday, November 18, 2009 at the University System office, and by video conference at locations in the Carbondale, Chicago, and Macomb areas, beginning at 10:00 a.m.

Mr. McMillan made a motion to adjourn the meeting. Ms. Vella seconded Mr. McMillan's motion. A voice vote was taken and approved. The meeting adjourned at 11:05 a.m.

Respectfully submitted,

/s/ Teresa M. Rademacher

Teresa M. Rademacher
Secretary for the Merit Board

APPROVED:

/s/ Joanne E. Maitland

Joanne E. Maitland, Vice Chair

November 18, 2009

Date