

**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, September 6, 2022, 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; Mark Smalley; Jennifer Fish

Board Members Absent: Scott Mabery

Also Present: Christopher Lemke, Local Board Secretary (video call); Sierra Stowell, Recorder (video call); Yvonne Wong, AOC Human Resources Officer (video call); Cindy Kelley, Acting Board Attorney (video call)

Call to Order:

Approval of the Minutes:

August 2, 2022 – Public Meeting Minutes

MOTION: Mark Smalley moved to approve the public minutes of the August 2, 2022 meeting. The motion was seconded and passed. Board Member Jennifer Fish was not present for the August 2, 2022, meeting; therefore, she abstained from the vote. The minutes stand approved.
CORP 2022-42

Decision on Request for Review of Pre-Existing Conditions

Member Marcelena Rupp provided the Board with a rebuttal on July 21, 2022, regarding pre-existing conditions noted in her physical examination report completed on June 21, 2022. Ms. Rupp requested consideration of the Board's approval of membership with the nullification of the identified pre-existing conditions. No additional supporting documents were received from Ms. Rupp.

Before accepting employment in an Administrative Office of the Court's (AOC) CORP-designated position on May 16, 2022, Ms. Rupp was employed with the Coconino County Sheriff's Office, under a different Local Board, in a non-AOC CORP-designated position from February 25, 2008, to March 18, 2022.

Rule D.4 governs Board consideration of employee comments on a finding of a pre-existing condition:

4. Finding of Pre-Existing Condition. If the physician's or clinic's report on an Employee with respect to the Employee's pre-membership condition concludes that the Employee has a pre-existing condition:

- a. The Secretary shall notify the Employee that the physician or clinic has reported that the Employee has a pre-existing condition. The Employee shall have 30 days to submit additional documentation or comments to the Secretary before the physician's or clinic's report is placed on an agenda for the Local Board's consideration.
- b. Reports concerning an Employee's pre-existing condition shall be placed on the Meeting agenda for recognition by the Local Board.
- c. The Secretary shall provide the Local Board with any additional documentation or comments submitted by an Employee regarding a physician's or clinic's conclusion that an Employee has a pre-existing condition.
- d. The Local Board shall review the physician's or clinic's report and any additional documentation submitted by the Employee at a Meeting. After review of the relevant documents, the Local Board will take any action the Local Board deems necessary and appropriate.
- e. The Secretary shall file all reports concerning an Employee's pre-existing conditions as a permanent record, as required by A.R.S. § 38-893(0)(6), along with any additional documentation and comments provided by the Employee, and appropriate records of any actions or determinations by the Local Board with respect to same.

The Chair asked for clarification on what Ms. Rupp's previous position with Coconino County was, as detention officers are typically AOC CORP-designated positions. Mr. Hathcock and Ms. Fish explained that the detention officer position within the Coconino County Sheriff's Department was a non-AOC CORP position and that the confusion is due to different position titles used by the differing Local Boards.

The Chair noted that this is an unusual situation in that Ms. Rupp's pre-existing conditions allegedly occurred during her time in CORP but not under the CORP Local Board for the Judiciary. The Secretary advised that according to Ms. Rupp, she did not have pre-existing conditions when initially becoming a member of CORP but her recent physical examination report, following reemployment in a CORP-designated position, displayed pre-existing conditions. The Chair asked for the Acting Board Attorney's advice regarding this issue. Ms. Kelley responded that she does not have familiarity in this instance, but mentioned that for Police and Fire if an injury were to occur in one city and the individual moved to another, it would be covered under PSPRS. The Chair noted that it would likely be a similar situation for CORP.

The Secretary asked if Ms. Rupp's break in service will impact the Board's determination of her request. The Chair asked how long Ms. Rupp's break in service was, and the Secretary responded that it was from March 18, 2022, to May 16, 2022. The Chair asked if any documents that show that the pre-existing conditions happened during Ms. Rupp's time in her non-AOC CORP position. Ms. Stowell advised that the CORP Local Board for the Coconino County Sheriff's Department cannot furnish the physical exam to Local Board Staff or Ms. Rupp. Additionally, Ms. Rupp shared that there are workman's comp documents related to the pre-existing conditions, but she has been unable to obtain and provide them as of yet. The Chair noted that any available supporting

documents should be collected and placed on file for Ms. Rupp in the event that she files for disability retirement.

The Secretary noted that the workman's comp documents have not been received, but the Rules of Local Board Procedure state that a member shall have 30 days to submit additional documentation before the physical examination report is placed on an agenda for consideration. The Acting Board Attorney added that Ms. Rupp should not be penalized for her inability to collect documents within 30 days as workman's comp documents can be difficult to obtain.

Mr. Hathcock stated that the Board does not need to make any decisions today other than to acknowledge Ms. Rupp's information and retain it in her file. However, Mr. Hathcock explained that if the Board, or Ms. Rupp, is unable to obtain the original physical exam, it will be difficult to establish whether the pre-existing conditions happened during her time in CORP. Mr. Smalley asked why the previous physical exam cannot be obtained from the medical provider, to which the Secretary responded that Concentra was contacted, but they do not have her records from 2008. Ms. Fish recommended that Ms. Rupp contact the Sheriff's Department's Human Resources to see if they have any medical documents related to a workplace illness or injury because of their likely lengthy retention period.

Ms. Fish added that the Board can decide to acknowledge or refute Ms. Rupp's rebuttal. The Chair agreed, noting that the rebuttal can be acknowledged, placed on file, and supporting documents placed on file if they are provided by Ms. Rupp, to be revisited if a disability application is brought before the Board. Mr. Hathcock added that as time goes on it will be increasingly difficult to obtain related medical records. The Chair agreed and advised that it is in Ms. Rupp's best interest to provide additional information and requested that Staff notify her of the Board's request.

Jennifer Fish moved to acknowledge the rebuttal request and maintain it on file with the physical examination report contingent upon the receipt of additional information from Ms. Rupp. Additional information must document with evidence from her former employer, former CORP Local Board, or previous physicians' that the pre-existing conditions occurred while she was in a CORP-designated position. The motion was seconded and passed unanimously. **CORP 2022-43**

Acknowledgment of CORP Physical Exam Final Letters:

Physical examination reports have not been received for the members listed below. A certified letter was sent to the members regarding the non-receipt of the CORP physical examinations within 60 days of receipt of their membership forms.

<u>Name</u>	<u>Date Letter Sent</u>
Suzanne Sierra	7/15/2022
Lorena Vargas	7/27/2022

The Chair noted for the record that physical examination reports for Suzanne Sierra and Lorena Vargas were not received within 60 days of receipt of the membership application and that the final letters requesting examinations were sent via certified mail.

Approval of Membership:

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

Marcelena Rupp	Coconino	5/16/2022
Lenesha Hudson	Maricopa	7/31/2022
Priscilla Perez	Maricopa	8/7/2022
Maria Maldonado	Maricopa	7/31/2022
Tyler Markham	Maricopa	7/31/2022
Natalia Romo	Maricopa	7/31/2022
Ronnie Rios	Maricopa	8/14/2022
Elisa Bradley	Maricopa	5/17/2022
Roxanne Saxton	Mohave	7/24/2022
Brendan Brehmeyer	Mohave	8/5/2022
Ana Rivera	Pima	7/23/2022
Melissa Cintron	Pima	7/24/2022
Jesus Ruiz Rosas	Pima	7/24/2022
Suzanne Sierra	Pima	8/14/2022
Lorena Vargas	Pima	8/14/2022
Rebecca Wade	Pima	8/21/2022
Roberto Cervantez Gonzalez	Pima	8/21/2022
Ashley Brogan	Yavapai	7/31/2022
Stephanie Kelley	Yavapai	8/14/2022

Mr. Hathcock inquired about Elisa Bradley as she was another member who had previous employment dates and also had pre-existing conditions. The Secretary informed him that Staff had not heard from Ms. Bradley regarding any issues related to the discovery of pre-existing conditions.

MOTION: Jason Hathcock moved to approve the 19 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 Marcelena Rupp, Maria Maldonado, Elisa Bradley, Roxanne Saxton, Ana Rivera, Rebecca Wade, and Roberto Cervantez Gonzalez 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 2022-44

Membership Audit:

Staff has begun an audit of the Board’s membership records against an active membership list provided by PSPRS. Any discrepancies found will be reported at the Board’s next meeting in October.

Future Agenda Items:

Staff informed the Board that the following items will likely be placed on the October 4, 2022 meeting agenda:

- Report on Retiree Return to Work issues provided by the Board Attorney
- A Request for Review of Pre-Existing Conditions
- Audit Report

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 10:35 a.m.

Transcribed September 6, 2022.