



***MINUTES OF THE TWO-HUNDRED AND SECOND
MEETING OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD –
NOVEMBER 30, 2016***

***State Universities Civil Service System Office
1717 Philo Road, Suite 24
Urbana, Illinois 61802
&
(Video Conference)
University of Illinois at Chicago
College of Pharmacy
Room 270
833 South Wood Street
Chicago, Illinois
&
(Video Conference)
Southern Illinois University Carbondale
Miles Hall
Conference Room 003A
1255 Douglas Drive
Carbondale, Illinois***

Chair Montgomery called the meeting to order at 10:03 a.m.

Member present at the primary meeting location was: Karen Hasara, representing the University of Illinois.

Members present at the Chicago video conference location were: James Montgomery, Chair, representing the University of Illinois; Lyneir Cole, representing Western Illinois University; Rocky Donahue, representing Illinois State University; Marshall Hatch, Sr., representing Chicago State University; Robert T. Marshall, Jr., representing Northern Illinois University; and Brian Mitchell, representing Governors State University.

Members present by audio conference were: Donna Manering, representing Southern Illinois University and Jill Smart, representing the University of Illinois.

Members absent were: Daniel Caulkins, representing Eastern Illinois University; and Marvin Garcia, representing Northeastern Illinois University.

Also present were: Jeff Brownfield, Executive Director; David DeThorne, Legal Counsel; Teresa Rademacher, Secretary for the Merit Board; Tammy Carlson, representative of the Human Resource Directors Advisory Committee; and Andy Small, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System office staff were also in attendance.

Chair Montgomery noted to the Merit Board that this would be Mr. Marshall's last Merit Board Meeting. He thanked Mr. Marshall for his many years of service.

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

Chair Montgomery asked for approval for Merit Board members not physically present, to actively participate by other means in accordance with the Open Meetings Act requirements. A motion was made by Mr. Cole to allow Ms. Smart and Dr. Manering to participate by phone. Mr. Mitchell seconded Mr. Cole's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Public Comments

Mr. Brownfield stated that the University System Office had received six requests to present public comments regarding Agenda Item 6, a Chicago State University Review Decision. Mr. Brownfield asked if these comments could be delayed until that portion of the agenda and was so granted by Chair Montgomery.

Consideration of the Minutes of the 201st Meeting of the Merit Board, August 17, 2016

The minutes of the 201st Meeting of the Merit Board, August 17, 2016 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Mitchell moved to approve the minutes of the 201st Meeting of the University Civil Service Merit Board held on August 17, 2016. Mr. Cole seconded Mr. Mitchell's motion. In accordance

with the Merit Board Bylaws, a voice vote was taken and the motion carried with Mr. Donahue abstaining.

Consideration of the Closed Minutes of the 201st Meeting of the Merit Board, August 17, 2016

The closed minutes of the 201st Meeting of the Merit Board, August 17, 2016 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Cole moved to approve the closed minutes of the 201st Meeting of the University Civil Service Merit Board held on August 17, 2016. Mr. Mitchell seconded Mr. Cole's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried with Mr. Donahue abstaining.

Request for Review by the Merit Board of the Executive Director's Review Decision in Case No. MB-RD-CSU-16-1, filed by James Maddox, Calvin Robins, Sharon Robinson, and Marcella Sawyer pursuant to Section 250.130(b) of the Illinois Administrative Code (80 Ill. Adm. Code §250.130(b))

On November 15, 2016, the Secretary for the Merit Board mailed to each member of the Merit Board an internal summary report and the complete Review Decision of the Executive Director regarding this matter. The Merit Board was asked to review the case and be prepared to act on this matter at this meeting.

Mr. Brownfield informed Chair Montgomery that action would need to be taken regarding the six requests to present public comments. Chair Montgomery asked for a motion regarding the six requests to present comments. A motion was made by Mr. Donahue to allow the six people who had filed requests to present public comments regarding this matter. Mr. Marshall seconded Mr. Donahue's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

For the record, Mr. Mitchell stated that he would be recusing himself from voting on this item.

Ronald Cicinello, Attorney representing Metropolitan Area Police, presented comments asking that the Merit Board overturn the decision made by Executive Director. He further stated that the four employees involved in this case would also be addressing the Merit Board. Mr. Cicinello summarized the case by stating that Mr. Maddox, Mr. Robins, Ms. Robinson, and Ms. Sawyer were employees at Chicago State University (CSU) and they all had received layoff letters on February 26 that they would be laid off on April 30. Then the day before the layoff was to have occurred, they all received "rescinded layoff notices." He further explained the bumping process. Mr. Cicinello stated that these actions were demotions and not layoffs. He stated that none of

the other universities had taken such drastic actions at what CSU had taken and further stated that the decision made today would become case law.

Sharon Robinson thanked the Merit Board and stated that she has been an employee since 1993 and had moved up the rank. She acknowledged the CSU was facing financial issues; however the actions taken by CSU were not done in good faith and she believed that CSU used the crisis as a means to disrupt and destroy the foundation of the police department. Demotions have devastated the police department, morale is down, and CSU has embarrassed the employees and has created financial distress. She further stated that there had been negative impacts from the shift changes, schedule changes, assignments that were changed, days off changed, and the salary reductions.

Marcella Sawyer thanked the Merit Board and stated that the demotions were not done in good faith and that the university had plenty of money. She further stated that there were no offers of early retirement provided by CSU. The demotions were done with malicious intent and now require mandatory overtime on a daily basis and the changes have impacted the entire department.

Calvin Robins provided facts pertaining to the high rate of administrators to student ratio and that administration costs at CSU were higher than the average of other Illinois universities. There was no restructuring or reorganizing before the demotions. CSU is now paying out large dollar amounts in overtime pay.

James Maddox stated he was involved in meetings prior to the demotions and was against these actions and stated they were not in the best interest of the department. He further stated that by him not supporting the negative actions that CSU had planned, he was then included in the process. It is not beneficial to pay supervisors and hourly rate employees, often paying time and a half or double time.

Patrick Cage stated in February 2016 when appropriation funds were not received that CSU was running out of funds, consequently layoff notices had to be given and were given to the entire workforce. CSU did get an infusion of cash in late April 2016, as a result 600 of the 950 employees were called back to work, and unfortunately 350 employees did lose their jobs. The layoff effected all levels of employees. He further stated that the university management committee was charged with the job of managing the layoff process. The police department had 10 supervisory positions and 17 patrol officers prior to the layoffs. To restructure the police department the Chief of Police, with the management team, decided to eliminate two positions, Lieutenant and Sergeant. The employees in these two positions were given the ability to use their bumping rights, resulting in this case.

Mr. Brownfield stated that the actual decision in this case comes down to the definition of a demotion, a process which would be a disciplinary action. As defined a layoff is the discontinuance of certain types of work. Mr. Brownfield stated that in the review of this case, based on the financial issues CSU was facing, CSU needed to change the structure of the police

department. Due to the structure change these were actually layoffs and not demotions. These employees did lose their position; however they did not lose their job due to the ability to utilize their bumping rights and all four of these employees are still employed in lower positions.

The Merit Board asked how many administrators were still holding positions in the department and if they any holding higher positions than those before us? Renee Mitchell, DER for CSU, answered that there are not any employees in administrator positions with more seniority than those involved in this case.

Mr. Cicinello responded that with the new Chief, Chief Walsh, there has been turmoil. The entire department had voted a no confidence with the Chief. There are two other unfair labor practices due to the issues with the new Chief and that the budget impasse has effected everyone.

Mr. Marshall asked that if more funds become available, would these positions be restored. Mr. Cage, no additional purges will be made at the police department and if the university did received funds a hard look would need to be made before hiring those positions back.

Mr. Marshall asked on the issue of grievances if any of these employees are also involved with in other grievances. Mr. Cage stated that the other grievances have been resolved; but are still waiting on the signed documents.

Chair Montgomery, not a smart choice of utilizing resources, but when looking at the facts this is a layoff and not a demotion and that the Merit Board needs to deal with the rules.

Mr. Hatch stated that he would be abstaining from the vote.

After further discussion, Chair Montgomery asked for a motion to either affirm the Executive Director's Review Decision as the final decision of the Merit Board or order such further review procedures. A motion was made by Ms. Hasara to uphold the Director's Review Decision of July 19, 2016. Mr. Donahue seconded Ms. Hasara's motion.

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

Ms. Hasara.....	Aye
Rev. Hatch	Abstained
Dr. Manering	Aye
Mr. Marshall.....	Abstained
Mr. Mitchell.....	Abstained
Mr. Montgomery	Aye
Ms. Smart	Aye
Mr. Caulkins.....	Absent
Mr. Cole	No
Mr. Donahue	Aye
Mr. Garcia.....	Absent

The following decision and order was therefore adopted.

STATE OF ILLINOIS



STATE UNIVERSITIES CIVIL SERVICE SYSTEM

In re JAMES MADDOX, CALVIN ROBINS, SHARON ROBINSONS, & MARCELLA SAWYER)	BEFORE THE UNIVERSITY CIVIL SERVICE MERIT BOARD
)	
MERIT BOARD REVIEW DECISION OF THE EXECUTIVE DIRECTOR,)	
)	
)	NO. MB-RD-CSU-16-1

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

NATURE OF THE PROCEEDING

On May 17, 2016, James Maddox, Calvin Robins, Sharon Robinson, and Marcella Sawyer, employees at Chicago State University (CSU), filed with the State Universities Civil Service System (University System), a written request for a Review Decision of the Director questioning the process of the layoff/demotion used by CSU to move them to a lower classification. Following confirmation that the above employees had exhausted all their 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 July 19, 2016, the Executive Director issued a Review Decision determining that CSU process was conducted in accordance with Civil Service statute, rules, and procedures.

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 (80 Ill. Adm. Code § 250.130(b)) 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 July 19, 2016, 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 30th day of November, 2016.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ James D. Montgomery
James D. Montgomery, Chair
University Civil Service Merit Board

ATTEST:

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

Report of the State Universities Employee Advisory Committee – Andy Small

The Merit Board heard a report from Andy Small, Chair of the State Universities Civil Service Advisory Committee (EAC). Mr. Small thanked the Merit Board for their support and gave a special thank you to Mr. Marshall for his many years of service. He further stated that EAC had last met on October 13 and 14, 2016. Many of the members had provided updates on the status of their university's budgets and the outcome was that many of the larger universities are holding steady and that smaller universities are facing layoffs, furloughs, and hiring freezes. Mr. Small



stated that EAC would be willing to work with the Merit Board to talk with legislators to help them understand how the budget impasse is crippling the higher education system in Illinois. Mr. Small further stated that there is an ongoing concern that some of the universities are not supporting EAC members and any assistance to help to ensure that members are still able to attend meetings would be helpful. Mr. Small stated that the members of EAC supported an electronic voting process and that there had been some glitches in a previous election and that a formal protest had been filed. He further stated that after reviewing the Bylaws, the protest was dismissed. He stated that the new electronic voting will be easier to administer, allow more members to vote, and will be a time saver in the future. He thanked all of the Human Resource staff for the work they had done in relation to the FLSA law. He asked that the Merit Board weigh in on the possible increase in Health Insurance premiums that are being discussed.

Report of the Human Resource Directors Advisory Committee – Tammy Carlson

The Merit Board heard a report from Tammy Carlson, representative of the Human Resource Directors Advisory Committee (HRDAC). Ms. Carlson stated that the committee had last met on November 8, 2016 with Executive Director Brownfield and staff and thanked the University System office for offering audio and video availability creating cost savings and efficiencies for the universities.

She stated that the Human Resource staff has been preparing and making changes to comply with the new FLSA rules and the committee is very grateful for the Merit Board's vote at the last meeting to grandfather employees in and allow universities to manage the change in their best interest. HRDAC agrees that a working group to review employee benefits as proposed by Mr. Brownfield is needed so ensure all proposed changes meet everyone's needs. The committee had also received an update from University System Legal Counsel pertaining to updating statutory changes to bring the Act up-to-date and the committee is supportive of these changes. The committee had also received an update on the audit process and appreciates the modernization of the classification plan. The updated audit process has been collaborative and constructive for those involved. She thanked the Merit Board for their continued support as the committee continues to work with Mr. Brownfield and his staff.

Update regarding proposed rulemaking to Section 250.119 of the Illinois Administrative Code (80 Ill. Adm. Code §250.119) regarding furloughs

Mr. Brownfield stated the proposed rulemaking to Section 250.119 of the Code was passed by the Joint Committee on Administrative Rules (JCAR) on November 15, 2016 and will be effective sometime next month. Mr. Brownfield stated that at the JCAR meeting he provided both professional and personal commitments that any furlough would be implemented and would go through appropriate collective bargaining agreements.

Update regarding proposed rulemaking to Section 250.110 of the Illinois Administrative Code (80 Ill. Adm. Code §250.110) regarding discharges/demotions

Mr. Brownfield informed members that the submission process had been submitted and filed with the Secretary of State and was published in the Illinois Register on September 9, 2016. Several concerns had been expressed by AFSCME on the authority that our agency had to make rules and how they relate to collective bargaining agreements. Mr. Brownfield stated that our intent is that our agency will look at and continue to review rules with the Human Resource Directors, EAC, and Unions with the approval of the Merit Board. In addition, Mr. Brownfield stated that 40% of the employees are not represented by unions. The authority of the Merit Board and authority of our statute does allow our agency to make rules. Mr. Brownfield stated that we have delayed this rule for the next several weeks until the University System is able to meet and discuss the issues that have been expressed. In a very general sense our statute and rules will take precedence of collective bargaining agreements.

Legislative Agenda

Mr. DeThorne, Legal Counsel, stated that included in the agenda materials was proposed legislative changes to our Act; however legislators may change the wording. Mr. DeThorne gave an overview of the proposed changes. The first change is to update of out-of-date language, delete duplications, and add wording in the nondiscrimination section to include expanded protected groups. Secondly, to clarify the authority of the Merit Board. Another change would be to allow for out-of-state recruitment for certain positions, there is currently an administrative rule, and this is clarifying by adding language to our Act. In addition, adding the authorization of pilot programs, this would be a fundamental tool, this would give the universities/agencies the authority to try new Human Resource approaches within our administrative rules. Add language to allow a waiver of the requirement that all examinations be uniform, such as why does someone with experience in dedicated profession with strict guidelines need to go through the same process as those with no experience, this will be for only highly regulated positions such as Police Officers and Nurses. Adding language on the furlough rule to eliminate the question of furloughs not being mentioned in the Act. Currently the discharge process indicates that the hearing must occur within 45 days of the notice of discharge or demotion, in this case we are updating language to avoid implied requirement that the hearing be completed within the 45 days. Mr. DeThorne stated that the University System is asking for your support for these proposed changes and to allow the agency to proceed forward.

Mr. Donahue questioned the authorization of Pilot Programs and stated that if we don't agree with the rules why do we create a Pilot Program to get around the rules? Mr. DeThorne stated that there is already an administrative rule in place that allows for Demonstration/Pilot

Programs; however this is not addressed in the Act. Mr. Brownfield stated that Mr. Donahue was correct that Pilot Programs step outside our rules; however any university cannot create a Pilot Program on their own. All Pilot Programs created are approved by Merit Board before being implemented. Currently there is a duration period of three years on Pilot Programs. Also, Mr. Brownfield asked that the Merit Board and their universities to support these legislative changes and to take these changes back to their own Board of Trustees and governmental relations people for their support.

Ms. Hasara made a motion to approve the proposed legislative change for submission to the respective legislators. Ms. Smart seconded Ms. Hasara’s motion.

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

Ms. Hasara.....Aye
Rev. HatchAye
Dr. ManeringAye
Mr. Marshall.....Aye
Mr. MitchellAye
Mr. MontgomeryAye
Ms. SmartAye
Mr. CaulkinsAbsent
Mr. Cole.....Aye
Mr. DonahueAye
Mr. Garcia.....Absent

Update on the Governance, Risk, and Compliance Audit Charter and Process

Ms. Neitzel gave a general brief historical overview of the overhaul of the audit program. Current audits in process are the University of Illinois at Urbana-Champaign, University of Illinois at Springfield, and Northeastern Illinois University. The University system is also discussing strategies to bring the audits that have been done onsite into the new program. An update will be given at the January 2017 Merit Board meeting.

Discussion and action on proposed changes to the “Merit Board Policy Relating to Employee Benefits” regarding the use of sick leave and Discussion and action on proposed changes to establish a work/study committee of the “Merit Board Policy Relating to Employee Benefits”

Mr. Brownfield stated Public Act 99-0841 will be effective January 1, 2017 regarding the use of sick leave for spouse, parents, children, etc. This change requires that the “Merit Board Policy Relating to Employee Benefits” also be changed.

Mr. Brownfield asked that the Merit Board approve a sub-committee to discuss employee benefits that are in the “Merit Board Policy Relating to Employee Benefits”. Staff will work with HR staff to review and update this policy.

Mr. Cole made a motion to approve the proposed changes to the “Merit Board Policy Relating to Employee Benefits” and to establish a sub-committee to discuss proposed benefit changes. Rev. Hatch seconded Mr. Cole’s motion.

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

Mr. ColeAye
Mr. DonahueAye
Mr. Garcia.....Absent
Ms. Hasara.....Aye
Rev. HatchAye
Dr. ManeringAye
Mr. Marshall.....Aye
Mr. MitchellAye
Mr. MontgomeryAye
Ms. SmartAye
Mr. CaulkinsAbsent

Report of the Executive Director – Jeff Brownfield

Mr. Brownfield provided an agency report which included the following items:

- Budget Updates FY 16, FY 17, and FY 18 – Mr. Brownfield stated the agency was contacted and asked to come up with several fiscal year scenarios for the remainder of FY 17 and working on FY 18 budget request. Mr. Brownfield stated that his guess is that the funds approved at the last Merit Board meeting will probably not be received.
- Classification/Examination Update – Mr. Brownfield discussed the list of classifications the University System was working on.
- Staff Changes – Mr. Brownfield stated that Tonya Weber has moved out-of-state, and Cindy Neitzel has moved to the Legal Services Division to oversee the audit program. Positions had been posted; however we have pulled those down until we have a better understanding of the budget situation.
- Accomplishments and follow-up to requested actions of the Merit Board – Mr. Brownfield informed the Merit Board of a technical change made in how universities set the

prevailing wage by getting them from local agreements and the difficulty in receiving the legal documents from the Department of Labor.

Ms. Neitzel gave a summary of the responses provided to Ms. Smart in relation to the changes made in the Audit Program. Mr. Brownfield acknowledged the main issues will be PAAs, they, universities, may not agree but they will know where the agency is coming from at an audit standpoint.

Report of Legal Counsel – David DeThorne, Manager, Legal Services and Legal Counsel

Mr. DeThorne provided the discharge statistics that 13 Written Charges for Discharges had been served on employees thus far during FY 17 and that five employees had requested a hearing. He also reported that there is one pending hearing scheduled for the first week of December that is in relations to a demotion hearing.

Mr. DeThorne also updated the Merit Board regarding the three current pending Administrative Review cases. He also stated that he had met with universities and various unions and have come up with some thoughts of what might need to be done differently and will be following up and relaying the suggestions back as they arise.

Consideration of the 2017 Schedule of Meetings of the Merit Board

Mr. Brownfield stated that the following dates are being proposed for calendar year 2017:

- Wednesday, February 1, 2017
- Wednesday, May 10, 2017
- Wednesday, August 16, 2017
- Wednesday, November 15, 2017

Mr. Mitchell made a motion to accept the proposed dates. Rev. Hatch seconded Mr. Mitchell's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Other Items as Presented

A motion was made by Mr. Cole to adjourn the meeting. Mr. Mitchell seconded Mr. Cole's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The meeting adjourned at 11:59 a.m.

Respectfully submitted,

/s/ Teresa Rademacher

Teresa Rademacher
Secretary for the Merit Board

APPROVED:

/s/ James Montgomery

James Montgomery, Chair
University Civil Service Merit Board

June 1, 2017

Date