

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE JUDICIARY**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Judiciary was convened Tuesday, March 7, 2023, at 10:00 a.m., via Zoom, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present by Conference/Video Call: Kevin Kluge (Chair); Jason Hathcock; Jennifer Fish; Scott Mabery; Mark Smalley

Board Members Absent:

Also Present: Christopher Lemke, Local Board Secretary (video call); Sierra Stowell, Recorder (video call); Erika Muhammad (video call); Liana Garcia (video call)

Call to Order:

Approval of the Minutes:

February 7, 2023 – Public Meeting Minutes

The Chair commented that in the sentence “The Acting Chair added that many employers paid down their unfunded liability, but this Local Board had not,” the word “Local Board” should be corrected to “employer.” Mr. Hathcock confirmed that is what he intended to convey and requested that the minutes be corrected by Board Staff.

MOTION: Jennifer Fish moved to approve the public meeting minutes of the February 7, 2023, meeting. The motion was seconded and passed unanimously. The minutes stand approved.
CORP 2023-10

Consideration of Disability Application: One-Year Review of Records

This matter was brought before the Board for a one-year review of medical records. The Board approved Accidental Disability benefit application #21-03, for Erika Muhammad, on February 1, 2022. To assist the Board in determining whether an independent medical reevaluation of the applicant’s condition is necessary, Ms. Muhammad was asked to furnish medical treatment records since February 1, 2022, which she provided to the Board Secretary on March 3, 2023.

Copies of the medical treatment records, A.R.S. § 38-886, two independent medical examination (IME) reports completed for applicant #21-03, an IME addendum report, and the Guidelines for Periodic Reevaluation of Disability Benefits were provided to the Board. Ms. Muhammad was present via phone call for the one-year review of records.

Ms. Muhammad initialed the Waiver of Confidentiality provision to allow discussion of the medical condition in an open public meeting. This was the Board’s first annual review of the case.

IME Reports

- November 16, 2021 – Psychologist John Tsanadis PhD
- December 2, 2021 – Psychiatrist Farida Rassiwala MD

IME Addendum Report

- January 17, 2022 – Psychiatrist Farida Rassiwala MD

In the opening discussion, the Chair asked Ms. Muhammad if she would like to make a statement before the Board, which she declined. The Chair then invited the Board to ask Ms. Muhammad questions about the provided medical records.

Mr. Hathcock asked for confirmation that the medical records provided by Ms. Muhammad were dated through July 2022, which Ms. Muhammad confirmed. Mr. Hathcock then questioned if Ms. Muhammad had medical records available after July 2022 and asked if she had mental health treatments after July 2022. Ms. Muhammad answered that no additional medical records exist and that the therapist noted on her medical records had not evaluated her since July 2022. Ms. Muhammad explained that after the last visit with her therapist, she began receiving spiritual guidance through her church. The Chair asked Ms. Muhammad if she found her medical treatment unhelpful. Ms. Muhammad responded that after her father passed away, she needed spiritual guidance to assist her recovery.

Mr. Hathcock questioned if Ms. Muhammad had been seen by a medical professional since July 2022. Ms. Muhammad responded that she had attended medical appointments after July 2022, but they were related to other health concerns, not her mental health. The Chair asked Ms. Muhammad to confirm that the medical appointments she referenced were unrelated to her mental health and disability retirement. Ms. Muhammad confirmed that she is seeing doctors for health issues not related to her disability retirement but no longer has appointments with therapists. The Chair asked if Ms. Muhammad intended to resume treatment with her therapist. Ms. Muhammad replied that due to being unable to afford insurance and therapy costs, she has taken a spiritual approach to treatment.

Mr. Mabery asked if Ms. Muhammad had made progress with the spiritual guidance given to her. Ms. Muhammad responded that she handles things day by day, and some days are good, and some are bad, but she works on herself every minute of every day. Mr. Mabery questioned if the goal of Ms. Muhammad's spiritual guidance is for her to recover enough to return to work. Ms. Muhammad replied that her adult probation career is no longer available after separating employment due to disability retirement and that her current goal is not to return to work. The Chair inquired if Ms. Muhammad's goal is to reach a point where she can return to work, to which she answered not at this time. Mr. Mabery asked again if it was a goal of Ms. Muhammad to return to work. Ms. Muhammad confirmed that her goal is not to return to a job.

Ms. Fish questioned if Ms. Muhammad was receiving treatment from any other medical providers for her depression and anxiety and if they are prescribing her medication. Ms. Muhammad responded that she is seeing medical providers for other medical reasons and is taking medications related to her other conditions but not psychiatric drugs. Ms. Fish then asked if Ms. Muhammad had conversations with her providers about the possibility of her returning to work in any job, to which she responded that she had not.

The Chair noted that at this point, the next course of action would be to send Ms. Muhammad back to an independent medical examiner to reevaluate her condition.

Mr. Hathcock commented that the medical documents provided by Ms. Muhammad indicated that she had shown minimal treatment progress. Mr. Hathcock inquired about Ms. Muhammad no longer taking medication, to which Ms. Muhammad inserted that she had not taken psychiatric medication at any point and could not be required to do so.

Mr. Hathcock revisited the topic of returning to work and clarified for Ms. Muhammad that she was approved for an Accidental Disability benefit and that the threshold for the benefit is that the member cannot do their CORP position duties. However, the member could accept employment elsewhere and maintain their disability benefit due to gainful employment not being a stipulating factor.

The Chair asked the Board if there were additional questions for Ms. Muhammad. No further questions were raised.

MOTION: Scott Mabery motioned to refer Applicant #21-03, Erika Muhammad, for an Independent Medical Reevaluation. The motion was seconded and passed unanimously. **CORP 2023-11**

After the motion passed, Ms. Muhammad had a question regarding a comment about "doctor shopping," which was made at the February 1, 2022, Local Board meeting when her Accidental Disability benefit was approved. Ms. Muhammad asked if she will continue to undergo reevaluation for her disability benefit in the future, even if medical documentation attesting to her ongoing condition is provided to the Board. The Chair answered that until a doctor confirms that she is permanently disabled, with no expectation of recovery, the Local Board has the right, through statute, to send Ms. Muhammad to an independent medical reevaluation. The Chair added that if there is a reasonable expectation that she may recover, it is this Board's responsibility to continue checking on the status of her condition. Furthermore, by law, the Board must base its determinations on the findings of the doctor performing the independent medical reevaluation.

The Chair noted that the doctor who performed Ms. Muhammad's last IME stated that there was a reasonable chance for her to get better and return to work. The Chair added that if an IME doctor advises that there is no chance for Ms. Muhammad to get better and return to work, the Board would no longer reevaluate her disability benefit.

Concerning the term "doctor shopping," Ms. Fish asked if psychiatrist Farida Rassiwala MD, the doctor who completed Ms. Muhammad's previous IME, would perform the reevaluation. The Chair verified that it would be best practice to send Ms. Muhammad back to Dr. Rassiwala due to the doctor's familiarity with Ms. Muhammad's disability application and condition. Ms. Muhammad responded that she understood why a reevaluation was necessary but was still unclear about the term "doctor shopping." The Chair responded that from his recollection, the initial IME report received following the submission of Ms. Muhammad's Accidental Disability application contained unclear information. Therefore, the Board had questioned if they needed to send Ms. Muhammad to a different IME doctor, but the Board did not want it to appear as though they were "doctor shopping." The Chair added that instead, the Board requested additional clarification from Dr. Rassiwala, the previous IME doctor, who then issued an amended IME report.

The Board Secretary clarified that Ms. Muhammad was initially sent to a psychologist for her initial IME, but the psychologist was not a medical doctor. The Board Secretary continued by explaining that Ms. Muhammad then underwent a second IME by Dr. Rassiwala, whose report failed to adequately address the disability-specific questions asked of them. According to the

Board Secretary, the Board evaluated whether another IME would be necessary; instead, the Board Attorney recommended that an IME addendum be requested from Dr. Rassiwala and mentioned "doctor shopping" during that discussion.

Ms. Muhammad responded that the Chair and Board Secretary's explanations were clear but expressed that the processes surrounding disability benefits are confusing. The Chair stated that he understood and reiterated that the Board had and will continue to follow the statutes established for awarding and reevaluating disability benefits.

The Chair concluded that the Board Secretary would contact Ms. Muhammad to discuss the logistics of her reevaluation.

Legislative Update

Liana Garcia, Government Affairs Director for the Administrative Office of the Courts, reported on CORP-related 2023 legislation and answered questions proposed to her by the Board. Ms. Garcia provided a status update on the following Bills:

House Bills:

HB2015, HB2027, HB2430, HB2433, HB2471, HB2570, and HB2640

Senate Bills:

SB1173, SB1500, and SB1523

Mr. Hathcock asked if Ms. Garcia knew why 20 legislators voted against HB2027. Ms. Garcia responded that various unpredictable reasons could have caused the "no" votes but explained that those votes were bipartisan. The Chair noted that HB2027 includes language concerning charging the Counties for their portion of unfunded liability. Mr. Mabery asked if it would be 0% interest for the Counties to pay back, to which the Chair responded that was his understanding. Ms. Garcia added that as the Bill moves forward, it is subject to change.

The Chair asked Ms. Garcia for clarification on HB2015. Ms. Garcia responded that the Bill would allow CORP plan members to change their plan election if they are rehired following a bona fide termination of at least six months with no prearranged reemployment agreement or after being hired by a new employer. In addition, Ms. Garcia explained that members meeting the requirements could make a new plan election to participate in either the Defined Benefit or Defined Contribution plan before the 90th day after the member's hire date.

The Chair asked that Ms. Garcia return for each monthly meeting until the legislative session ends to provide updates on the discussed House and Senate Bills.

Notice of Retiree Return to Work – Larrilene Gishie

The Board received a Notice of Retiree Return to Work from Navajo County Superior Court for Larrilene Gishie on February 28, 2023, indicating that Ms. Gishie retired from the Arizona Department of Corrections (DOC) under CORP on April 1, 2021. As of November 28, 2022, Ms. Gishie resumed employment with the Navajo County Superior Court in a CORP-designated position as a Pre-Trial Surveillance Officer.

Copies of A.R.S. § 38-884.N-O, §38-891.01, and Ms. Gishie's current job description were provided to the Board.

The Chair asked if this Notice of Retiree Return to Work was similar to the scenario discussed in the last meeting since Ms. Gishie was a retiree from another Local Board. The Board Secretary confirmed and noted that the Board could determine if payment of an alternate contribution rate (ACR) would be required of Navajo County Superior Court. In addition, concerning whether Ms. Gishie's pension may continue, The Board Secretary explained that Board Staff could notify the DOC Local Board so that they may make that determination.

The Chair then asked if this Local Board could determine if Ms. Gishie is eligible to continue to receive her CORP pension or if that was the DOC Board's responsibility. Mr. Hathcock answered that it had been the practice of this Board to notify the Local Board from which a member retired so that they may make that determination. Mr. Hathcock continued by stating he sought clarification on the topic from PSPRS at the 2023 Annual Employer-Local Board Conference, and while guidance was not entirely clear, Mr. Hathcock believed that this Board had the authority to vote on whether Ms. Gishie's pension may continue. The Chair agreed that it was obvious Ms. Gishie had a 6-month break in service before returning to a CORP-designated position, thus meeting the statutory threshold, so she would be eligible to continue to receive her pension.

Ms. Fish questioned if it has been standard practice for other Boards to notify this Board when an AOC CORP member retired and returned to work for an employer Local Board other than this one. The Chair, Mr. Hathcock, and the Board Secretary answered that this Board has not historically received those notifications. The Board Secretary added that other Local Boards do not communicate the status of their determinations regarding pension payment continuity after Board Staff notifies those Local Boards of a retiree return to work.

Mr. Hathcock questioned the job title of "Pre-Trial Surveillance Officer" and whether it was an approved CORP-designated position. Mr. Hathcock added that the job description and duties fall under CORP; therefore, it appeared to be a designated position. The Chair responded that a vote to designate the position could be placed on the next meeting agenda if Mr. Hathcock thought that was necessary. Mr. Hathcock replied that this would not be necessary because the job description established the position as CORP-designated with the training required of a Surveillance Officer.

Returning to the topic of notifying other Boards when one of their retirees returns to work for this Employer, the Chair asked if this Board is comfortable determining whether a pension must be suspended for a retiree of another Local Board. Mr. Hathcock responded that he would feel comfortable doing so based on knowledge of a member's retirement date and re-hire date. Mr. Hathcock explained that moving forward, Board Staff should indicate the effective retirement date as the first day of the month following a retiree's termination date as that date establishes the six-month waiting period for returning to work in a CORP-designated position. The Board Secretary confirmed that in the future, the materials provided to the Board will note retiree effective retirement dates as the first of the following month moving forward.

Mr. Mabery asked for clarification on whether Pre-Trial Officers are CORP-designated positions. The Chair answered that the job description provided for Ms. Gishie established that her Pre-Trial Surveillance Officer position is a badge-carrying Surveillance Officer position, so it should be considered CORP-designated. Mr. Hathcock added that he is a Pre-Trial Probation Officer and that Maricopa has Pre-Trial Officers in a Probation context but not Surveillance. The Chair noted that this is his first instance seeing a "Pre-Trial Surveillance Officer."

MOTION: Jason Hathcock motioned that the Board received the Notice of Retiree Return to Work for Larrilene Gishie and found that (1) Ms. Gishie is eligible to continue to receive a CORP pension and that (2) Ms. Gishie’s employer (Navajo County Superior Court) is responsible for paying the CORP alternate contribution rate on her behalf. The motion was seconded and passed unanimously. CORP 2023-12

Acknowledgment of CORP Physical Exam Final Letters:

A physical examination report was not received for the member listed below. A certified letter was sent to the member regarding the non-receipt of their CORP physical examination within 60 days of receiving their membership application.

<u>County</u>	<u>Name</u>	<u>Date Letter Sent</u>
Maricopa	William McFarland	1/13/2023

The Chair noted for the record that a physical examination report for William McFarland was not received by the Board within 60 days of receiving Mr. McFarland's membership application. A final letter requesting the examination was sent to Mr. McFarland via certified mail.

Approval of Membership:

The Local Board voted on the approval of the following requests for membership:

Jodi Sands	Apache	1/29/2023
Valarie Brown	Cochise	1/28/2023
Todd Miller	Cochise	2/12/2023
Kaley Secody	Graham	2/5/2023
Sarah Weiss	Maricopa	11/14/2022
Ryan Nilsen	Maricopa	2/12/2023
Cindy Rubio	Maricopa	2/12/2023
Brandon Moore	Maricopa	2/12/2023
William McFarland	Maricopa	2/12/2023
Felicia Lujan-Puckett	Pima	1/29/2023
Cameron Skyrn	Pima	2/12/2023
Catherine O’Connor	Yavapai	11/7/2022
Balizar Avatar	Yavapai	2/12/2023
Thomas Throckmorton	Yavapai	2/12/2023
Rebecca Bostrack	Yavapai	2/12/2023
Martin Icedo	Yuma	2/12/2023

Mr. Hathcock asked for clarification on why Cindy Rubio is in the Tier 3 DB plan, despite having previous CORP membership dating back to 1999. The Board Secretary confirmed that Ms. Rubio had refunded at some point before being rehired by Maricopa County.

MOTION: Jennifer Fish moved to approve the 16 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. § 38-893.D. and to note for the record that the physical examinations for Jodi Sands, Todd Miller, Brandon Moore, Felicia Lujan-Puckett, Catherine O’Connor, Balizar Avatar, and Thomas Throckmorton identified a

physical or mental condition or injury that existed or occurred before their dates of membership in the plan. The motion was seconded and passed unanimously. **CORP 2023-13**

2023 CORP Electronic Election Update:

In the December 6, 2022, Board meeting, the Chair requested that the Board Secretary provide monthly updates on the CORP Electronic Election.

The Board Secretary reported that on February 20, 2023, Board Staff utilized County-provided email distribution lists to issue electronic nomination ballots via SurveyMonkey to all active CORP members. The Board Secretary added that a reminder email was sent to the active members on March 6, 2023, which doubled the number of nomination ballots received at the time.

Mr. Hathcock asked when the deadline to submit nominations is. The Board Secretary confirmed that March 16, 2023, is the deadline for nomination submissions. In addition, the Board Secretary advised that the next steps for Board Staff would be to contact the nominees to verify interest in serving on the Board. Afterward, those who express interest will be placed on a voting ballot to be issued April 17, 2023.

Board Attorney Contract Review:

The current contract with the Board's legal services provider, Ryan Rapp Pacheco & Kelley, terminates on June 30, 2023, and a contract renewal will not occur. The Chair requested that Board Staff research and obtain quotes from attorneys with CORP Local Board Experience.

Board Staff received three bids which were detailed in an evaluation report supplied to the Board. The report also included an overview of experience and comments provided by attorneys representing the identified firms. The Board discussed the bids and agreed to consider two of the three attorneys.

Ms. Fish suggested that Board Staff check the Arizona State Bar for complaints filed against the potential attorneys to assist the Board in determining which firm they would like to contract with for legal services. The Chair agreed and directed the Board Secretary to contact the State Bar and identify if complaints are on record with the Bar and if so, to make that information available to the Board. Mr. Hathcock added that after checking for complaints, the decision on the Board Attorney Contract should be brought back before the Board next month for a final determination.

The Chair commented that it may be of benefit if the Board Secretary called the considered attorneys again to further discuss their experience. Ms. Fish added that an additional phone call would also assist with identifying if the demeanor or characteristics of one attorney is more favorable than another. Ms. Fish explained that the Board should consider these factors along with the cost and experience of the attorneys.

Mr. Hathcock inquired about whether language exists in the current contract that allows the Board to terminate service with Ryann Rapp Pacheco & Kelley at any time. Ms. Fish answered that the current contract may be terminated after providing a 30-day written notice. Mr. Hathcock also asked if there was an intended duration for the next legal services contract the Board will enter. The Chair responded that he would like the next contract to be effective for as long as possible. Mr. Hathcock noted that the current contract was in effect for three years. Mr. Hathcock then asked

if the potential attorneys had an opportunity to review the contract details, to which the Chair answered no.

Mr. Smalley asked if the attorneys under consideration were aware of this Board's meeting dates and if their availability would conflict with those dates. Mr. Smalley also questioned if it would be one attorney representing the Board or if other attorneys from the same firm would also represent the Board. The Chair answered that the Board Secretary would contact the attorneys to confirm this information, collect additional details pertaining to their experience, and verify if complaints are on file with the State Bar.

The Board Secretary asked if he should send a copy of the current contract to the considered attorneys for review. The Chair directed the Board Secretary to redact financial details from the contract and provide a copy to the attorneys for review.

The motion was tabled pending further information.

Future Agenda Items:

Staff informed the Board that the following items will likely be placed on the April 4, 2023, meeting agenda:

- Consideration of Disability Application #21-03 – IME Reevaluation Benefit Decision
- Electronic election update provided by the Board Secretary
- Decision on Board Attorney Contract
- Notice of Retiree Return to Work

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 11:13 a.m.

Transcribed March 10, 2023.