

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

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Wednesday, October 9, 2013, at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109:

Kevin Kluge, Chair; Mark Smalley; Rob Lubitz

Board Members Absent

Jason Hathcock; Phil Hanley

Also Present:

Annette Corallo, Board Secretary; Leticia Chavez, Recorder; Hannah Auckland, Board Attorney

Call to Order

Approval of the Minutes:

- a. September 4, 2013, Public Meeting Minutes
- b. September 4, 2013, Transcript of Proceedings – Open Session

The Chair called for any changes or corrections. The Chair noted his last name was spelled incorrectly as “Cluge” in the meeting transcripts.

MOTION: A motion to approve the September 4, 2013 Public Meeting Minutes and transcript was made by M. Smalley. Motion was seconded and passed unanimously; minutes stand approved. **CORP 2013-50**

Consideration of Disability Applications:

- a. Disability Application #11-02 – Annual Review

The Board approved Application #11-02 for Ordinary Disability benefits on September 7, 2011. This matter is brought to the Board for an annual reevaluation pursuant to the Board’s decision at its September 5, 2012 meeting that the applicant’s case should be reviewed in one year.

In a certified letter dated August 22, 2013, the applicant was asked to provide medical treatment records since September 1, 2012, to assist the Board in determining whether an independent medical reevaluation of the applicant’s condition would be necessary. No medical records have been received from the applicant as of this meeting. The Board Secretary stated that if the Board requested, another certified letter could be sent to the applicant to again request medical records and to advise the applicant of the requirements of A.R.S. §38-886.01.D, which states, “If the

disabled retired member refuses to submit to reevaluation, the local board may suspend payment of the pension.” The Board Attorney stated she could assist the Board Secretary in drafting a detailed letter to the applicant.

Due to the nature of the disabling condition, Board Member Mark Smalley asked if the applicant had possibly designated a Power of Attorney. The Board Attorney advised the Board that she could check court records to determine if a Power of Attorney has been designated in this case and notify the Board of her findings.

MOTION: A motion to send another certified letter to Applicant #11-02 to request current medical records so the Board may determine whether a medical reevaluation of her condition is warranted, and to advise Applicant #11-02 of the requirements of A.R.S. §38-886.01.D, was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2013-51**

b. Disability Application #13-01 – Records Update, IME Format

The Board received Application #13-01 for Accidental Disability Retirement on August 21, 2013, and at its meeting on September 4, 2013, voted to refer the applicant for an Independent Medical Evaluation (IME) upon receipt of complete medical records from the providers listed on the application.

The Board Secretary sent certified letters requesting medical records for eight providers. To date, records have been received from only two of those providers; therefore, the IME has not yet been scheduled. The Chair asked if the medical records from the missing providers could be subpoenaed and the Board Attorney responded that the records could be subpoenaed, but the Board may first want to send a follow-up letter to the providers or even request the assistance of the applicant in obtaining the missing medical records.

The Board Secretary also advised the Board that the applicant identified the medical basis of the application as psychological. At the September 4, 2013 meeting, the Board Attorney, Michael Anthony, suggested that the Board consider using the IME procedure required for Public Safety applications, which states “in the event of a psychological disability application, the medical board will consist of a psychologist and a psychiatrist.” The Board Secretary advised the Board this would double the cost of the IME, as both doctors would charge the IME rate. The Board Attorney, Hannah Auckland, advised the Board that in the event they do pursue the two-step IME, the Board must base their decision on the IME of a medical doctor, which in this case would be the psychiatrist.

MOTION: A motion to send a follow up letter to the providers who have not sent the requested medical records and to request assistance from the applicant in obtaining these records was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2013-52**

MOTION: A motion to refer Applicant #13-01 for an Independent Medical Evaluation based on the Public Safety model procedure, in which the medical board consists of a psychologist and a psychiatrist, was made by R. Lubitz.

Discussion:

Board Member Mark Smalley verified that the Board Secretary would not schedule the IME until all medical records had been received. The Chair advised that it was the Board's original motion at the September 4, 2013 meeting that the Board Secretary would not schedule the IME until records from all medical providers listed had been received.

Motion was seconded and passed unanimously. **CORP 2013-53**

Adoption of Rules of Local Board Procedure:

The Board Secretary presented the Board with the CORP Model Uniform Rules of Local Board Procedure to facilitate the Board's administration of claims and disputes. The Board has never adopted rules of procedure to govern the administration of claims or disputes. The model rules provide guidance to the Board, claimants, and the Board Secretary as to how matters coming before the Local Board for a decision are to be administered. As stated in Section B of the model rules, these would govern any claims for benefits, credited service, eligibility for membership, and other claims within the jurisdiction of the Local Board.

Recent matters brought to the Board by a member regarding the CORP designation of his position and subsequent waiver request are examples of the type of claims that would be handled pursuant to the model rules, if adopted by the Board. With a possible rehearing in the coming month, the Chair had a concern with the rehearing deadline of 20 days listed on page 11, section D5. The Board Attorney stated that the Board could ask the claimant to waive the 20 day deadline and hear the case at the next scheduled meeting, or would need to schedule an emergency meeting to hear the case by the 20 day deadline.

Board member Rob Lubitz had a question regarding the "Uncontested Claim and Summary Approval Thereof" provision on page 4, section C5, which states, "If the Employer, Administrator or any member of the Local Board objects to summary approval of a Claim, the Claim shall be considered a contested Claim..." The Board Attorney clarified that this would apply to a claim before the rehearing process, in which the Board would not approve a motion and remove it from the consensus items on the agenda for further review or discussion.

The Chair confirmed with the Board Attorney that these rules were sufficient and could later be amended by the Board if needed, but requested a motion for approval and for this item to be placed on next month's agenda so other board members could give their input.

MOTION: A motion that the Board adopt the Corrections Officer Retirement Plan Model Uniform Rules of Local Board Procedure as its rules of board procedure, pursuant to the Board's authority under A.R.S. §38-893.F, was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-54

Retirement Benefits:

The Local Board may consider and vote on the approval of Normal Retirement benefits for the following applications or defer decision to a later date:

- a. Helena R. Bailey
- b. John T. Cleland
- c. Patricia A. Hollins
- d. Yvette D. Morales

The Board Secretary noted for the record that the effective retirement date for all applicants with the exception of John T. Cleland was October 1, 2013. Mr. Cleland’s effective date of retirement was September 1, 2013, so he will be paid retroactively for his September benefit if the Board approves the motion.

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts and to note that the effective date for Mr. John T. Cleland was September 1, 2013, was made by R. Lubitz. Motion was seconded and passed unanimously. CORP 2013-55

Helena R. Bailey:	\$3,277.18
John T. Cleland:	\$2,309.81
Patricia A. Hollins:	\$2,254.36
Yvette D. Morales:	\$2,635.64

Minor Child Pension Benefit:

The Local Board may consider and vote on the approval of a Minor Child’s Pension benefits for the following application or defer decision to a later date:

- a. Joan E. Heeren (Deceased 07/16/2013) – Benefit Payable to Guardian Ann M. Fauth

MOTION: A motion to approve payment of a minor child’s pension to the guardian applicant in about the following amount was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-56

Ann M. Fauth, beginning 08/31/2013: \$1,410.93

Contract for Attorney Services:

The contract extension with Michael Anthony to provide professional legal services to the Board ends on January 31, 2014. A separate contract entered into with Hannah Auckland after her move to the Grasso Law Firm also ends on January 31, 2014. Now that Mr. Anthony and Ms. Auckland are with different firms, the state procurement rules do not allow the Board to approve extension of the existing contracts. The Board must seek new bids for legal services and negotiate one or more new contracts for services.

MOTION: A motion to instruct the Board Secretary to obtain three bids for attorney services for the Board's review at a future meeting, for a contract term beginning February 1, 2014, was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-57

Return to Work:

- a. Notice of Retiree Return to Work – James J. Franco

The Board received a Notice of Return to Work from Yuma County for James J. Franco. The form indicated that Mr. Franco retired under CORP with the Arizona Department of Corrections effective August 1, 2012, and returned to work for the Yuma County Superior Court on September 9, 2013, as a Detention Services Supervisor. The Board Secretary advised the Board that Mr. Franco's Notice of Retiree Return to Work should be forward to the Local Board for the Arizona Department of Corrections, to allow that board to determine whether Mr. Franco is eligible to continue to receive a CORP pension. The Board Secretary also noted that Mr. Franco holds a CORP designated position so his employer is responsible for paying an alternate contribution rate on his behalf.

MOTION: A motion that the Board received a Notice of Return to work for James J. Franco and (1) directs the Board Secretary to forward Mr. Franco's Notice of Retiree Return to Work to the Local Board for the Arizona Department of Corrections, to allow that board to determine whether he is eligible to continue to receive a pension and, (2) finds that Mr. Franco's employer (Yuma County) is responsible for paying the CORP alternate contribution rate on his behalf was made by R. Lubitz. Motion was seconded and passed unanimously. CORP 2013-58

- a. Notice of Retiree Return to Work – Richard P. Swistek

The Board received a Notice of Retiree Return to Work from Maricopa County for Richard P. Swistek. The form indicates that Mr. Swistek retired under CORP effective August 1, 2013, and returned to work for the Maricopa County Superior Court on August 19, 2013, as a temporary, part-time Juvenile Detention Officer. The temporary, part-time position is not a CORP designated position. While Mr. Swistek returned to work less than 12 months after retirement, he is not employed in a CORP designated position as defined by the Joinder Agreement, so he is eligible to continue to receive a CORP pension.

MOTION: A motion that the Board received a Notice of Return to Work for Richard P. Swistek as a temporary, part-time Juvenile Detention Officer in Maricopa County, and finds that (1) Mr. Swistek is eligible to continue to receive a pension and, (2) Mr. Swistek's employer (Maricopa County) is not responsible for paying an alternate contribution rate on his behalf was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-59

CORP Physical Pre-Existing Conditions:

- a. David Leckington

The Board approved Mr. Leckington for CORP membership at the September 4, 2013, meeting. His physical examination report was received after a 60-day notice was sent to him on August 22, 2013. The Board noted for the record that the physical exam report for Mr. Leckington identified a pre-existing condition. Mr. Leckington will be sent a pre-existing condition letter.

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

a.	Elizabeth Casteneda	Yuma	7/29/2013
b.	Brenda Ellis	Mohave	8/12/2013
c.	Lacey Mejia	Maricopa	9/3/2013
d.	Alex Silver	Maricopa	9/2/2013
e.	Maureen White	Maricopa	9/2/2013

The Board noted, for the record, that the physical examinations for applicants Brenda Ellis and Maureen White identified a physical or mental condition or injury that existed or occurred before the member’s date of membership in the plan.

MOTION: A motion to approve the five named employees requesting membership into CORP was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2013-60**

Status Update: Audit of Membership Records

The Board voted at its August 6, 2013 meeting, to conduct an audit of Local Board membership records to ensure the Board’s records are complete.

Staff received a list of all active AOC-CORP members from PSPRS and audited that list against Local Board records to determine if any membership records are missing at the Local Board level. To date, the Local Board Office has discovered the Board office is missing about 13% of membership forms from the various counties. The Chair had some concerns regarding the physical exam status of these members and the possibility of not being able to recover the exams. The Board Attorney stated that should it become necessary, each could be heard on a case-by-case basis or the Board could contact the Board of Trustees for their recommendation.

Going forward, to avoid missing records, the Local Board Office has drafted procedures for processing membership forms. These procedures will be presented at the Adult and Juvenile Management meetings on October 10, 2013. After the meeting, the instructions will be disseminated to county offices responsible for handling new employee processing and posted on the Board’s website.

Call to Public:

No members of the public addressed the Board.

The meeting was adjourned at 11:05 a.m.

Transcribed October 9, 2013