

October 16, 2003

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
October 16, 2003

I. OPENING OF MEETING AT 9:02 A.M. AT 160 NORTH LA SALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

George E. Richards, Chairman; Betty Bukraba, John M. Dorgan, Raymond W. Ewell, and Barbara J. Peterson, Commissioners; Daniel Stralka and Leonard F. Sacks of the Commission staff; Alice Kirby, Manager, Human Resources, DHS; Barbara Piwowarski, Chief Fiscal Officer, DCFS; Nancy Wuttke, Manager, Personnel, CMS; and Louis Bertucci.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD SEPTEMBER 18, 2003

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DORGAN, AND THE MOTION ADOPTED TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD SEPTEMBER 18, 2003. AYES: RICHARDS, DORGAN, EWELL, AND PETERSON. NAYES: NONE. COMMISSIONER BUKRABA VOTED PRESENT.**

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

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging .....	107	6
Agriculture .....	555	14
Arts Council .....	19	1
Banks and Real Estate .....	262	2
Central Management Services .....	1,243	40
Children and Family Services .....	3,478	33
Commerce & Econ. Opportunity .....	474	56
Corrections .....	13,980	106
Criminal Justice Authority .....	73	3
Deaf and Hard of Hearing Comm. ....	6	1
Developmental Disabilities Council ...	14	1
Elections Board .....	50	1
Emergency Management Agency .....	109	1
Employment Security .....	1,900	19
Environmental Protect. Agency ....	1,129	5
Financial Institutions .....	82	4
Guardianship and Advocacy .....	114	6
Historic Preservation Agency .....	261	2
Human Rights Commission .....	11	2
Human Rights Department .....	145	6
Human Services .....	15,605	54
Industrial Commission .....	148	8
Insurance .....	330	6
Investment Board .....	4	1
Labor .....	88	7
Labor Relations Board Educational ...	17	2
Labor Relations Board State .....	21	2
Law Enforce. Trng. & Standard Bd. ...	25	1
Military Affairs .....	135	3
Natural Resources .....	1,717	26
Pollution Control Board .....	28	3
Professional Regulation .....	245	12
Property Tax Appeal Board .....	24	2
Public Aid .....	2,310	17
Public Health .....	1,116	26
Revenue .....	2,249	42
State Fire Marshal .....	123	5
State Police .....	1,512	5
State Police Merit Board .....	5	1
State Retirement System .....	79	1
Transportation .....	3,036	1
Veterans Affairs .....	1,118	3
TOTALS .....	53,947	537

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

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
1. The Governor, or
  2. A departmental director or assistant director appointed by the Governor, or
  3. A board or commission appointed by the Governor, or
  4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
  5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
  6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
  7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
  2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
  3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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

C. Requests for 4d(3) Exemption Continued, Denied or Approved by the Commission

Commissioner Dorgan inquired as to staff practice of notifying affected employees and suggested general improvements by either rule change or additional agency requirements.

Chairman Richards and Commissioners Peterson and Ewell made several inquiries of DCFS representative Barbara Piwowarski as to basis and justification of item K. exemption request subsequent to Executive Director's presentation.

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE OR APPROVE THE REQUESTS FOR 4D(3) EXEMPTION AS STATED BELOW, IN ACCORDANCE WITH STAFF RECOMMENDATION.**

**The following requests for 4d(3) exemption were continued until November, 2003:**

Agency:	Department of Children & Family Services
Position Title:	Public Service Administrator
Position Number:	37015-16-23-400-10-99
Division:	External Affairs
Incumbent:	Vacant
Supervisor:	PSA 37015-16-23-400-00-99
Location:	Cook County

Agency:	Department of Human Services
Position Title:	Senior Public Service Administrator
Position Number:	40070-10-11-200-00-01
Division:	Office of Human Resources
Incumbent:	Mickey Haslett
Supervisor:	SPSA 40070-10-11-000-00-01
Location:	Sangamon

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

**The following requests for 4d(3) exemption were approved:**

Agency: Department of Professional Regulation  
Position Title: Public Service Administrator  
Position Number: 37015-24-07-000-00-01  
Division: Public Information  
Incumbent: Vacant  
Supervisor: Director  
Location: Cook

Agency: Department of Veterans' Affairs  
Position Title: Public Service Administrator  
Position Number: 37015-34-00-000-02-01  
Division: Office of the Director  
Incumbent: Vacant  
Supervisor: Director  
Location: Cook County

Agency: Environmental Protection Agency  
Position Title: Senior Public Service Administrator  
Position Number: 40070-46-00-000-00-02  
Division: Director's Office  
Incumbent: Lisa K. Bonnett  
Supervisor: Director  
Location: Springfield

Agency: Department of Corrections  
Position Title: Senior Public Service Administrator  
Position Number: 40070-29-05-000-00-01  
Division: Parole Division  
Incumbent: Vacant  
Supervisor: Director  
Location: Cook

Agency: Environmental Protection Agency  
Position Title: Senior Public Service Administrator  
Position Number: 40070-46-10-400-00-01  
Division: Deputy Director  
Incumbent: Vacant  
Supervisor: SPSA 40070-46-10-000-00-01, Deputy Director  
Location: Springfield

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

Agency: Department of Financial Institutions  
Position Title: Senior Public Service Administrator option 2  
Position Number: 40070-19-12-000-00-01  
Division: Credit Union  
Incumbent: Vacant  
Supervisor: Director Nava  
Location: Cook County

Agency: Department of Financial Institutions  
Position Title: Senior Public Service Administrator option 2  
Position Number: 40070-19-16-000-00-01  
Division: Title Insurance  
Incumbent: Harry E. Stirmell  
Supervisor: Director Nava  
Location: Sangamon County

Agency: Department of Public Health  
Position Title: Public Service Administrator  
Position Number: 37015-20-01-010-10-01  
Division: Director's Office  
Incumbent: Vacant  
Supervisor: Director Whitaker  
Location: Sangamon County

Agency: Department of Children & Family Services  
Position Title: Public Service Administrator  
Position Number: 37015-16-00-000-10-99  
Division: Director's Office  
Incumbent: Vacant  
Supervisor: Director Samuels  
Location: Cook County

V. MOTION TO GO INTO EXECUTIVE SESSION

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO HOLD AN EXECUTIVE SESSION TO CONSIDER APPEALS OF DISMISSAL AND LAYOFF FILED WITH THE COMMISSION.**

VI. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois, at 10:50 a.m.

Present: George E. Richards, Chairman; Betty Bukraba, John M. Dorgan, Raymond W. Ewell, and Barbara J. Peterson, Commissioners; Daniel Stralka and Leonard F. Sacks of the Commission staff; Alice Kirby, Manager, Human Resources, DHS; Barbara Piwowarski, Chief Fiscal Officer, DCFS; Nancy Wuttke, Manager, Personnel, CMS; and Louis Bertucci.

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

A. Request for 4d(3) Exemption Continued by the Commission

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE UNTIL NOVEMBER, 2003 THE REQUEST FOR 4D(3) EXEMPTION AS STATED BELOW.**

Agency:	Department of Children & Family Services
Position Title:	Public Service Administrator
Position Number:	37015-16-20-000-01-01
Division:	Budget and Finance
Incumbent:	Vacant
Supervisor:	SPSA 40070-16-20-000-00-01
Location:	Cook County

VIII. APPEALS TERMINATED WITHOUT DECISION

Listed below for the record is a summary of appeals in which termination was achieved by action other than formal decision by the Commission. All records pertaining to the appeals are a matter of record in the Commission files.

Dismissals

<u>Name</u>	<u>Title</u>	<u>Department</u>
Michael R. Maurello	Maintenance Worker	Transportation

Request for hearing filed: 3-3-03

RESULTS: Signed Stipulation to Dismiss filed with the Commission. Case closed by letter dated October 6, 2003.

VIII. APPEALS TERMINATED WITHOUT DECISION (continued)

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO CONCUR WITH THE STAFF DECISION TO ACCEPT THE STIPULATION AND DISMISS THE APPEAL.**

IX. ADMINISTRATIVE REVIEW APPEALS

Circuit Court -- Dismissal

<u>Case No.</u>	<u>Name</u>	<u>County</u>	<u>Record Filed</u>
DA-61-03	Gary R. Crompton	Sangamon	Pending
DA-32-03	Jerry R. Turnbull	Cook	Pending
DA-33-03	Sarah D. Vega	Cook	Pending
DA-34-03	Joseph L. Hampton, Jr.	Cook	Pending
DA-37-03	Brad Cole	Cook	Pending
DA-38-03	Joan K. Messina	Cook	Pending
DA-42-03	Jeffrey A. Fulgenzi	Cook	Pending
DA-43-03	Linda LeBegue	Cook	Pending
DA-45-03	Edward J. Harmeyer	Cook	Pending
DA-46-03	Fred R. Kimble	Cook	Pending
DA-47-03	David J. Urbanek	Cook	Pending
DA-50-03	Laraine E. Williams	Cook	Pending
DA-51-03	Michael P. Murphy	Cook	Pending
DA-52-03	Leslie A. Barrow	Cook	Pending
DA-54-03	Susan C. Nelson	Cook	Pending
DA-55-03	Nancy D. Woodward	Cook	Pending
DA-56-03	Candice D. Trees	Cook	Pending
DA-60-03	Flora Ciarlo	Cook	Pending
DA-63-03	Philip A. Wyatt	Cook	Pending
DA-66-03	Katherine A. Parker	Cook	Pending
DA-67-03	Nick Vespa	Cook	Pending
DA-68-03	Matt Overaker	Cook	Pending
DA-69-03	Julie A. Dutton	Cook	Pending
DA-71-03	Sinéad Rice Madigan	Cook	Pending
DA-72-03	Catherine M. Narup	Cook	Pending
DA-78-03	Madelynne L. Brown	Cook	Pending
DA-80-03	Fred Backfield	Cook	Pending
DA-82-03	Peggy Booker	Cook	Pending



X. COURT DECISIONS ON ADMINISTRATIVE REVIEW

Circuit Court - Dismissal

Betty Docks-Ezell v. State of Illinois, Civil Service Commission, Department of Central Management Services, and Illinois Department of Human Services (No. 01 CH 4882)

On September 25, 2003, Judge William O. Maki of the Circuit Court of Cook County issued a decision upholding the Commission's decision which substituted a 90-day suspension in lieu of discharge of the employee. Ms. Docks-Ezell worked as a Mental Health Technician III for the Illinois Department of Human Services at the Elisabeth Ludeman Development Center. A staff meeting was held to resolve differences regarding the employee's work habits. During that meeting Ms. Docks-Ezell said that her sons would "take care" of any problems she had at work. Subsequently, two of her sons went to Ludeman to confront her co-workers. While there, they threatened to "blow up" Ludeman if they heard about anyone disrespecting their mother. The Commission found the evidence supported a finding that the employee issued a thinly-veiled threat and that this threat violated the agency's zero tolerance rule against threats of violence.

XI. APPEALS FILED UNDER RULE 6 OF THE COMMISSION RULES

Louis Bertucci

On April 16, 2003, the Commission received an appeal from Louis Bertucci, who was laid off from the Department of Central Management Services (CMS) as a Building/Grounds Supervisor at the James R. Thompson Center, Chicago.

The employee complained that his layoff was due to a lack of funds, but the Agency continued to hire others the same day he was terminated. Layoff appeals are governed by Section 1.100 of the Rules of the Commission, which provides that a layoff appeal "shall set forth with particularity a statement of facts and a designation of the applicable provisions of the Personnel Code or Rules of the Department of Central Management Services which are alleged to have been violated." Mr. Bertucci failed to provide any facts in support of his allegations of a "potential for prejudice" and "many hires within the same agency at more than double my laid off salary." Staff has concluded that no rule violations occurred in the layoff procedures followed by the Department of CMS. Mr. Bertucci was advised by letter dated July 15, 2003 that the staff would recommend that his layoff appeal be denied.

On August 18, 2003, the Commission received a request from Mr. Bertucci to continue this matter, pending his Freedom of Information Act request. Accordingly, the Commission continued this matter until September, 2003. On September 9, 2003, Mr. Bertucci's response was received by the Commission. This matter was continued by the

XI. APPEALS FILED UNDER RULE 6 OF THE COMMISSION RULES (continued)

Commission at the September 18, 2003 meeting until October 16, 2003. The Commission received a response from CMS to Mr. Bertucci's submissions on October 1, 2003, further stating that no violation of the Personnel Code or Rules occurred.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE THIS MATTER UNTIL NOVEMBER, 2003.**

Marsha Ornellas Andersen

On July 15, 2003, the Commission received an appeal from Marsha Ornellas Andersen, who was laid off from the Department of Veterans' Affairs (DVA) as a Senior Public Service Administrator (SPSA).

Ms. Andersen alleged that:

- The individual responsible for making the layoff decision was an SPSA with less continuous service than her and thus, was not objective in their decision-making process.
- Her layoff was retaliatory for being vocal regarding "illegal wrongdoings" at DVA.
- DVA's use of lack of funds as a justification for her layoff was "inaccurate" since there are other SPSAs making higher salaries who were not laid off and that she recently secured \$13,000,000 in funds for the agency that "covers" her annual salary.
- She was the only employee in the Central Office with a health care background and knowledge in the operations of the Veterans Home.

Layoff appeals are governed by Section 1.100 of the Rules of the Commission which provides that a layoff appeal "shall set forth with particularity a statement of facts and a designation of the applicable provisions of the Personnel Code or Rules of the Department of Central Management Services which are alleged to have been violated." Staff investigation found that Ms. Andersen failed to provide any facts to support her first two allegations. The DVA layoff plan provides that layoffs shall be within organizational units, not job classifications, and DVA indicated that there were no SPSAs with less continuous service in that organizational unit. Further, the securing of funds for the agency, though noteworthy, does not insulate her from a layoff plan that is otherwise in compliance with the Personnel Rules. Lastly, DVA indicated that the Veterans Homes themselves have staff with health care background and operations knowledge which results in a duplication of services which the agency cannot afford in the current fiscal climate. Ms. Andersen was advised by letter mailed September 30, 2003 that the staff would recommend that her layoff appeal be denied. She has 21 days from the service of this letter to file a response with the Commission.

XI. APPEALS FILED UNDER RULE 6 OF THE COMMISSION RULES (continued)

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE THIS MATTER UNTIL NOVEMBER, 2003. COMMISSIONER DORGAN INSTRUCTED EXECUTIVE DIRECTOR STRALKA TO REFER THIS MATTER TO THE INSPECTOR GENERAL'S OFFICE.**

XII. 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. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services consecutive non-merit report as of September 30, 2003.

	<u>8/31/03</u>	<u>9/30/03</u>
Agriculture	5	2
Central Management Services	8	8
Children & Family Services	0	1
Employment Security	0	2
Historic Preservation	2	2
Human Services	1	1
Lottery	1	1
Natural Resources	31	27
Public Health	2	1
Revenue	0	2
State Police	0	1
State Retirement Systems	1	1
Transportation	<u>2</u>	<u>1</u>
	53	50

XIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

Dismissal - DA-109-03

<u>Name</u>	<u>Title</u>	<u>Department</u>
Michael R. Jimson	Correctional Captain	Corrections

CHARGES: Participated in a relationship with a parolee and failed to report such relationship to his superiors. These actions are violations of Rules of Conduct and Administrative Directives for Corrections.

Request for hearing filed: 6/25/03

RESULTS: It was found that the written charges for discharge had been proven, but that those charges did not warrant the discharge of the employee. A 90-day suspension was substituted for discharge.

Administrative Law Judge: Daniel Stralka

Decision dated: 10-16-03

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DORGAN, AND THE MOTION UNANIMOUSLY ADOPTED TO SUBSTITUTE A 90-DAY SUSPENSION IN LIEU OF DISCHARGE.**

Motion to Dismiss - DA-8-04

Mark R. Schmidt	SPSA	Guardianship & Advocacy
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CHARGES: Insubordination and Conduct Unbecoming a State Employee

Request for hearing filed: 7/30/03

On July 17, 2003 Mark Schmidt was served his notice of discharge by the Guardianship and Advocacy Commission effective July 21, 2003. That same day, his Union filed a grievance on his behalf that was signed by his Union representative, but not Schmidt. Schmidt learned of this grievance by July 29 when he met with the Union representative to discuss it. On the morning of July 30, he attended a third step grievance meeting with his Union representative and agency representatives. There was no resolution at that time. Later that same day, he met with an attorney to discuss his discharge. He then authorized his attorney to file a Civil Service appeal on his behalf which was timely filed on July 30. On August 4, the agency sent a letter to the Union denying the grievance. Sometime afterwards, the Union learned of the Civil Service appeal and notified Schmidt that he must choose one or the other. Schmidt elected to proceed with the Civil Service appeal, so the Union withdrew the grievance. Subsequently, the agency filed a Motion to Dismiss for lack of jurisdiction citing the grievance that had been filed on Schmidt's behalf two weeks prior to the Civil Service appeal.

XIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS (continued)

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DORGAN, AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE THIS MATTER UNTIL NOVEMBER, 2003. EXECUTIVE DIRECTOR STRALKA IS TO RECOMMEND A DECISION REGARDING THIS MOTION TO DISMISS FOR THE NOVEMBER, 2003 MEETING.**

XIV. STAFF REPORT

- The Executive Director reported on new legislation submitted to the Governor's office, abolishing the Executive Secretary position and creating a formal Executive Director position appointed by the Commission.
- Commissioners are reminded to submit their updated biographies for the 2003 Annual Report.
- There were no material findings in our recently concluded audit report for the two years ending 6/30/03.
- Affirmative Action and Business Enterprise Plans have been submitted.
- A supplemental budget request for FY 2004 has been made due to the increased workload.
- The Executive Director conducted one outreach session with the Department of Human Services within the last month.

XV. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, November 20, 2003, at 10:30 a.m. in the Commission's Springfield Office.

XVI. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO ADJOURN THE MEETING.**