

**KENTUCKY PERSONNEL BOARD
MINUTES OF APRIL 12, 2024**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Eaves on April 12, 2024, at approximately 9:30 a.m., at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Board Personnel Present:

Michael Eaves, Chair
Mitchel Denham, Member
Morgan Ward, Member
Larry Gillis, Member
Rick Reeves, Member

Mark A. Sipek, Executive Director and Secretary
Gordon A. Rowe, Jr., Executive Director and Secretary
Gwen McDonald, Administrative Section Supervisor
Mickey Goff, Administrative Specialist III

Board Personnel Absent: Yvette Gentry, Member

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD MARCH 1, 2024.**

The minutes of the last Board meeting were circulated among the members during the Board meeting. Chair Eaves noted an addition to be made to the minutes on Item 10(c) to add "Vice" Chair as well as Chair be approved as appointing authorities for the Board. Chair Eaves asked for any other additions or corrections. Mr. Gillis moved to approve the minutes as corrected. Mr. Reeves seconded, and the motion carried 5-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR AND SECRETARY'S REPORT**

Mr. Sipek welcomed the Hon. Gordon A. Rowe, Jr. as the Board's new Executive Director and Secretary. Mr. Rowe and Mr. Sipek decided that Mr. Sipek would give this report to the Board. Mr. Rowe has reported before the Board in his previous role as General Counsel for the Personnel Cabinet and will be a welcome addition.

Mr. Sipek reported that Mickey Goff, an Administrative Specialist on the Board's staff, had resigned her position to accept a promotion to Paralegal Consultant with the Department of

Public Advocacy effective April 16, 2024. Mickey is an important part of the team and is responsible for many of the Orders reviewed by the Board and also regulations, some of which were being reviewed following Mr. Sipek's report. Mr. Sipek stated that Mickey would be missed and wished her good luck with her new position.

Mr. Sipek noted that House Bill 6, the budget bill, had passed with only a few line-item vetoes by the Governor, but nothing associated with the Personnel Board. Going forward, the Board's Fiscal Year 2025 and 2026 has money for hearing officers, to upgrade the video system in the remaining hearing room, and money to soundproof the Boardroom and two hearing rooms. Other Bills to be aware of as possibly impacting the Board are Senate Bill 290 and House Bill 509.

Other than the regulations listed on the Agenda, 101 KAR 1:325, which is the regulation regarding probationary periods, the Board had approved some changes a few months previously and that regulation is going forward through the process in the legislature.

At the last Board meeting, the Personnel Cabinet discussed its upcoming EEO Summit. Gwen McDonald attended the Summit and reported that there was some excellent information for Human Resources employees in state government.

A. Regulation Update:

1. 101 KAR 1:335, Employee Actions
2. 101 KAR 1:345, Disciplinary Actions
3. 101 KAR 1:375, Employee Grievances and Complaints
4. 101 KAR 1:395 (Repeal), Restoration from Military Duty

Mr. Sipek discussed the corrective changes made to the four (4) regulations noted above as a result of the passage of Senate Bill 153, which was passed during the 2023 legislative session and became effective on June 29, 2023. The changes were made with input from the Personnel Cabinet. We also discovered some additional items that needed to be changed. Mr. Sipek stated that if the Board approved the regulation changes, then they would be filed on Monday, April 15, 2024.

Mr. Denham moved that the Board approve the proposed changes to the Kentucky Administrative Regulations: 101 KAR 1:335, Employee Actions; 101 KAR 1:345, Disciplinary Actions; 101 KAR 1:375, Employee Grievances and Complaints; and repealing 101 KAR 1:395, Restoration from Military Duty and directed Board staff to file same and moved that the Board accept the revised Grievance Form. Mr. Ward seconded, and the motion carried 5-0.

B. Hiring of Administrative Specialist III position

Mr. Sipek discussed the need to hire someone to fill the vacant Administrative Specialist III position that would be vacated by Mickey Goff's transfer. Chair Eaves requested an overview of the hiring process, which was explained. The position is within the Board's cap.

Mr. Gillis moved that the Board approve the request to fill the Administrative Specialist III position. Mr. Reeves seconded, and the motion passed 5-0.

****Mr. Sipek swore in the Hon. Gordon A. Rowe, Jr. as the new Personnel Board Executive Director and Secretary.**

4. **REPORT OF THE PERSONNEL CABINET**

The Hon. Rosemary Holbrook, General Counsel and Executive Director of the Office of Personnel Cabinet's Legal Services, presented for the Cabinet.

The Hon. Rosemary Holbrook stated, on behalf of the Cabinet and Secretary Mary Elizabeth Bailey, thank you to Mr. Sipek for his service to the Board. Mr. Sipek made a difference during his time as Executive Director and wished him all the best on his retirement.

Ms. Holbrook congratulated Ms. Goff on her promotion and thanked her for her service.

Ms. Holbrook also congratulated Mr. Rowe on his appointment to Executive Director and Secretary of the Board. She noted they had worked together in the past at the Cabinet, and stated she was looking forward to working with him in this new capacity.

May 5 through 11, 2024, is national Public Service Recognition week. The first week of May is recognized to honor people who serve our nation as federal, state, county, local, and tribal government employees. The Cabinet has put together and emailed a communication a list of creative ways that agencies can recognize and thank their employees for their service.

The Governor's Minority Management Program, which has a twelve (12) month curriculum, is nearing completion, with twenty-three (23) participants graduating from the program on April 24. The program is expected to begin accepting applications for the next class soon.

The LivingWell Promise deadline for the Kentucky Employees Health Program (KEHP) is drawing near; the promise deadline is July 1, 2024.

The Governor's Ambassador Awards Program has finished accepting nominations. The awards recognize state employees who have done incredible things during the past year. One hundred sixteen (116) nominations were submitted. The awards ceremony will be held in June to announce the winners.

Lastly, Ms. Holbrook thanked the Board and staff for their proposed changes to the above regulations. It was a pleasure to collaborate on those changes and see them be submitted.

5. Interim Order to be Reviewed by Board

A. Knipper, Stephen v. Governor's Office (2019-037)
(Hearing Officer's Request)

Mr. Ward, having considered the record, including the Hearing Officer's Interim Order, Appellee's Exceptions, Appellant's Exceptions, Appellant's Response to Exceptions, and Appellee's Response to Exceptions, moved to accept the Final Order Rejecting the Hearing Officer's Finding of Fact, Conclusions of Law and Recommended Order, dismissing the appeal. Mr. Reeves seconded, and the motion carried 3-0, with Mr. Gillis and Mr. Denham abstaining from discussions and deliberations in this matter.

6. ORAL ARGUMENTS – None

7. CLOSED SESSION/RETURN TO OPEN SESSION

Mr. Reeves moved that the Board go into Executive Session for the purposes of discussions and deliberations regarding individual adjudications. Mr. Gillis seconded. Chair Eaves stated that a motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. [Pursuant to KRS 61.810(1)(c) and (j), the Kentucky Open Meetings Act, the Board retired into closed Executive Session and the attendees were required to leave the video conference, pursuant to KRS 61.826. Specific justification under the Kentucky Open Meetings Act for this action were as follows, because there were deliberations regarding individual adjudications as listed on the Board's Agenda for the April 12, 2024 meeting and discussions of proposed or pending litigation against the Board, specifically the Unemployment Insurance Claim filed by Stafford Easterling and the Open Record Requests filed by Stafford Easterling.](10:10 a.m.)

Mr. Ward moved to return to open session. Mr. Gillis seconded, and the motion carried 5-0. (11:46 a.m.)

8. **Motions to be Decided**

A. **Parmley, Amanda v. Transportation Cabinet (2017-234)**

--Appellant's Motion to Substitute Corrected Exceptions to Findings of Fact, Conclusions of Law and Recommended Order Issued February 29, 2024
--Appellant's Motion for Leave to File Reply to Appellee's Response to Appellant's Exceptions

Mr. Denham moved that the Appellant's Motion to Substitute Corrected Exceptions to Findings of Fact, Conclusions of Law and Recommended Order Issued February 29, 2024, be **GRANTED**. Chair Eaves seconded and the motion passed 4-0, with Mr. Gillis abstaining.

Mr. Denham moved that Appellant's Motion for Leave to File Reply to Appellee's Response to Appellant's Exceptions be **DENIED**. Chair Eaves seconded, and the motion passed passed 4-0, with Mr. Gillis abstaining.

Mr. Denham moved that the Appellant's Motion for Oral Argument be **DENIED**. Chair Eaves seconded, and the motion passed passed 4-0, with Mr. Gillis abstaining.

9. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments, where applicable.

A. **Berry, Shawn v. Justice and Public Safety Cabinet, Department of Corrections and Personnel Cabinet (2022-059)**

Mr. Ward, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Chair Eaves seconded, and the motion carried 2-0, with Mr. Gillis, Mr. Reeves, and Mr. Denham abstaining.

B. **Deaton, Tiler v. Public Protection Cabinet and Personnel Cabinet (2023-135)**

Mr. Ward, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Mr. Denham seconded, and the motion carried 4-0, with Mr. Gillis abstaining.

C. Hall, Justin v. Transportation Cabinet (2023-084)

Mr. Gillis, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, accept the recommended order dismissing the appeal. Mr. Reeves seconded, and the motion carried 5-0.

D. Hockensmith, Floyd v. Justice and Public Safety Cabinet, Department of Corrections (2023-116)

Mr. Gillis, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Mr. Ward seconded, and the motion carried 4-0, with Mr. Denham abstaining.

E. Mason, Adrienne v. Cabinet for Health and Family Services and Personnel Cabinet (2020-038)

Mr. Reeves, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order sustaining the appeal to the extent therein. Chair Eaves seconded, and the motion carried 3-0, with Mr. Denham and Mr. Gillis abstaining.

F. Parmley, Amanda v. Transportation Cabinet (2017-234)

Mr. Denham, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, Appellant's Exceptions to Findings of Fact, Conclusions of Law, and Recommended Order Issued February 29, 2024, Appellant's Motion for Oral Argument, Appellee's Response to Appellant's Exceptions to Findings of Fact, Conclusions of Law and Recommended Order, and Appellant's Motion to Substitute Corrected Exceptions to Findings of Fact, Conclusions of Law and Recommended Order Issued February 29, 2024, moved to defer this matter to the next meeting of the Board. Chair Eaves seconded, and the motions carried 4-0, with Mr. Gillis abstaining.

G. Rayan, Adel v. Cabinet for Health and Family Services (2018-254)

Mr. Ward, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, Appellant's Exceptions and Request for Oral Argument, Memorandum in Support of Appellant's Exceptions, Appellee's Exceptions to March 6, 2024 Recommended Order, Appellant's Response to Appellee's Exceptions, and Appellee's Response to Appellant's Exceptions, moved to **GRANT** the Appellant's request for oral argument

and moved to defer this matter to the next meeting of the Board. Chair Eaves seconded, and the motions carried 3-0, with Mr. Denham and Mr. Gillis abstaining.

H. **Strong, Toy v. Justice and Public Safety Cabinet, Kentucky State Police (2023-168)**

Mr. Gillis, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Mr. Reeves seconded, and the motion carried 4-0, with Mr. Denham abstaining.

I. **Taylor, Edith v. Cabinet for Health and Family Services (2021-081)**

Mr. Reeves, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Mr. Ward seconded, and the motion carried 3-0, with Mr. Denham and Mr. Gillis abstaining.

Show Cause Order – No Response Filed – Appeal Dismissed

J. **Pendygraft, Christopher v. Justice and Public Safety Cabinet, Department of Corrections (2023-125)**

Mr. Gillis moved to find that the Appellant has not responded to the show cause order and that the recommended order be accepted dismissing the appeal for failure to timely prosecute the appeal. Chair Eaves seconded, and the motion carried 4-0, with Mr. Denham abstaining.

Show Cause Orders – No Response Filed – Dismissed as Withdrawn

K. **Foreman, Timothy v. Transportation Cabinet (2023-089)**

L. **Stone, Vickie v. Cabinet for Health and Family Services (2023-069)**

Mr. Gillis moved to accept the recommended orders and to dismiss the appeal as withdrawn. Mr. Reeves seconded, and the motion carried 5-0 on Item "K", and the motion carried 4-0 on Item "L", with Mr. Denham abstaining.

10. WITHDRAWALS

Mr. Gillis moved to accept the following withdrawals *en bloc* and to dismiss the appeals. Chair Eaves seconded, and the motion carried 4-0, with Mr. Denham abstaining.

- A. Perlman, Patrice v. Tourism, Arts and Heritage Cabinet, Kentucky Heritage Council (2024-004)
- B. Shell, Jeremy v. Justice and Public Safety Cabinet, Department of Juvenile Justice (2023-142)

11. SETTLEMENTS

Mr. Ward moved to issue settlement orders and to sustain the appeals to the extent set forth in the settlements as submitted by the parties. Chair Eaves seconded, and the motion carried 3-0, with Mr. Gillis and Mr. Denham abstaining.

- A. Barnes, Oda v. Cabinet for Health and Family Services (2021-088)(Mediation)
- B. Billings, Angela v. Cabinet for Health and Family Services (2023-141)(Mediation)
- C. Jude, Roy v. Justice and Public Safety Cabinet, Department of Criminal Justice Training (2022-023)

10. OTHER

- A. Case Load Reduction

- 1. Backlog, status of appeals, plan of action

Mr. Sipek stated his goal was to finish everything that has been heard before he retires. There were three (3) cases to be decided as well as some motions to be ruled on, and these could be expected to see them on either the May or June agendas. His advice going forward was to not allow a hearing officer to hear a second case without having ruled on the first matter that was heard so that hearing officers would not have a backlog of cases awaiting decisions.

- B. New Business: Gordon A. Rowe, Jr. - Signature Authority

Mr. Gillis questioned the process of obtaining the RFPs for Fiscal Year (FY) 2024. Ms. McDonald stated that the process has been started to hire contract hearing officers. The Board agreed that RFPs for hearing officer personal service contracts should be submitted for the 2024-25 Fiscal Year only.

C. New Business: Mark A. Sipek – Last Board Meeting

Mr. Rowe stated he was looking forward to working with the Board and that he appreciated what Mr. Sipek had done and he had been very helpful with the transition. Mr. Denham, Mr. Ward, and Mr. Reeves thanked Mr. Sipek for his service to the Board, particularly over the past few months, and extended their best wishes for his retirement.

The Board thanked Mickey Goff for her service to the Board and wished her well in her new position.

D. New Business: Gordon A. Rowe, Jr. Signature Authority

Mr. Gillis moved that the Board grant signature authority to Executive Director Gordon A. Rowe, Jr. as designated by Chair Eaves and to be turned into the Personnel Cabinet. Mr. Reeves seconded, and the motion passed 5-0. Signature Authority forms were signed to delegate Mr. Rowe as appointing authority to sign for the Board as its Executive Director and Secretary and to remove Mr. Sipek's signature authority effective May 1, 2024.

E. Next Board Meeting: **May 10, 2024**

There being no further business, Mr. Gillis moved to adjourn the meeting. Mr. Reeves seconded, and the motion passed 5-0. (12:04 p.m.)

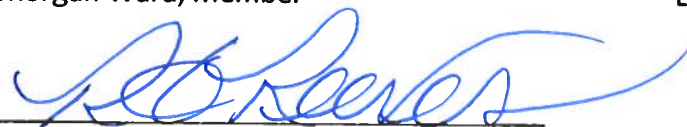
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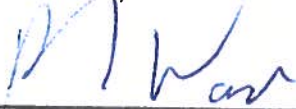
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