

**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 Thursday, November 7, 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; Jason Hathcock

**Board Members Present via Conference Call:**

Rob Lubitz

**Board Members Absent:**

Phil Hanley

**Also Present:**

Annette Corallo, Board Secretary; Blanca Moreno, Recorder; Hannah Auckland, Board Attorney; Court Reporter, Ottmar & Associates

**Call to Order**

**Approval of the Minutes:**

- a. October 9, 2013, Public Meeting Minutes

The Chair called for any changes or corrections.

**MOTION: A motion to approve the October 9, 2013 Public Meeting Minutes was made by M. Smalley. Motion was seconded and passed unanimously; minutes stand approved. CORP 2013-61**

**Request for Rehearing CORP Local Board for the Superior Court Case No. 1 – Patrick Schmitt v. CORP Local Board for the Superior Court**

This matter is:

CORP LOCAL BOARD FOR THE SUPERIOR COURT CASE NO. 1

PATRICK SCHMITT V. CORP LOCAL BOARD FOR THE SUPERIOR COURT

This matter is a request for rehearing submitted by Patrick Schmitt, Detention Services Director in Cochise County, on the Board's decision at its meeting on September 4, 2013, that it is not authorized to approve a waiver for Mr. Schmitt to remain in ASRS under A.R.S. 38-891.F.

because that statute only grants that authority to the Department of Corrections and the Department of Juvenile Corrections.

Previously, at its meeting on August 6, 2013, the Board affirmed that the position Mr. Schmitt holds, Cochise County Detention Services Director, is a CORP designated position.

The Board Attorney advised that good cause existed under Rule D.5 to extend the deadline for rehearing stated in the Model Uniform Rules of Local Board Procedure (and adopted as the Board's rules at the October 9, 2013 meeting) because (1) conflicts exist in the model rules as to notices for hearings and rehearings, (2) this matter is not a benefits case contemplated by the model rules, and (3) the employer, and not the member, initiated these proceedings to identify whether the position held by the claimant is a CORP position.

Mr. Schmitt raised three points of contention in his rehearing request:

- 1) If he is expected to contribute to CORP in the same way that Corrections staff must contribute and abide by the same rules of the CORP as Corrections staff must follow, he should be afforded the same waiver process that they have afforded to them. This is a discriminatory practice.
- 2) If the Local CORP Board lacks authority to make the decision on the waiver process, it is only fair that he be made aware of who does have the authority to make this decision. He would like to be able to present his case to that person/designee/Board, whoever it may be.
- 3) And finally, to clarify a statement in the CORP Board minutes concerning the job description that was posted for the Detention Services Director was notated as a CORP position: while this is true, there was still some confusion as to the certainty of that designation, as he has a job description that does not have that distinction noted on it. He had provided a copy to Ms. Corallo for his waiver hearing. In addition, if it was so clearly designated to be a CORP position, why did a Cochise County Human Resources person enroll him in ASRS upon his New Employee Orientation?

The parties to this proceeding are:

Patrick Schmitt  
This Board  
Cochise County (the Employer)  
Fund Administrator

There are no witnesses to this case at this time.

No response or opposition was filed to the Board's notices by certified mail, dated October 11, 2013 that the rehearing request would be reviewed and the date of rehearing determined at this meeting.

**MOTION: A motion to go into Executive Session to receive legal advice was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-62**

**MOTION: A motion to return to public session was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-63**

**MOTION: A motion that the Board set a rehearing in this matter on December 4, 2013, with notice by certified mail to the claimant, Employer and Administrator at least 15 days in advance of the rehearing date was made by J. Hathcock. Motion was seconded and passed unanimously. CORP 2013-64**

**Consideration of Disability Applications:**

a. Disability Application #09-01 – Annual Review

The Board approved Application #09-01 for Ordinary Disability benefits on September 2, 2009. This matter is brought to the Board for an annual review, as it has been annually since 2010. The applicant was advised via certified mail that the Board would hear the matter at this meeting.

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 is necessary. The Board Secretary noted that for the past three years the Board voted to suspend the requirement that the applicant undergo a medical reevaluation for one year (October 28, 2010; September 7, 2011; September 6, 2012).

The applicant responded via email that she is having problems obtaining her medical records for the past year. She stated that she relocated to San Diego in September 2012 and returned to Arizona in late August 2013. The applicant stated that while in San Diego, she received treatment and attempted to request all medical records from her doctor in San Diego. However, she was notified by that doctor that they would not release the records unless the applicant was able to present herself in person to show proof of identification.

The Board Secretary advised the Board that given the lack of current medical records, the Board will need to determine the course of action it will want to take at this point. The Board Secretary advised the Board that they could request medical records directly from the medical provider identified by the applicant or send a letter instructing the applicant to continue to attempt to obtain her medical records for the past year, and submit those records to the Board upon receipt.

Board member Mark Smalley asked if the applicant could have her current Arizona medical provider request the medical records from her San Diego doctor. The Board Secretary stated that it was something that could be relayed to the applicant. Board member Jason Hathcock asked if the Board could request the records using multiple methods at once to ensure the records are ultimately received.

**MOTION: A motion to (1) send a letter instructing the applicant to continue to attempt to obtain her medical records for the past year; (2) request that the applicant direct her current Arizona medical provider to request the records from her San Diego provider; and (3) that the Board request the medical records for the past year directly from the San Diego medical provider was made by J. Hathcock. Motion was seconded and passed unanimously. CORP 2013-65**

b. Disability Application #11-02 – Annual Review Update

The Board approved Application #11-02 for Ordinary Disability benefits on September 7, 2011. This matter is brought to the Board for an annual review pursuant to the Board's decision at its September 5, 2012 meeting that the applicant's case should be reviewed in one year. The applicant was advised via certified mail sent October 10, 2013, that the Board would hear the matter at this meeting.

The applicant was also 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 is necessary.

Since no response to the request for medical records in the Board's August 22, 2013 letter was received, the Board voted at its October 9, 2013 meeting to send the applicant a second letter requesting medical records and advising the applicant of the requirements of A.R.S. §38-886.01.D. The Board Attorney also offered to research whether a guardianship or conservatorship was on file. To date, no medical records have been received nor has a guardian or conservatorship been filed.

The Board Attorney advised the Board that it would be in the Board's best interest to obtain current medical records so an Independent Medical Evaluation (IME) doctor could review the records and provide the Board with an accurate evaluation, should the Board vote to seek a reevaluation of the applicant's condition.

**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 make an attempt to contact Applicant #11-02 telephonically to obtain the requested records was made by R. Lubitz. Motion was seconded and passed unanimously. CORP 2013-66**

c. 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 upon receipt of complete medical records from the providers listed on the application.

The Board Secretary initially sent certified letters requesting medical records from eight providers. Certified letters making a second request for records were sent to three providers on October 11, 2013, per the Board's direction at the October 9, 2013 meeting. The Board Secretary also contacted the applicant on October 11, 2013 to request her assistance in obtaining records. The applicant later advised that she had contacted all of the providers who haven't yet submitted records; one of the providers informed the applicant that she "doesn't usually release her records and case notes." No records have been received from that provider to date despite the second request letter and the applicant's request for release. Only one of the three providers who received a 'second request' letter has since provided records.

To date, records have been received from only five of the eight providers so the IME has not been performed. The first IME, with a psychologist, is tentatively scheduled for November 21, 2013, but will likely be postponed due to lack of complete records.

The Board Secretary advised the Board that the medical provider who is unwilling to release her medical records is also the doctor who is treating the applicant under Workers Compensation. The Board Attorney suggested that the Board make an attempt to obtain medical records from Workers Compensation to complete the request for medical records from this provider.

**MOTION: A motion to request medical records from Workers Compensation and postpone the IME until all requested medical records have been received was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-67**

#### **Review of Rules of Local Board Procedure:**

At the October 9, 2013 meeting, the Board discussed and voted to adopt the CORP Model Uniform Rules of Local Board Procedure to facilitate the Board's administration of claims and disputes.

The Board Chair directed that the adopted rules be placed on the agenda for this meeting so the full Board can review them. The Chair also confirmed with the Board Attorney that these rules were sufficient and could later be amended by the Board if needed.

Since the October 9 meeting, the Board Attorney identified conflicts within the rules that make it nearly impossible for the Board to comply with all provisions and deadlines for a Rehearing. The Board Secretary recommends that the Board consider amending Rule D.5, regarding the "Deadline for Rehearing" to require that a request for Rehearing be heard by the Local Board at its next scheduled meeting after any response or opposition is filed or, if no response or opposition is filed, within sixty (60) days after the request for Rehearing is filed. The proposed change is consistent with Rule C.6, regarding the "Deadline for Hearing a Contested Claim" and would allow sufficient time for the Local Board to receive any response or opposition to the Rehearing, and provide at least a 15-day notice by certified mail of the date set for the Rehearing.

**MOTION: A motion that the Board amend its Rules of Local Board Procedure as follows, pursuant to the Board's authority under A.R.S. §38-893.F, was made by R. Lubitz.**

#### **Rule D:**

5. **Deadline for Rehearing.** Any request for Rehearing shall be heard by the Local Board meeting in accordance with the Open Meeting Law ~~within fifteen (15) days~~ AT ITS NEXT SCHEDULED MEETING after any response or opposition to the request for Rehearing is filed, or if no response or opposition is filed, within ~~twenty (20)~~ SIXTY (60) days after the request for Rehearing is filed with the Local Board. These deadlines may be extended by the Local Board for good cause shown, including the need to secure additional opinions or testimony from medical or other experts.

Motion was seconded and passed unanimously. **CORP 2013-68**

**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. Michael R. Castro
- b. Anthony A. Saucedo

The Board Secretary noted for the record that the effective retirement date for Michael R. Castro was October 1, 2013; he will be paid retroactively for his October benefit if the Board approves the motion. Mr. Saucedo's effective CORP retirement date is November 1, 2013.

**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. Michael R. Castro was October 1, 2013, was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2013-69**

Michael R. Castro:                 \$3,819.24  
Anthony A. Saucedo:             \$1,639.58

**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. | Yolanda Becerra        | Coconino | 10/14/2013 |
| b. | Taji Bryant            | Maricopa | 10/21/2013 |
| c. | Dawn Burnell           | Maricopa | 07/22/2013 |
| d. | Mariah Chait           | Cochise  | 07/21/2013 |
| e. | Venisha Craig          | Maricopa | 09/30/2013 |
| f. | Shaun Dahl             | Maricopa | 10/14/2013 |
| g. | Dominique DePaul       | Maricopa | 10/14/2013 |
| h. | Jessica Munoz Felix    | Maricopa | 09/30/2013 |
| i. | Misty Gunion-Hernandez | Pima     | 10/06/2013 |
| j. | Lupe Hazel             | Maricopa | 09/30/2013 |
| k. | Angela Kortman         | Maricopa | 10/28/2013 |
| l. | Jonathan Lobato        | Mohave   | 07/29/2013 |
| m. | Rosario Miller         | Maricopa | 09/30/2013 |
| n. | Johnny Moeun           | Maricopa | 10/14/2013 |
| o. | Areli Montane          | Maricopa | 09/16/2013 |
| p. | Mattea O'Connell       | Maricopa | 09/30/2013 |
| q. | Zoe O'Coyne            | Greenlee | 09/03/2013 |
| r. | Danielle Reagan        | Maricopa | 10/14/2013 |

s.	April Scriven	Cochise	04/08/2013
t.	Stacy Soto	Maricopa	10/14/2013
u.	Ryan Staab	Coconino	07/22/2013
v.	Aaron Stepp	Pinal	10/13/2013
w.	Traci Woody	Maricopa	09/16/2013

The Board noted, for the record, that the physical examinations for applicants Yolanda Becerra, Dawn Burnell, Dominique DePaul, Lupe Hazel, Angela Kortman, Jonathan Lobato, Mattea O’Connell, Ryan Staab and Aaron Stepp 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 23 named employees requesting membership into CORP was made by J. Hathcock.** Motion was seconded and passed unanimously. **CORP 2013-70**

**Approval of Meeting Dates for 2014:**

Proposed meeting dates for 2014 were reviewed by the Board. All proposed meeting dates were on a Wednesday and scheduled to begin at 10:00 a.m. The Board Attorney advised the Board that she has a conflict with Wednesdays due to advising another local board meeting at the same time. The Board Chair requested that this item be tabled until the next scheduled meeting and that staff check conference room availability for Tuesdays.

**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. Staff identified 274 discrepancies statewide (members who are missing records in the Local Board office).

Instructions for processing new employees were presented at the Adult and Juvenile Management meeting on October 10, 2013. The instructions were then disseminated to county officers responsible for handling new employee processing and posted on the Board’s website.

The chief probation officers were asked to identify the staff responsible for new hire processing and exam referrals for their county. Four counties haven’t yet made that identification (Coconino, Graham, Greenlee and Pinal), so Board staff will contact them again. All other counties have begun the process of providing missing membership forms and exams, or referring officers for a physical exam.

**Call to Public:**

No members of the public addressed the Board.

The meeting was adjourned at 11:00 a.m.

Transcribed November 7, 2013