

**Judicial Merit Commission – Regular Quarterly Meeting
Tang Conference Room, Law Library, Third Floor
101 West Jefferson, East Court Building
Tuesday, September 12, 2017**

General Session Meeting Minutes

The Judicial Merit System Commission met on Tuesday, September 12, 2017, for its regularly scheduled quarterly meeting. The meeting was conducted in the Tang Conference Room located at 101 W. Jefferson Street, East Court Building, Law Library, 3rd Floor.

I. Meeting Convened

The meeting was called to order at 2:05 p.m. with the following Commissioners in attendance: Commissioners Craig Waugh (Chair), Lauren Eiler, Roger Geddes, and Kristin Hoffman.

Also in attendance were Danna Quinn, Secretary to the Commission, Jennifer Fish, Human Resources Manager, Jamie Ahler, Human Resources Attorney, and Billie Berry, Human Resources Associate.

II. Approval of the Minutes

Commissioner Waugh called for a motion to approve the minutes of the 28 June 2017 Quarterly General Session.

Motion: Commissioner Geddes moved to approve the minutes of the 28 June 2017 Quarterly General Session.

Commissioner Eiler seconded the motion. The motion passed by a vote of 3 in favor, none opposed, and 1 abstention.

III. Merit Commission Member Appointment/Recruitment

Commissioner Waugh announced the appointment of Kristin Hoffman and welcomed her as a new member to the Commission. Commissioner Hoffman served as a Judge with the Arizona Superior Court in Maricopa County from 2001 to 2016 and responded that she is pleased to have been selected as a member of the Commission. Commissioner Hoffman was welcomed by all.

IV. Appeals for Notification of Status

Secretary Quinn reported on the status of appeals in the matters of *Joey Daigle v. Judicial Branch Court Technology Services*, *Kurt Allen v. Judicial Branch Court Technology Services*, *Montserrat Vejar v. Family Court Department*, and *Carey McGrath v. Adult Probation Department*.

Secretary Quinn reported that both the *Daigle* and *Allen* appeals were the result of a termination on June 2, 2017, and were related to the same incident. Hearings were scheduled in the matters before Hearing Officer Harold Merkow in the *Daigle* appeal on July 24, 2017 and August 7, 2017,

and on July 19, 2017 before Hearing Officer Douglas Erickson in the *Allen* appeal. A settlement agreement was entered into on July 17, 2017 in the *Daigle* appeal, and on July 19, 2017 in the *Allen* appeal. Both *Daigle* and *Allen* withdrew their appeal and resigned in lieu of termination.

Secretary Quinn reported a settlement agreement was also reached on July 27, 2017 in the appeal of termination filed in the *Vejar* matter before Hearing Officer Amy Lieberman. The appellant withdrew the appeal and resigned in lieu of termination. Secretary Quinn reported the *McGrath* matter was an appeal of a demotion on July 17, 2017, and was assigned to Hearing Officer Douglas Erickson. Ms. McGrath resigned employment on August 8, 2018 and withdrew her appeal on August 18, 2017.

Discussion ensued and Commissioner Waugh explained the Commission's process for receiving and determining appeals for the benefit of new member Commissioner Hoffman.

V. Appeals Pending Hearing/Decision

Secretary Quinn reported the hearing is pending in the appeal of a one day suspension filed by *Paula Gonzales v. Juvenile Probation Department*. The matter has been assigned to Hearing Officer Harold Merkow and the hearing is scheduled for October 4, 2017.

VI. Proposed Changes to Judicial Merit System Rules and Conformity to Hearing Officer's Handbook

Commissioner Waugh stated that as a result of previous discussions with the Commission's counsel regarding inconsistencies and ambiguities in the language of the Merit Rules which govern appeals, particularly Rule 11 and its subparts, this item has been carried on the agenda for discussion of proposed revisions to streamline and resolve the ambiguities. Commissioner Waugh stated he has provided a first draft of proposed revisions to the Merit Rules to alleviate these inconsistencies which were circulated to Commission members prior to this meeting. Commissioner Waugh stated the proposed revisions have not been harmonized with the Hearing Officer's Handbook, but he would do so to eliminate any ambiguities between the Merit Rules and the Hearing Officer's Handbook.

Commissioner Waugh stated one of the issues that has come before the Commission is the Rule that allows a hearing officer to be appointed in an appeal, and, in his experience, it has been the Commission's practice to always assign a hearing officer for hearings. He stated the Commission is not required to use a hearing officer, and the Rules have been back and forth in terms of always supposing that a hearing officer will be assigned. For the sake of consistency, he stated he his proposed revisions have attempted to eliminate language that seemed to pre-suppose there would always be a hearing officer that is not the Commission.

Commissioner Geddes asked if an appeal would come directly to the Commission if a hearing officer was not assigned, and inquired regarding the history of the Commission delegating an appeal to a hearing officer.

Commissioner Waugh advised that the process of staff assigning an appeal to a hearing officer has historically been automatic. He stated the Commission does have the power to hear an appeal if any Commission member is interested in conducting a hearing, and that the Commission could

consider how it would make the decision whether to handle a case before it is assigned to a hearing officer.

Discussion ensued. The Commission was in agreement that it is satisfied with the current hearing process in that it has worked well, and the Commission would like to ensure it continues to have a consistent and good system for the employees. Commission members agreed that the assigned hearing officers are experienced and capable and expressed they were not particularly interested in serving as a hearing officer; however, it is something the Commission could continue to discuss at a later date.

Commissioner Waugh inquired of the Commission how it would like to proceed regarding the proposed revisions to the Merit Rules. He suggested that he could address some of the proposed revisions at this session and continue the discussion to the Commission's December meeting to give everyone an opportunity to further review the proposed revisions. Commissioner Waugh invited all members to submit modifications or propose other changes, if they so desired, to staff for review at the next General Session. Commissioner Waugh also asked whether the Commission should invite counsel to the next meeting.

Commissioner Eiler inquired regarding providing input in accordance with the Open Meeting Law. Commissioner Waugh suggested that Commission members could forward proposed revisions to staff prior to the Commission's December meeting, and the Commission would discuss them together in Open Session.

The Commission agreed it would like more time to review the Chairman's proposed revisions and to wait before inviting counsel until after its discussion at the December meeting. Commissioner Waugh requested that this item continue on the future agenda item.

VII. Executive Session

No Executive Session was held at this meeting.

VIII. Call to the Public

A call to the public was made by Commissioner Waugh, and no response to the call was made.

VIII. Future Agenda Items

1. Proposed Changes to the Judicial Merit System Rules and Conformity to Hearing Officer's Handbook.

IX. Meeting Adjournment

Prior to the adjournment, Commissioner Geddes asked whether the Commission is required to meet in person, or if a member may appear telephonically in order to establish a quorum.

Commissioner Waugh stated that any Commissioner who could not attend a meeting in person, and would like to participate by phone, would be allowed to do so.

The Chair entertained a motion to adjourn.

Motion: Commissioner Eiler moved to adjourn the meeting. Commissioner Geddes seconded the motion, and the Commission approved it unanimously.

The meeting was adjourned.

Respectfully submitted,

Billie J. Berry
Staff to the Commission

For

Danna M. Quinn
Secretary to the Commission

Next Meeting: Tuesday, December 5, 2017 @ 2:00 p.m. in the Tang Conference Room