

September 20, 2013

REGULAR MEETING MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
September 20, 2013

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 10:34 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Garrett P. FitzGerald, Chairman; James B. Anderson, Anita M. Cummings, and Susan Moylan Krey, Commissioners; Andrew Barris, Assistant Executive Director; Elizabeth Whitehorn, Roneta Taylor (by telephone), John Logsdon (by telephone), and Mark Magill (by telephone), Illinois Department of Central Management Services; Justin Cajindos, Governor's Office; Heidi Guernsey (by telephone), Illinois Department of Human Services; Beth Dueterhaus (by telephone) and Kathy Barrow (by telephone), Administrative & Regulatory Shared Services Center; Erik Lewis, Office of the Attorney General; and John Kerley (by telephone).

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD AUGUST 16, 2013

**IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD AUGUST 16, 2013. COMMISSIONER KREY ABSTAINED.**

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Assistant Executive Director Andrew Barris offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

**A. Report on Exempt Positions from Illinois Dept. of Central Management Services**

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	143.....	16
Agriculture.....	353.....	16
Arts Council.....	17.....	2
Capitol Development Board.....	46.....	0
Central Management Services.....	1,476.....	114
Children and Family Services.....	2,727.....	51
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	377.....	69
Commerce Commission.....	74.....	0
Corrections.....	11,148.....	103
Criminal Justice Authority.....	56.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	86.....	5
Employment Security.....	1,458.....	30
Environmental Protection Agency.....	805.....	17
Financial & Professional Regulation.....	428.....	44
Gaming Board.....	142.....	6
Guardianship and Advocacy.....	102.....	7
Healthcare and Family Services.....	2,111.....	25
Historic Preservation Agency.....	189.....	14
Human Rights Commission.....	13.....	2
Human Rights Department.....	142.....	9
Human Services.....	11,336.....	75
Illinois Sentencing Policy Advisory Council.....	2.....	2
Illinois Torture Inquiry Relief Commission.....	2.....	1
Insurance.....	220.....	15
Investment Board.....	3.....	2
Juvenile Justice.....	985.....	23
Labor.....	87.....	11
Labor Relations Board Educational.....	9.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.....	16.....	2
Lottery.....	146.....	7
Military Affairs.....	121.....	3
Natural Resources.....	1,084.....	30
Pollution Control Board.....	20.....	2
Prisoner Review Board.....	16.....	0
Property Tax Appeal Board.....	29.....	1
Public Health.....	1,085.....	41
Racing Board.....	2.....	1
Revenue.....	1,760.....	51
State Fire Marshal.....	134.....	12
State Police.....	1,100.....	7
State Police Merit Board.....	5.....	1
State Retirement Systems.....	103.....	2
Transportation.....	2,203.....	0
Veterans' Affairs.....	1,294.....	9
Workers' Compensation Commission.....	129.....	9
<b>TOTALS.....</b>	<b>43,820.....</b>	<b>848</b>

**B. Governing Rule – Section 1.142 Jurisdiction B Exemptions**

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
  - 1) The amount and scope of principal policy making authority;
  - 2) The amount and scope of principal policy administering authority;
  - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
  - 4) The capability to bind the agency, board or commission to a course of action;
  - 5) The nature of the program for which the position has principal policy responsibility;
  - 6) The placement of the position on the organizational chart of the agency, board or commission;
  - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

\* \* \*

**C. Requests for 4d(3) Exemption**

Assistant Executive Director Andrew Barris reported the following regarding the proposed 4d(3) exempt requests designated as items C through E:

- As to Item C, this request is for a Legislative Liaison position with the Department of Human Services, a position that reports to the Manager of the Office of Legislation who reports to the Secretary. This position represents the agency before legislators, inter-governmental entities and special interest groups concerned with laws administered by the agency. If approved, it would be one of only three exempt positions in the Office of Legislation. The agency has indicated it is not contemplating any additional requests at this time.

P.A. 97-1172 amended the Illinois Public Labor Relations Act and defined a legislative liaison as a person whose job duties require them to regularly communicate with officials or staff of the General Assembly for the purpose of influencing any legislative action. Commission Staff is using this definition as guidance when evaluating exemption requests for legislative positions. Since the position description indicates this position performs such duties and the agency confirmed that, Staff recommends approval of this request.

Chairman Fitzgerald inquired whether there were going to be any more exemptions requests, and if so, is it possible to make the request in a group submission instead of doing it piecemeal. Heidi Guernsey stated that there were not going to be any more exemption requests.

- As to Items D and E, the agencies requested these requests be continued to the October meeting.

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 4-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:**

**C: Legislative Liaison (DHS)**

**IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**D: Chief Information Technology Officer (CMS)**

**E: Policy Advisor (HPA)**

**The following 4d(3) exemption request was granted on September 20, 2013:**

**C. Illinois Department of Human Services**

Position Number	13852-10-19-040-00-02
Position Title	Executive II
Bureau/Division	Legislation
Functional Title	Legislative Liaison
Incumbent	Vacant
Supervisor	Manager, Office of Legislation, who reports to the Secretary
Location	Cook County

**The following 4d(3) exemption requests were continued on September 20, 2013:**

**D. Illinois Department of Central Management Services**

Position Number	40070-37-00-000-40-01
Position Title	Senior Public Service Administrator
Bureau/Division	Information Technology
Functional Title	Chief Information Technology Officer
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

**E. Illinois Historic Preservation Agency**

Position Number	40070-48-40-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Administration
Functional Title	Policy Advisor
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

**VI. CLASS SPECIFICATIONS**

The following class titles were submitted for creation and revision by the Director of the Illinois Department of Central Management Services:

- A. Painter (revise)  
Painter Foreman (create)

Staff Analysis: Assistant Executive Director Andrew Barris stated that the staff approved the revision of the Painter class and the creation of Painter Foreman class because the Central Management Services determined that the individual in the Painter class performing the Painter

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Foreman duties was performing supervisory duties and getting paid for those duties without a class in existence allowing such pay under the prevailing wage rate.

B. Pharmacy Manager (create)

Staff Analysis: Assistant Executive Director Andrew Barris stated that the staff approved the creation of the Pharmacy Manager class because the new class more adequately conforms to the requirements Section 1.45 of the Rules of the Civil Service Commission in describing the duties of the position and identifying differentials than when it was previously classified in the broad-banded Senior Public Service Administrator, option 8P (Pharmacist license) class. John Logsdon, Central Management Services-Technical Services, indicated that the Public Service Administrator and Senior Public Service Administrator positions were created in 1993 and 1994 and that the creation of the Pharmacy Manager class specification more specifically describes the duties within the class.

**IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO APPROVE THE CREATION AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE OCTOBER 1, 2013:**

A. Painter (revise)  
Painter Foreman (create)

B. Pharmacy Manager (create)

**IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

Oral Argument before the Commission on Illinois Department of Human Services (DHS), Petitioner v. George P. Hardin, (Hardin) Respondent, DA-24-12: Andrew Barris, Assistant Executive Director, indicated that the Motion for Oral Argument that was granted on September 17, 2013 would allow five minutes for each party for oral argument before the Commission.

John Kerley, on behalf of the Respondent, argued that Hardin was denied due process because of the agency's failure to comply with Section 302.705 of the Personnel Rules as he was denied the opportunity to address at the pre-disciplinary meeting the specific citation to the rules he allegedly violated before he was discharged.

Assistant Attorney General Erik Lewis, on behalf of the Petitioner, argued that Hardin was not denied due process because the charges against him always remained the same, he was given the specific rules allegedly violated when he was discharged and months prior to the hearing, and the pre-disciplinary charges contained individual headings and specific language describing the conduct at issue.

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VII. MOTION TO CLOSE A PORTION OF THE MEETING

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY CHAIRMAN FITZGERALD, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.**

<b>FITZGERALD</b>	<b>YES</b>	<b>ANDERSON</b>	<b>YES</b>
<b>CUMMINGS</b>	<b>YES</b>	<b>KREY</b>	<b>YES</b>

VIII. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:15 a.m.

PRESENT

Chairman Garrett P. FitzGerald; James B. Anderson, Anita M. Cummings, and Susan Moylan Krey, Commissioners; Andrew Barris, Assistant Executive Director; and John Kerley (by telephone).

IX. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored.

<b>Agency</b>	<b>7/31/13</b>	<b>8/31/13</b>	<b>8/31/12</b>
Aging	1	<b>2</b>	2
Agriculture	2	<b>2</b>	1
Arts Council	1	<b>1</b>	1
Central Management Services	2	<b>2</b>	1
Children and Family Services	10	<b>12</b>	7
Employment Security	0	<b>0</b>	1
Healthcare and Family Services	21	<b>19</b>	7
Historic Preservation Agency	0	<b>11</b>	7
Human Services	1	<b>1</b>	3
Insurance	1	<b>0</b>	0
Natural Resources	0	<b>0</b>	10
Property Tax Appeal Board	3	<b>3</b>	0
Public Health	2	<b>2</b>	0
Revenue	5	<b>5</b>	2
State Police Merit Board	1	<b>1</b>	0
Transportation	0	<b>0</b>	11
Veterans' Affairs	4	<b>5</b>	2
<b>Totals</b>	<b>54</b>	<b>66</b>	<b>55</b>



X. INTERLOCUTORY APPEAL

**DA-31-13**

Employee	Marie Dismukes	Appeal Date	2/20/13
Agency	Juvenile Justice	Decision Date	9/09/13
Type	Discharge	ALJ	Daniel Stralka
Issue(s)	Motion to Voluntarily Withdraw Charges	Proposal for Decision	Grant the Motion subject to the approval of the Commission.

**IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO GRANT THE MOTION TO VOLUNTARILY WITHDRAW CHARGES.**

**FITZGERALD YES                      ANDERSON YES  
CUMMINGS YES                      KREY YES**

XI. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

**DA-24-12**

Employee	George P. Hardin	Appeal Date	9/27/11
Agency	Human Services	Decision Date	9/06/13
Appeal Type	Discharge	Proposal for Decision	Discharge upheld.
ALJ	Andrew Barris		

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO UPHOLD THE DISCHARGE. IT IS HEREBY DETERMINED THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PARTIALLY PROVEN BUT THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. GIVEN HARDIN'S CONTINUOUS SERVICE DATE OF 1996 WITH NO PRIOR DISCIPLINE SIMILAR TO THE NATURE OF THE CHARGES IN THIS CASE COMBINED WITH THE FACT THAT THE EVIDENCE INDICATES THAT WEIGLER WAS THE ONLY PERSON WHO HEARD HARDIN'S STATEMENTS AT ISSUE ON JULY 11, 2011 YET TESTIFIED THAT HE DID NOT BELIEVE THAT HARDIN MADE A THREAT BUT WAS 'VENTING' AND THE EVIDENCE THAT INSPECTOR GENERAL DAVIS RAISED HIS VOICE AND USED PROFANITY ON JULY 13, 2011 BUT DID NOT RECEIVE DISCIPLINE FOR HIS PARTICIPATION IN THE ARGUMENT ARE ALL**

**CONSIDERATIONS THAT SUPPORT A LESSER FORM OF DISCIPLINE THAN DISCHARGE. THE PARTIALLY PROVEN CHARGES WARRANT THE SUSPENSION OF HARDIN FOR A PERIOD OF 90 DAYS PLUS THE DURATION OF HIS SUSPENSION PENDING DISCHARGE.**

**FITZGERALD YES                      ANDERSON YES  
CUMMINGS YES                      KREY YES**

**XII. APPEAL TERMINATED WITHOUT DECISION ON THE MERITS**

**DA-3-14**

Employee	Ernest E. Lloyd	Appeal Date	08/19/13
Agency	Employment Security	Decision Date	09/11/13
Appeal Type	Discharge	Proposal for	Dismissed subject to approval of the Commission; settled.
ALJ	Daniel Stralka	Decision	

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER ANDERSON, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION TO DISMISS THE APPEAL AS THE EMPLOYEE FILED A WITHDRAWAL DUE TO SETTLEMENT ON SEPTEMBER 11, 2013.**

**FITZGERALD YES                      ANDERSON YES  
CUMMINGS YES                      KREY YES**

**XIII. STAFF REPORT**

Assistant Executive Director Barris reported that:

- Central Management Services Surplus picked up excess equipment on September 3, 2013.
- SECA (State and University Employees Combined Appeal) charitable giving campaign began September 6 and runs through October. This year marks the 30<sup>th</sup> anniversary. Beckie Daniken will be sending information regarding the campaign to Commissioners during the next several weeks.
- The Commission’s fiscal year 2014 Affirmative Action Plan has been approved by the Illinois Department of Human Rights.

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XIV. FY 2013 ANNUAL REPORT

**IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO APPROVE THE FISCAL YEAR 2013 ANNUAL REPORT.**

XV. MEETING SCHEDULE FOR 2014

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR CALENDAR YEAR 2014:**

January 17, 2014	Springfield	July 18, 2014	Chicago
February 21, 2014	Chicago	August 15, 2014	Chicago
March 21, 2014	Chicago	September 19, 2014	Springfield
April 18, 2014	Chicago	October 17, 2014	Chicago
May 16, 2014	Springfield	November 21, 2014	Chicago
June 20, 2014	Chicago	December 19, 2014	Chicago

There was a general discussion in which all the Commissioners participated about the start time for the meetings held in Chicago and Springfield in calendar year 2014. It was the consensus of the Commissioners to start the meetings one-half hour later at 11:00 a.m. in Chicago and 1:30 p.m. in Springfield.

XVI. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, October 18, 2013 at 10:30 a.m. in the Commission's Chicago office.

XVII. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 11:30 A.M.**