



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
NOVEMBER 21, 2007**

**Rolando Torres, Jr., Chairman
Flavella Branham
John Currie
Margaret E. L. Howard
Robert J. Long**

November 21, 2007

A regular meeting of the Merit System Board was held on Wednesday November 21, 2007, in Trenton, New Jersey.

PRESENT: Chairman Rolando Torres, Jr., Merit System Board Members, John Currie, Flavella Branham, Margaret E. L. Howard and Robert J. Long; 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 8, 2006, and posted at the Department of Personnel, 3 Station Plaza, Trenton, New Jersey.

All actions were by unanimous vote unless otherwise specified.

SECTION A – HEARING MATTERS

A-1 SETTLEMENTS

In the Matter of Jennelle Brogley
County of Monmouth
Health Care Facilities
Release at the end of the working test period

In the Matter of Ronald A. Brown
County of Salem
Roads and Bridges Construction Department
Suspension

In the Matter of Robert T. Cook
County of Mercer
Executive Department
Suspensions (2)

In the Matter of Charnell Cooper-Waye
County of Hudson
Department of Corrections
Removal

In the Matter of Deborah A. Fitzpatrick
County of Monmouth
Corrections and Youth Department
Suspension

In the Matter of Mark Holmes
County of Hudson
Department of Corrections
Resignation not in good standing

In the Matter of Tyrone Johnson
Newark School District
Suspension

In the Matter of Lawrence Kristoff
Township of Liberty
Road Department
Removal

In the Matter of Kathy McCarthy
Vineland Developmental Center
Department of Human Services
Removals (2)

In the Matter of Sheila Monahan
County of Morris
Senior Disability Veteran Services Department
Removal

In the Matter of Kenneth Mucciarelli
New Jersey Veteran's Home, Vineland
Department of Military and Veterans Affairs
Suspension

In the Matter of Akaim Parson
County of Hudson
Parks Engineering Department
Removal

In the Matter of Michael Pfeiffer
City of Union City
Department of Public Works
Suspension

In the Matter of Juneen Pitts
Department of Children and Families
Removal

In the Matter of Archangelo Vargas
County of Essex
Department of Corrections
Removal

In the Matter of Angel Vasquez
Newark School District
Removal

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

ACTION: The Merit System Board acknowledged the settlements.

A-2 JEUNIDE BAZILE

Jeunide Bazile, Human Services Technician, Hagedorn Psychiatric Hospital, Department of Human Services, resignation not in good standing effective September 11, 2006, on the charge of abandonment of job as a result of being absent from work as scheduled without permission for five consecutive days.

Recommendation of the Administrative Law Judge – Modify the resignation not in good standing to a 90-day suspension.

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

A-3 WILLIE C. ROWE

Willie C. Rowe, Police Officer, City of East Orange, Police Department, 15-day suspension on charges of insubordination and other sufficient cause.

Recommendation of the Administrative Law Judge – Modify the 15-day suspension to a 20-day suspension.

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

A-4 EVELYN SANTIAGO

Evelyn Santiago, Clerk Bilingual Spanish/English, City of Trenton, Department of Health and Human Services, 45-day suspension on the charge of chronic or excessive absenteeism or lateness and removal effective March 20, 2006, on the charge of chronic or excessive absenteeism or lateness.

Recommendation of the Administrative Law Judge – Dismiss the appeals for failure to prosecute.

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

A-5 BRIAN BLAKELY

Brian Blakely, Laborer, City of Trenton, Department of Public Works, removal effective October 26, 2005, on the charge of chronic or excessive absenteeism.

Recommendation of the Administrative Law Judge – Grant the motion for summary decision and uphold the removal.

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

A-6 JOSE CASTILLO

Jose Castillo, Senior Correction Officer, Adult Diagnostic Treatment Center, Department of Corrections, removal effective April 15, 2005, on charges of incompetency, inefficiency or failure to perform duties, neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property, falsification, and violation of a rule, regulation, policy, procedure, order or administrative decision.

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

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

A-7 ROBERT JORDAN

Robert Jordan, Correction Sergeant, East Jersey State Prison, Department of Corrections, removal on charges of conduct unbecoming a public employee and use, possession or sale of any controlled dangerous substance.

Recommendation of the Administrative Law Judge – Reverse the removal.

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

A-8 BARRY WRIGHT

Barry Wright, Firefighter, City of Newark, Fire Department, removal effective December 17, 2000, on charges of insubordination, neglect of duty and other sufficient cause.

Recommendation of the Administrative Law Judge – Uphold the removal.

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

A-9 MAJAY ZACKPAH

Majay Zackpah, Human Services Assistant, Vineland Developmental Center, Department of Human Services, removal effective June 7, 2006, on charges of physical abuse of a client and violation of a policy.

Recommendation of the Administrative Law Judge – Uphold the removal.

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

A-10 CHARLES BICE-BEY

Charles Bice-Bey, Cottage Training Technician, Woodbine Developmental Center, Department of Human Services, removal effective August 7, 2005, on the charge of physical abuse of a client/resident. This matter was held over from the September 12, 2007 Merit System Board meeting.

Recommendation of the Administrative Law Judge – Reverse the removal.

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

A-11 KEITH FLEMING (SETTLEMENT)

Keith Fleming, Senior Road Repairer, County of Hunterdon, Department of Roads and Bridges, 10-day suspension on the charge of chronic or excessive absenteeism from work and two minor disciplinary actions (three-day suspensions), not appealed to the Board. Settled to a five-day suspension, two day suspension, one-day suspension and eight days' back pay.

ACTION: The Merit System Board acknowledged the settlement.

SECTION B – MISCELLANEOUS MATTERS**B-1 SONIA GIRON**

Sonia Giron, represented by Ciro A. Spina, III, Esq., appeals her rejection as a County Correction Officer candidate by the County of Hudson and its request to remove her name from the eligible list for County Correction Officer (S9999F) on the basis of psychological unfitness to perform effectively the duties of the position.

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

B-2 LAWRENCE HICKS

Lawrence Hicks appeals his rejection as a Juvenile Detention Officer candidate by the County of Camden and its request to remove his name from the eligible list for Juvenile Detention Officer (C2088F) on the basis of psychological unfitness to perform effectively the duties of the position.

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

B-3 MICHAEL MUSA

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

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

B-4 COLIN O'MALLEY

Colin O'Malley, represented by Brian O'Malley, Esq., appeals his rejection as a Juvenile Detention Officer candidate by the County of Camden and its request to remove his name from the eligible list for Juvenile Detention Officer (C2088F) on the basis of psychological unfitness to perform effectively the duties of the position.

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

B-5 LUCY ALONSO

Lucy Alonso, a Personnel Assistant 2 with Northern State Prison, Department of Corrections appeals the denial of sick leave injury (SLI) benefits.

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

B-6 JOANNE M. CHRISTOS

Joanne M. Christos, a former State Park Police Sergeant with the Department of Environmental Protection, appeals the denial of sick leave injury (SLI) benefits.

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

B-7 LINDA HOWLAND

Linda Howland, a Customer Service Representative 4 with the Department of Health and Senior Services, appeals the denial of sick leave injury (SLI) benefits.

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

B-8 AQIYL MUSTAFA

Aqiyl Mustafa, a Human Services Technician with Ancora Psychiatric Hospital, 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-9 ZSOLT TOLNAI

Zsolt Tolnai, an Attorney Assistant with the Department of Law and Public safety, appeals the denial of sick leave injury (SLI) benefits.

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

B-10 RICHARD L. DAVIDSON

Richard L. Davidson appeals the decision of the Division of Human Resource Information Services (HRIS) which found that the appointing authority had presented a sufficient basis to remove his name from the Police Officer (S9999D), Jersey City eligible list due to an unsatisfactory criminal record.

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

B-11 MICHAEL G. HURLEY

Michael G. Hurley, represented by Kevin McCann, Esq., appeals the decision of the Division of State Human Resource Management which found that the appointing authority had presented a sufficient basis to remove his name from the eligible list for Correction Officer Recruit (S99999F), Department of Corrections on the basis of an unsatisfactory background report.

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

B-12 DEBRA MANGES

Debra Manges, represented by Jim Mulholland, Senior Staff Representative, CWA Local 1034, appeals the bypass of her name on the Technical Assistant 1, Community Affairs (PS1830H), Department of Health and Senior Services eligible list.

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

B-13 LILLIAN WASHINGTON

Lillian Washington appeals the determination of the City of Newark not to appoint her from the regular reemployment list for Executive Assistant, City of Newark.

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

B-14 BARBARA BERNARD

Barbara Bernard, a Legal Secretary 2 with the Department of Law and Public Safety, appeals the determinations of the Director of the Office of Workplace Policy Administration and Enforcement, concerning the appellant's complaints alleging violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

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

B-15 ABDUL-QAADIR J. NYAHUMA

Abdul-Qaadir J. Nyahuma, a Correction Sergeant with the Albert C. Wagner Youth Correctional Facility, Department of Corrections (DOC), appeals the determination of the Acting Director of the Equal Employment Division with the DOC, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to additional violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

ACTION: The Merit System Board remanded in part for further investigation, but denied the remainder of the appeal.

B-16 JENIFER OSBORN

Jenifer Osborn, a Chief, Property Management with the Department of the Treasury, appeals that part of the determination of the Affirmative Action Officer stating that the appellant did not present sufficient evidence to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy). The appellant also appeals the determination of the Affirmative Action Officer that she did not present sufficient evidence to support a finding that she had been subjected to a violation of the State Policy on the basis of retaliation.

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

B-17 WANDER RICHARDSON

Wander Richardson, a Legal Secretary 1 with the Department of Law and Public Safety, appeals the determination of the Director, Office of Workplace Policy Administration and Enforcement, that provided the appellant with a remedy for her complaint that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

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

B-18 JOSEPH ADAMO, ET AL.

Joseph Adamo, Glenn Brownin, Michael Campanello, Michael Kunzig Shawn McIvor, Raymond Reid, Engelbert Ribeiro, John Russo, Michael Saginario, Anthony Traina, Matthew Vandervelden, and George Vazquez, all members of the Paterson Police Department, represented by Mark C. Rushfield, Esq., petition the Merit System Board for correction of their records in accordance with the December 21, 2006 final decision of the Public Employment Relations Commission (PERC).

ACTION: The Merit System Board granted the request.

B-19 DANIELLE CIPRIANI

The Division of Local Human Resource Management requests that the Merit System Board order the Township of Marlboro to return Danielle Cipriani to the Department of Administration from the Department of Community Development.

ACTION: The Merit System Board granted the request.

B-20 JOHN HORNER

John Horner, Senior Correction Officer, Albert C. Wagner Youth Correctional Facility, Department of Corrections, requests Merit System Board review of an official written reprimand and three day suspension on separate sustained charges of refusal to work overtime without a reasonable excuse.

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

B-21 ROBERT ANELLO

Robert Anello, a Crew Supervisor, Building Maintenance Programs, with Northern State Prison, Department of Corrections, petitions the Merit System Board for reconsideration of its decision, *In the Matter of Robert Anello* (MSB, decided June 6, 2007), which denied his request for sick leave injury (SLI) benefits from July 6, 2006 until his return to work on August 3, 2006.

ACTION: The Merit System Board granted the request.

B-22 MICHAEL GIACUMBO

Michael Giacumbo petitions the Merit System Board for reconsideration of the decision rendered on August 29, 2007, which denied his appeal regarding his scores on the essay and oral portions of the promotional examination for Fire Officer 2, (PM3620G), North Hudson Regional and Fire Rescue.

ACTION: The Merit System Board denied the request.

B-23 PATRICIA KRZYWULAK

John F. Mason, Business Administrator, Hamilton Township, on behalf of Patricia Krzywulak, petitions the Merit System Board for reconsideration of the decision rendered on October 10, 2007 in which the Board determined that Ms. Krzywulak was ineligible for the Administrative Secretary (PM1574H), Hamilton Township promotional examination.

ACTION: The Merit System Board denied the request.

B-24 ILLYA RAHMING

Illya Rahming, a Senior Building Maintenance Worker with William Paterson University of New Jersey, represented by Arnold Shep Cohen, Esq., petitions the Merit System Board for reconsideration of the final decision rendered on April 11, 2007, which upheld his removal.

ACTION: The Merit System Board denied the request.

B-25 ROBERT BARHAM

The appeal of Robert Barham, an employee of the Camden County One Stop Career Center, of his 10-day suspension, on charges, was before Administrative Law Judge (ALJ) Bernard Goldberg, who rendered his initial decision on July 24, 2007. At its meeting on November 8, 2007, the Merit System Board adopted the ALJ's recommendation to dismiss the appeal for lack of jurisdiction. 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)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-26 GREGORY R. ADAMS

Gregory R. Adams appeals the determination of the Division of Selection Services which found that he was below the minimum requirements in experience for the examination for Assistant Supervisor of Public Works (PM0969H), City of Trenton.

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

B-27 HECTOR AROCHO

Hector Arocho appeals the determination of the Division of Selection Services which found that he was ineligible for the promotional examination for Police Sergeant (PM2602J), City of Newark.

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

B-28 SHIRLEY JOHNSON

Shirley Johnson appeals the determination of the Division of Selection Services which found that she was below the minimum requirements in experience for the promotional examination for Supervisor, Criminal Information Records (PM0323J), Willingboro Township.

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

B-29 DANIEL RAJESKI

Daniel Rajeski appeals the determination for the Division of Selection Services which found him ineligible for the promotional examination for Police Sergeant (PM32615J), Trenton due to an untimely application.

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

B-30 RAMONA THORNTON

Ramona Thornton appeals the determination of the Division of Selection Services that found that, per the substitution clause for education, she did not meet the experience requirements for the open competitive examination for Administrative Analyst (M6059J), Asbury Park City.

ACTION: The Merit System Board directed that this appeal be denied but referred the classification matter to the Division of Local Human Resource Management for review.

B-31 TAWANNA T. WHITTINGTON-SANTOS

The Mercer County Board of Social Services, on behalf of Tawanna T. Whittington-Santos, appeals the determination of the Division of Selection Services which found that she was below the minimum requirements in experience for the qualifying examination for Investigator, County Welfare Agency, Mercer County Board of Social Services.

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

B-32 GERALDINE MORRIS

The Director, Division of Local Human Resource Management, on behalf of the Middlesex County Board of Social Services, requests that Geraldine Morris' out-of-title work experience be accepted to qualify her for a prospective promotional examination for Personnel Assistant, Middlesex County Board of Social Services.

ACTION: The Merit System Board granted the request.

B-33 VELVETTE JARDINE

Velvette Jardine petitions the Merit System Board to allow her to file an untimely application for the promotional examination for Senior Human Services Technician (PS1363K), Ancora Psychiatric Hospital, Department of Human Services.

ACTION: The Merit System Board granted the request.

B-34 GREGORY SZULECKI

Gregory Szulecki requests that his seniority score for the promotional examination for Conservation Officer (PS8157G), Department of Environmental Protection, be adjusted.

ACTION: The Merit System Board denied the request.

B-35 JEFFREY J. KONOPADA

Jeffrey J. Konopada requests a retroactive appointment date to the title of Correction Officer Recruit, Department of Corrections.

ACTION: The Merit System Board granted the request.

B-36 LATERAL TITLE CHANGE FROM COUNTY CORRECTION OFFICER TO SHERIFF'S OFFICER

The Bergen County Sheriff's Department and the Passaic County Sheriff's Department request that they be permitted to laterally transfer incumbents serving in the title of County Correction Officer to the title of Sheriff's Officer.

ACTION: The Merit System Board granted the request.

B-37 RECENT COURT DECISIONS

Summaries of recent court decisions involving Merit System Board and Department of Personnel determinations are submitted for the Board's review, *In the Matter of John Lenge, Deputy Police Chief (PM3587G), Middletown Township* (Appellate Division, decided 10/19/07); *In the Matter of Charles Vena* (Appellate Division, decided 10/26/07); and *In the Matter of Michael Gonsalves* (Appellate Division, decided 10/31/07).

ACTION: The Merit System Board noted the decisions.

B-38 MERIT SYSTEM BOARD MINUTES

The minutes of the Merit System Board meeting of November 8, 2007 are submitted for adoption.

ACTION: The Merit System Board adopted the minutes of its meeting of November 8, 2007.

VOTE:	Rolando Torres, Jr.	(Abstained)
	Flavella Branham	(Yes)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-39 SHELBY COWANS AND RAUL MENDEZ

The appeals of Shelby Cowans and Raul Mendez, Senior Correction Officers at Northern State Prison, Department of Corrections, of their removals, effective September 6 and September 12, 2006, respectively, on charges, was heard by Administrative Law Judge (ALJ) James A. Geraghty, who rendered his initial decision on August 13, 2007. At its meeting on November 8, 2007, the Merit System Board adopted the ALJ's recommendation to dismiss the charges and reverse the removals. 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)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-40 VICTOR FERREIRA

The appeal of Victor Ferreira, a former County Correction Officer with the Union County Department of Public Safety, of his removal effective February 1, 2002, on charges, was before Administrative Law Judge Diana C. Sukovich (ALJ), who rendered her initial decision on September 25, 2007. At its meeting on November 8, 2007, the Merit System Board adopted the ALJ's recommendation to grant summary decision and uphold the 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)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-41 ELAINE FLOWERS

The appeal of Elaine Flowers, a Residential Living Specialist with the Trenton Psychiatric Hospital, of her removal effective February 27, 2007, on charges, was heard by Administrative Law Judge Joseph Lavery (ALJ), who rendered his initial decision on October 4, 2007. At its meeting on November 8, 2007, the Merit System Board did not adopt the ALJ's recommendation uphold the removal. Rather, the Board modified the removal to a six-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)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-42 GARY FULLER

The appeal of Gary Fuller, a Senior Correction Officer with the Department of Corrections, of his removal, on charges, was heard by Administrative Law Judge Dennis P. Blake (ALJ), who rendered his initial decision on March 7, 2007. At its meeting on November 8, 2007, the Merit System Board did not adopt the ALJ's recommendation to reverse the removal. Rather, the Board ordered that the matter be remanded to the Office of Administrative Law. 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)
	John Currie	(Yes)
	Margaret E. L. Howard	(Abstained)
	Robert J. Long	(Yes)

B-43 LESTER JONES

The Managing Director, State and Local Government Operations, Department of Personnel, requests administrative relief in order to process the Intergovernmental Transfer of Lester Jones from the noncompetitive title of Research Scientist 2, New Jersey Department of Health and Senior Services, to the competitive title of Research Supervisor, Union County.

ACTION: The Merit System Board granted the request.

B-44 SALARY REGULATIONS, SUPPLEMENT 5, FY 2008

Submitted for the Board's review are the Salary Regulations, Supplement 5, FY2008. The Supplement is a change to Section 2, Emergency Condition Rates, regarding winter weather condition rates. It has been approved by Rolando Torres, Jr., Commissioner, Department of Personnel, and Charlene M. Holzbaur, Director, Division of Budget and Accounting.

ACTION: The Merit System Board recorded the salary regulations.

B-45 PROPOSED MERIT SYSTEM BOARD MEETING DATES FOR 2008

Submitted for the Board's review are the proposed Merit System Board meeting dates for 2008.

ACTION: The Merit System Board adopted the meeting dates for 2008.

B-46 EARLY SETTLEMENT

William Barrow
Vineland Developmental Center
Department of Human Services
Suspension

ACTION: The Merit System Board acknowledged the settlement.

There being no further business before the Merit System Board, the meeting was adjourned to convene on Wednesday, December 5, 2007 at 10 a.m., at 3 Station Plaza, Trenton, New Jersey.

**ROLANDO TORRES, JR.
COMMISSIONER
MERIT SYSTEM BOARD**