



STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

JON S. CORZINE
GOVERNOR

ROLANDO TORRES, JR.
COMMISSIONER

Merit System Board

**MINUTES OF REGULAR MEETING OF
THE MERIT SYSTEM BOARD
MARCH 14, 2007**

**Rolando Torres, Jr., Chairman
Flavella Branham
Margaret E. L. Howard**

MARCH 14, 2007

A regular meeting of the Merit System Board was held on Wednesday March 14, 2007, in Trenton, New Jersey.

PRESENT: Chairman Rolando Torres, Jr., Merit System Board Members, Flavella Branham and Margaret E. L. Howard and Pamela Ullman, Deputy Attorney General; and Henry Maurer, Director, Division of Merit System Practices and Labor Relations.

In accordance with L.1975, c.231, Chairman Rolando Torres Jr., opened the meeting with the following statement:

Notice of this meeting was filed with the Secretary of State and sent to the Trentonian, Trenton Times, Courier-Post and Star Ledger on December 12, 2005, and posted at the Department of Personnel, 3 Station Plaza, Trenton, New Jersey.

All other actions were by unanimous vote unless otherwise specified.

CONFIDENTIAL APPOINTMENTS

The Merit System Board recorded the following Confidential Appointments under N.J.S.A. 11A:3-4(h):

Mr. Wali Abdul-Salaam, appointed as a Confidential Secretary, Department of the Public Advocate, effective February 3, 2007, salary of \$101,326.50 per annum.

Mr. Brendan Gill, appointed as a Confidential Assistant, Department of Education, effective February 3, 2007, salary of \$99,000.00 per annum.

SECTION A – HEARING MATTERS

A-1 SETTLEMENTS

In the Matter of Vito Cammisa
City of Trenton
Back pay

In the Matter of Cynthia Doe
New Lisbon Developmental Center
Department of Human Services
Resignation not in good standing

In the Matter of Joseph Hetzel
County of Gloucester
Sheriff's Department
Suspension

In the Matter of Timothy McNichols
Township of Berkeley
Department of Administrative Services
Removal

In the Matter of Paul E. Michelfelder
County of Camden
Department of Public Safety and Juvenile Justice
Suspension

In the Matter of Anjeanette Monroig

Township of Irvington
Police Department
Removal

In Matter of Alfonso Morales
County of Hudson
Department of Public Resources
Suspension

In Matter of William O'Brien
City of Bayonne
Department of Business Administration
Removal

In Matter of Michael Orloski
City of Newark
Fire Department
Fine

In Matter of Jason Sabol
County of Mercer
Department of Public Safety
Suspension

**RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE IN THE
ABOVE CASES – SETTLEMENT**

ACTION: The Merit System Board acknowledged the settlements.

Kristy Bowser, County Correction Officer, County of Mercer, Department of Public Safety, 10-day suspension on charges of chronic and excessive absenteeism and conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge – Uphold the charges. With regard to the penalty, the ALJ indicated that the appellant’s five-day suspension for a prior infraction to be the sufficient penalty for the current matter. However, the ALJ did not have the jurisdiction to consider the circumstances underlying the five-day suspension since that matter constituted minor discipline and is not appeal able to the Board.

ACTION: The Merit System Board modified the recommendation of the Administrative Law Judge and imposed a five-day suspension.

A-3 TIMOTHY BRADLEY

Timothy Bradley, appeals the decision of the Division of Selection Services which upheld the appointing authority’s bypass of his name on the eligible list for Police Sergeant (PM2520A), City of East Orange.

Recommendation of the Administrative Law Judge – Dismiss the appeal and uphold the bypass of the appellant’s name on the eligible list for Police Sergeant (PM2520A), City of East Orange.

ACTION: The Merit System Board affirmed the recommendation of the Administrative Law Judge.

A-4 RANDY CLIVER

Randy Cliver, County Correction Officer, County of Mercer, Department of Public Safety, 10-day suspension on charges of chronic and excessive absenteeism and conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge – Modify the 10-day suspension to a five-day suspension.

ACTION: The Merit System Board modified the recommendation of the Administrative Law Judge and upheld the 10-day suspension.

A-5 SCOTT HAMLET

Scott Hamlet, Sheriff's Officer, County of Burlington, Sheriff's Department, 12-day suspension on charges of incompetency, inefficiency, or failure to perform duties, conduct unbecoming a public employee and violation of Sheriff's Department policies and procedures.

Recommendation of the Administrative Law Judge – Modify the 12-day suspension to a five-day suspension.

ACTION: The Merit System Board affirmed the recommendation of the Administrative Law Judge.

A-6 JOHN ONYEMA

John Onyema, Senior Security Guard, Newark School District, 30-day suspension on charges of neglect of duty and other sufficient cause.

Recommendation of the Administrative Law Judge – Modify the 30-day suspension to a 15-day suspension.

ACTION: The Merit System Board modified the recommendation of the Administrative Law Judge to a 90-working day suspension.

A-7 CHARLES EGWUATU

Charles Egwuatu, Human Services Assistant, Greystone Park Psychiatric Hospital, Department of Human Services, removal effective August 6, 2005, on charges of sleeping while on duty, neglect of duty which could result in danger to persons/property and falsification.

Recommendation of the Administrative Law Judge – Uphold the removal.

ACTION: The Merit System Board affirmed the recommendation of the Administrative Law Judge.

A-8 SHYLAINÉ LOUISSAINT

Shylaine Louissaint, Human Services Technician, Greystone Park Psychiatric Hospital, Department of Human Services, removal effective August 4, 2005, on the charge of threatening and intimidating a fellow employee on State property.

Recommendation of the Administrative Law Judge – Modify the removal to a six-month suspension.

ACTION: The Merit System Board reversed the recommendation of the Administrative Law Judge and upheld the removal.

A-9 D. ZEOGAR WILSON

D. Zeogar Wilson, Human Services Assistant, Trenton Psychiatric Hospital, Department of Human Services, removal effective July 27, 2005, on charges of neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property and sleeping while on duty. This matter was held over from the January 31, 2007 Merit System Board meeting for testimony summary.

Recommendation of the Administrative Law Judge – Reverse the removal.

ACTION: The Merit System Board reversed the recommendation of the Administrative Law Judge and upheld the removal.

SECTION B – MISCELLANEOUS MATTERS

B-1 KENYETTA GILES

Kenyetta Giles appeals the removal of her name from the C2088F eligible list for the title of Juvenile Detention Officer, Camden County of the basis of psychological unfitness.

ACTION: The Merit System Board directed that this appeal be denied.

B-2 MICHAEL DININNO

Michael Dininno appeals his rejection as a Police Officer by the City of Passaic and its request to remove his name from the eligible list for Police Officer (S9999F) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Merit System Board directed that this appeal be granted.

B-3 BILLY DOTY

Billy Doty appeals his rejection as a Police Officer by City of Passaic and its request to remove his name from the eligible list for Police Officer (S9999F) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Merit System Board directed that this appeal be denied.

B-4 ISAAC FELICIANO

Isaac Feliciano, represented by William Maniatis, Esq., and Paul Schlemmer, Esq., appeals his rejection as a Fire Fighter candidate by the City of Paterson and its request to remove his name from the eligible list for Fire Fighter on the basis of medical unfitness.

ACTION: The Merit System Board directed that this appeal be granted.

B-5 ROBERT J. ROWLAND

Robert J. Rowland appeals his rejection as a Police Officer by Jersey City and its request to remove his name from the eligible list for Police Officer (S99994) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Merit System Board directed that this appeal be held over.

B-6 JAMES STRAIN IV

James Strain IV appeals his rejection as a Police Officer by Winslow Township and its request to remove his name from the eligible list for Police Officer (S9999F) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Merit System Board directed that this appeal be granted.

B-7 ANTHONY ANDERSON

Anthony Anderson, a Senior Correction Officer at the New Jersey State Prison, Department of Corrections, represented by Justin Murphy, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be granted.

B-8 NEERU CHOPRA

Neeru Chopra, a Supervising Program Development Specialist, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be granted.

B-9 VANESSA V. DAVIS

Vanessa V. Davis, a Senior Correction Officer with Northern State Prison, Department of Corrections, represented by Henry J. Cistrelli, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be denied.

B-10 EVELYN EGGERT

Evelyn Eggert, a Health Care Services Evaluator/Nurse with the Division of Health Care Quality and Oversight, Department of Health and Senior Services, represented by David A. Gies, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be denied.

B-11 RONALD LEE

Ronald Lee, a Mechanic with Ann Klein Forensic Center, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be denied.

B-12 LINDA LONG

Linda Long, a Social Worker 2, Corrections, Bilingual in Spanish and English, represented by Benjamin A. Spivack, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be granted.

B-13 EDWIN RODRIGUEZ

Edwin Rodriguez, a Senior Youth Worker with the Department of Children and Families, represented by Victoria S. Kavanagh, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Merit System Board directed that this appeal be granted.

B-14 JOSETTE MURPHY

Josette Murphy appeals the decision of the Division of Human Resource Information Services which found that the appointing authority had presented a sufficient basis to remove her name from the eligible list for Police Officer (S9999F), City of Newark on the basis of an unsatisfactory driving record.

ACTION: The Merit System Board directed that this appeal be denied.

B-15 VIOLATIONS CLERK (M1045H), CITY OF PASSAIC

The City of Passaic requests permission not to make an appointment from the September 5, 2006 certification for Violations Clerk (M1045H).

ACTION: The Merit System Board granted the request for an appointment waiver and assessed selection costs in the amount of \$2,048.

B-16 HAROLD HAWKINS

Harold Hawkins, a Senior Correction Officer, Juvenile Justice with the Juvenile Justice Commission, petitions the Merit System Board for reconsideration of the final decision, rendered May 10, 2006, which upheld his removal on charges, effective April 1, 2005.

ACTION: The Merit System Board directed that this request for reconsideration be denied.

B-17 PEDRO GONZALEZ

The Superior Court of New Jersey, Appellate Division, has remanded the matter of the removal of Pedro Gonzalez from his Senior Correction Officer position to the Merit System Board to allow Gonzalez the opportunity to contest the penalty.

ACTION: The Merit System Board referred the matter to the Office of Administrative Law.

B-18 CARL FERGUSON

The appeals of Carl Ferguson, a Juvenile Detention Officer with Passaic County, of his 20-day suspension, on charges, and removal effective April 1, 2004, on charges, were heard by Administrative Law Judge Leslie Z. Celentano (ALJ), who rendered her initial decision on January 12, 2007. At its meeting on February 28, 2007, the Merit System Board (Board) adopted the ALJ's recommendation to reverse the 20-day suspension. However, the Board did not adopt the ALJ's recommendation to modify the removal to a 30-day suspension. Rather, the Board imposed a three-month suspension. The proposed decision is now submitted for the Board's review.

ACTION: The Merit System Board adopted the decision.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	Margaret E.L. Howard	(Yes)

B-19 ANTHONY MATARAZZO

The appeal of Anthony Matarazzo, a County Correction Officer with the County of Hudson, Department of Corrections, of his six-day, 10-day and 30-day suspensions and removal effective December 23, 2005, on charges, was heard by Administrative Law Judge James A. Geraghty (ALJ), who rendered his initial decision on January 12, 2007. At its meeting on February 28, 2007, the Merit System Board adopted the ALJ's recommendation to uphold the six-day, 10-day and 30-day suspensions and removal. The proposed final decision is now submitted for the Board's review.

ACTION: The Merit System Board adopted the final decision.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	Margaret E.L. Howard	(Yes)

B-20 RICKY PORTER

The appeal of Ricky Porter, a Laborer with the County of Essex, of his removal effective August 5, 2005, on charges, was heard by Administrative Law Judge James A. Geraghty (ALJ), who rendered his initial decision January 22, 2007. At its meeting on February 28, 2007, the Merit System Board (Board), adopted the ALJ's recommendation to reverse the removal. The proposed decision is now submitted for the Board's review.

ACTION: The Merit System Board adopted the decision.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	Margaret E.L. Howard	(Yes)

B-21 KEVIN WILLIAMS

The appeal of Kevin Williams, a Laborer with the County of Essex, of his removal, effective August 5, 2005 on charges, was heard by Administrative Law Judge Richard McGill (ALJ), who rendered his initial decision on January 25, 2007. At its meeting on February 28, 2007, the Merit System Board (Board) adopted the ALJ's recommendation to uphold the appellant's removal. The proposed final decision is now submitted for the Board's review.

ACTION: The Merit System Board adopted the final decision.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	Margaret E.L. Howard	(Yes)

B-22 JEFFREY DAVIS

Jeffrey Davis appeals the determination of the Division of Selection Services that found that, per the substitution clause for education, he did not meet the experience requirements for the promotional examination for Supervisor Central Warehouse (PS0330H), Department of Health and Senior Services.

ACTION: The Merit System Board directed that this appeal be denied.

B-23 JOSEPH DELMAR

Joseph Delmar appeals the determination of the Division of Selection Services which found him ineligible for the open competitive examination for Director, Community Development Program (C4116H), Gloucester County.

ACTION: The Merit System Board directed that this appeal be denied.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	Margaret E.L. Howard	(Yes)

B-24 GORDON FISHER

Gordon Fisher appeals the determination of the Division of Selection Services which found that he did not meet the experience requirements for the promotional examination for Assistant Engineer in Charge of Maintenance 1 (PS0960I), Bayside State Prison.

ACTION: The Merit System Board directed that this appeal be denied.

B-25 PATRICIA MCCARTHY

Patricia McCarthy appeals the determination of the Division of Selection Services which found that she did not meet the experience requirements for the promotional examination for Supervisor of Patient Accounts (PC1368G), Hudson County.

ACTION: The Merit System Board directed that this appeal be denied.

B-26 MARK STEIN AND SHARON TIESI

Mark Stein and Sharon Tiesi appeal the determinations of the Division of Selection Services that found that they did not meet the experience requirements for the promotional examination for Management Improvement Specialist 1 (PS9711K), Department of Human Services.

ACTION: The Merit System Board directed that these appeals be denied.

B-27 REMO DIPAOLO

Remo DiPaolo appeals his score for the oral portion of the examination for Police Captain (PM3523G), Hamilton Township.

ACTION: The Merit System Board directed that this appeal be denied.

B-28 MICHAEL FLAHERTY

Michael Flaherty appeals his score for the oral portion of the examination for Police Captain (PM3557G), Trenton.

ACTION: The Merit System Board directed that this appeal be denied.

B-29 ROBERT FLORA

Robert Flora appeals his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-30 GEORGE JOHNS

George Johns appeals his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-31 GREGORY LALLO

Gregory Lallo appeals his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-32 RICHARD LAPINSKY

Richard Lapinsky appeals his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-33 MICHAEL O'REILLY

Michael O'Reilly appeals his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-34 MICHAEL PROBASCO

Michael Probasco appeals his score for the oral portion of the examination for Police Captain (PM2548G), Pennsauken.

ACTION: The Merit System Board directed that this appeal be denied.

B-35 MARLO TAYLOR

Marlo Taylor appeals her score for the Correction Officer Video Test portion of the Law Enforcement Services Examination (LEE) (S9999F).

ACTION: The Merit System Board directed that this appeal be denied.

B-36 EVELYN SEAMAN

Evelyn Seaman appeals the passing point and the questions on the promotional examination for Senior Right of Way Negotiator (PS8382T), Department of Transportation.

ACTION: The Merit System Board directed that this appeal be denied.

B-37 RICHARD BOREK AND HUONG QUANG

Richard Borek and Huong Quang appeal the administration of the Entry Level Law Enforcement (S9999H) examination for various titles.

ACTION: The Merit System Board directed that these appeals be denied.

B-38 SONFONYA CLARK AND GARY REED

Sonfonya Clark and Gary Reed appeal the administration of the Entry Level Law Enforcement (S9999H) examination for various titles.

ACTION: The Merit System Board directed that these appeals be denied.

B-39 JOSE CRUZ

Jose Cruz appeals the test administration and his score of the oral portion of the promotional examination for Fire Officer 3 (PM3501H), Jersey City.

ACTION: The Merit System Board directed that this appeal be denied.

B-40 LESLIE MUNIZ-JUSINSKI

Leslie Muniz-Jusinski appeals the denial of her being allowed to take the open competitive examination for Investigator (Bilingual in Spanish and English) (S0544H) due to her late arrival at the examination center.

ACTION: The Merit System Board directed that this appeal be denied.

B-41 CHILD SUPPORT SUPERVISOR (PC0026J)

The Cumberland County Board of Social Services requests amendment of the promotional announcement for Child Support Supervisor (PC0026J).

ACTION: The Merit System Board granted the request.

B-42 INVESTIGATOR 1, NEW JERSEY MOTOR VEHICLE COMMISSION

The Director, Division of Human Resource Management (HRM) requests that the reallocation of the Investigator 1, New Jersey Motor Vehicle Commission title to the noncompetitive division of the career service be extended for an additional nine months. This matter was held over from the February 28, 2007 Board meeting for further review.

ACTION: The Merit System Board granted the request in part.

B-43 MERIT SYSTEM BOARD MINUTES

The Minutes of the Merit System Board Meeting of February 28, 2007 are submitted for adoption.

ACTION: The Merit System Board adopted the minutes of its meeting of February 28, 2007.

VOTE: **Rolando Torres, Jr.** **(Abstained)**
 Flavella Branham **(Yes)**
 Margaret E.L. Howard **(Yes)**

B-44 FIRE FIGHTERS, CITY OF PLEASANTVILLE

The City of Pleasantville requests the removal of the names of 10 eligibles from the Fire Fighter (M2265E), City of Atlantic City eligible list.

ACTION: The Merit System Board directed that this appeal be denied.

B-45 NANCY LUYS TERBORG

Nancy Luysterborg appeals the determination of the Division of Selection Services that, per the substitution clause for education, she was below the minimum requirements in experience for the promotional examination for Contract Administrator 1 (PS8469H), Department of Health and Senior Services.

ACTION: The Merit System Board directed that this appeal be denied.

B-46 MATTHEW RADECKY

The Township of Pohatcong requests relaxation of N.J.A.C. 4A:4-7.1A(c) so as to permit the intergovernmental transfer of Matthew Radecky from the title of Sheriff's Officer, Warren County Sheriff's Office, to the title of Police Officer, Township of Pohatcong.

ACTION: The Merit System Board directed that this appeal be granted.

B-47 LINDA WHITE

The New Jersey Election Law Enforcement Commission, on behalf of Linda White, requests administrative relief from the determination of the Division of Selection Services, which found that Ms. White was below the minimum requirements in experience for the promotional examination for Supervisor of Operations (PS8990P), Election Law Enforcement Commission.

ACTION: The Merit System Board directed that this appeal be granted.

B-48 PROPOSED AMENDMENTS TO N.J.A.C. 4A:1-1.3, AND 4A:7-2.1 THROUGH 2.3; PROPOSED REPEAL N.J.A.C. 4A:7-3.3; REPROPOSE AMENDMENTS N.J.A.C. 4A:7-3.1 AND 3.2 (CIVIL UNIONS; EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION)

The proposed amendments recognize that a partner to a civil union shall be treated the same as a spouse in a marriage for purposes of merit system rules, in accordance with recently enacted State law. More extensive proposed amendments (many of which are repropounded following a 2005 public notice and comment period), and a proposed repeal, would codify the provisions of the revised State Policy Prohibiting Discrimination in the Workplace, as well as the revised State Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace. Additional amendments would codify language derived from the State Law Against Discrimination, and reflect a recently decided U.S. Supreme Court opinion. They are now submitted for the Board's approval for publication in the New Jersey Register for public notice and comment.

ACTION: The Merit System Board approved the proposed amendments for publication.

B-49 EARLY SETTLEMENTS

Julian Alvarez
New Jersey State Prison
Department of Corrections
Suspension

Joseph Jones
New Jersey State Prison
Department of Corrections
Suspension and removal

ACTION: The Merit System Board acknowledged the settlements.

There being no further business before the Merit System Board, the meeting was adjourned to convene on Wednesday, March 28, 2007 at 10:00 a.m., at 3 Station Plaza, Trenton, New Jersey.

ROLANDO TORRES, JR.
COMMISSIONER
MERIT SYSTEM BOARD