KENTUCKY PERSONNEL BOARD
MINUTES OF JANUARY 14, 2022

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Hicks on January 14, 2022, at approximately 9:30 a.m., at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Board Personnel Present:

Joshua Hicks, Chair
Beverly Griffith, Vice Chair
Richard Waite, Member
Tanya Lawrence, Member
McKinnley Morgan, Member
Yvette Gentry, Member
Mark A. Sipek, Executive Director and Secretary
Stafford Easterling, General Counsel
Gwen McDonald, Administrative Section Supervisor
Mickey Goff, Administrative Specialist

Not present: Mark O. Haines, Member

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD DECEMBER 10, 2021.**

The minutes of the last Board meeting had been previously circulated among the members. Chair Hicks asked for any additions or corrections. Mr. Waite moved to approve the minutes as submitted. Ms. Griffith seconded, and the motion carried 5-0. The Board members signed the minutes.

(Chair Hicks did not vote on issues or cases unless otherwise noted.)

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

Mr. Sipek notified the Board of Connie Lashbrook's leave due to injury.

Mr. Sipek informed the Board regarding the Board's budget concerns. He addressed the Board's shortage of funds at the end of Fiscal Year 2021, which was carried over into the Fiscal Year 2022 funding. Due to this shortfall, Mr. Sipek and Mr. Easterling will be handling all evidentiary hearings for the foreseeable future, a task made easier in the short term as many hearings scheduled for January are being rescheduled due to weather and other factors. The Board is requesting additional funding from the legislature for the remainder of the current fiscal

year in addition to an increase in funding for the next two fiscal years. Mr. Easterling stated that an increase was needed so the Board can continue to provide services on behalf of the merit system and all KRS Chapter 18A employees. Mr. Easterling requested the Board contact the legislature seeking their support for this request for increased funding. Mr. Sipek and Mr. Easterling answered questions from the Board.

Mr. Sipek updated the Board on the problems with Personnel Board's website, specifically on the issue of making the Final Orders of the Board more searchable. This issue was addressed previously by Mr. Waite. Mr. Sipek confirmed that Ms. Goff has reached out to Kentucky Interactive, who maintains the website for state agencies, to see how this issue can be resolved.

4. REPORT OF THE PERSONNEL CABINET

The Hon. Gordon Rowe, Executive Director of the Office of Legal Services, presented on behalf of the Cabinet. The Cabinet has been meeting with the legislature on various proposed regulations and looks forward to discussing these matters further during future Board meetings.

The Cabinet continues to follow COVID guidelines and update employees on any changes.

The Cabinet is happy to announce that both proposed budgets include raises for state employees and also fully fund the annual actuarially required pension contribution. More information will be available after the legislature passes the Budget in its final form.

The Budget's current form also incorporates additional compensation incentives for some state employees, specifically including Kentucky State Police Troopers and Social Workers.

Lastly, Mr. Rowe informed the Board of Donna Shelton's hiring. Ms. Shelton will assume the Ombudsman duties previously performed by Larry Gillis. This is particularly exciting because the Mediation Program will be resumed, and mediator training will begin.

Mr. Waite questioned whether state government was reducing office space due to telecommuting of employees. Mr. Rowe could not speak to this issue directly. Commissioner Mary Elizabeth Bailey stated she had been working with agencies to assess their space needs. However, the overall decision lies with the Finance and Administration Cabinet.

Mr. Waite addressed the convenience and availability of state offices due to the telecommuting employees, especially given the different time zone issues. Commissioner Bailey stated that agencies that are not 24-7 agencies have core hours of 8:00 a.m. to 4:30 p.m., regardless of time zones. No other adjustments or modifications to core hours have been made by agencies due to telecommuting.

Lastly, Mr. Waite inquired whether state employees could be charged for their healthcare plans based on how many years of service the employee has with the Commonwealth rather than the current plan premiums for single, parent and child, and family plans. Mr. Rowe stated that these premiums are based on risk factors.

5. MOTIONS

A. Brown, Cathy v. Cabinet for Health and Family Services (19-284)

--Appellee's Motion to Consider Exceptions
--Appellee's Supplement to Motion to Consider Exceptions
--Appellant's Response to Motion to Consider Exceptions and Supplement to the Motion

Present for oral arguments on the motion were counsel for the Appellee, the Hon. Olivia Peterson and the Hon. Ashley Kennedy, and counsel for the Appellant, Cathy Brown, the Hon. Paul Fauri. After presentation of their oral arguments on the motion, the parties answered questions from the Board.

Mr. Waite moved that the Board go into Closed Executive Session to consider the motion. Ms. Griffith seconded. Chair Hicks stated that a motion had been made and seconded for the Board to retire into closed Executive Session and 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 January 14, 2022 meeting, including discussion on the motion. (10:28 a.m.)

Mr. Waite moved to return to open session. Ms. Griffith seconded, and the motion carried 5-0. (10:49 a.m.)

Chair Hicks stated that the Appellee's Motion to Consider Exceptions was **GRANTED** by the Board by acclamation.

6. ORAL ARGUMENTS

A. Godsey, Ronald v. Justice and Public Safety Cabinet/DOCJT and Personnel Cabinet (18-256)

(Appellant's Request)

Present for oral arguments were counsel for the Appellant, the Hon. Paul Fauri, counsel for the Appellee Personnel Cabinet, the Hon. Rosemary Holbrook, and counsel for the Appellee

Justice and Public Safety Cabinet, Department of Criminal Justice Training, the Hon. Deaidra Douglas. After presenting oral arguments, the parties answered questions from the Board.

7. CLOSED SESSION/RETURN TO OPEN SESSION

Mr. Waite moved that the Board go into Executive Session for the purposes of discussions and deliberations regarding individual adjudications. Ms. Griffith seconded. Chair Hicks 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)(j), the Kentucky Open Meetings Act, the Board retired into closed Executive Session and 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 January 14, 2022 meeting.] (11:31 a.m.)

Mr. Waite moved to return to open session. Ms. Griffith seconded, and the motion carried 5-0. (11:58 a.m.)

8. 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. Brown, Cathy v. Cabinet for Health and Family Services (19-284)

Ms. Griffith, having considered the record, including the Executive Director's letter to the Appellee, re: Exceptions Untimely Filed, Appellant's Objection to the Filing of Exceptions, Appellee's Motion to Consider Exceptions, Appellee's Supplement to Motion to Consider Exceptions, Appellant's Response to Motion to Consider Exceptions and Supplement to the Motion, and oral arguments on the motion, moved to defer this matter to the February meeting of the Board. Mr. Waite seconded, and the motion carried 5-0, with Mr. Morgan recusing.

B. Godsey, Ronald v. Justice and Public Safety Cabinet/DOCJT and Personnel Cabinet (18-256)

Ms. Griffith, having considered the record, including the Appellant's Exceptions and Request for Oral Argument, Appellee Personnel Cabinet's Response to Exceptions, Appellee Justice and Public Safety Cabinet, Department of Criminal Justice Training's Response to Exceptions, and oral arguments, moved to defer this matter to the February meeting of the Board. Mr. Waite seconded, and the motion carried 5-0, with Ms. Lawrence abstaining.

C. **Wade, Kenya v. Justice and Public Safety Cabinet/Corrections (19-279)**

Mr. Waite, having considered the record, including Appellee's Exception, moved to accept the recommended order dismissing the appeal. Ms. Griffith seconded, and the motion carried 5-0.

Show Cause Orders – No Response Filed – Appeals Dismissed

D. Pike, Lane v. Justice and Public Safety Cabinet/Corrections (20-224)
E. Vasquez, Victoria v. Justice and Public Safety Cabinet/Corrections (20-166)

Mr. Waite moved to accept the recommended orders and to dismiss the appeals for failure to prosecute the appeals. Ms. Gentry seconded, and the motion carried 5-0.

Show Cause Orders – No Response Filed – Appeals Dismissed as Withdrawn

F. Boleware, Brittney v. Cabinet for Health and Family Services (20-071)
G. Carter, Lucas v. Energy and Environment Cabinet (20-013)
H. Rister, Robert v. Justice and Public Safety Cabinet/Corrections (19-170)
I. Willis, Janice v. Energy and Environment Cabinet (19-191)

Ms. Gentry moved to accept the recommended orders and to dismiss the appeals as withdrawn. Ms. Lawrence seconded, and the motion carried 5-0

9. **WITHDRAWALS**

Ms. Griffith moved to accept the following withdrawals and to dismiss the appeals. Ms. Gentry seconded, and the motion carried 5-0.

A. Bartilow, Gayle v. Education and Workforce Development Cabinet (21-124)
B. Campbell, Kristy v. Justice and Public Safety Cabinet/DJJ (20-240)
C. Chinn, Michaela v. Cabinet for Health and Family Services and Personnel (21021)
D. Cook, Melissa v. Cabinet for Health and Family Services and Personnel (21-130)
E. Parido, Megan v. Cabinet for Health and Family Services and Personnel Cabinet (21-087)
F. Sanders, Joseph v. Transportation (21-066)

10. **SETTLEMENTS**

Mr. Waite moved to issue settlement orders and to sustain the appeals to the extent set forth in the settlements as submitted by the parties. Ms. Griffith seconded, and the motion carried 5-0.

A. Fint, Amy v. Cabinet for Health and Family Services and Personnel (21-138)

10. **OTHER**

A. Budget Discussion

(Discussed by Mark Sipek in his remarks above.)

B. Administrative Regulations

Administrative Regulations were presented to the legislative committee. Mr. Sipek stated that, due to Mr. Easterling's persuasive presentation, have been accepted. Staff are waiting for final confirmation that should arrive soon.

There being no further business, Mr. Waite moved to adjourn the meeting. Ms. Griffith seconded, and the motion carried 5-0. (12:07 p.m.)

Joshua Hicks, Chair

Beverly H. Griffith, Vice Chair

Richard Waite, Member

Tanya Lawrence, Member

McKinnley Morgan, Member

Yvette Gentry, Member