

December 18, 2003

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
December 18, 2003

I. OPENING OF MEETING AT 9:05 A.M. AT 160 NORTH LA SALLE STREET,  
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; Liz Nicholson and George Rada, IDES; Barb Jeffers, DHS; and  
Marianne Armento, Technical Services Division Manager, CMS (by telephone).

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD NOVEMBER 20, 2003

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY  
COMMISSIONER DORGAN, AND THE MOTION UNANIMOUSLY ADOPTED  
TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD  
NOVEMBER 20, 2003.**

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 .....	109	5
Agriculture .....	528	14
Arts Council .....	20	1
Banks and Real Estate .....	262	2
Central Management Services .....	1,231	40
Children and Family Services .....	3,463	36
Commerce & Econ. Opportunity .....	484	56
Corrections .....	14,167	107
Criminal Justice Authority .....	72	3
Deaf and Hard of Hearing Comm. ....	6	1
Developmental Disabilities Council ...	13	1
Elections Board .....	51	1
Emergency Management Agency ....	108	1
Employment Security .....	1,962	19
Environmental Protect. Agency ....	1,130	7
Financial Institutions .....	81	6
Guardianship and Advocacy .....	114	6
Historic Preservation Agency .....	198	3
Human Rights Commission .....	10	2
Human Rights Department .....	143	6
Human Services .....	15,637	55
Industrial Commission .....	149	8
Insurance .....	337	6
Investment Board .....	4	1
Labor .....	84	7
Labor Relations Board Educational ...	16	2
Labor Relations Board State .....	19	2
Law Enforce. Trng. & Standard Bd. ...	25	1
Military Affairs .....	140	3
Natural Resources .....	1,707	26
Pollution Control Board .....	28	3
Professional Regulation .....	245	13
Property Tax Appeal Board .....	23	2
Public Aid .....	2,326	17
Public Health .....	1,112	27
Revenue .....	2,224	41
State Fire Marshal .....	123	5
State Police .....	1,504	4
State Police Merit Board .....	5	1
State Retirement System .....	79	1
Transportation .....	3,026	1
Veterans Affairs .....	1,143	2
TOTALS .....	54,108	545

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)

George Rada, Illinois Department of Employment Security, responded to questions Commissioners had regarding that agency's requests for 4d(3) exemption, agenda items E.1-E.6.

Commissioner Dorgan had several questions regarding Central Management Services' request for exemption, agenda item J. Director Stralka provided supplemental information he received that morning from CMS, which satisfied Commissioner Dorgan's questions.

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE OR CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS, IN ACCORDANCE WITH STAFF RECOMMENDATION:**

C. Requests for 4d(3) Exemption Continued by the Commission

Agency: Department of Professional Regulation  
Position Title: Senior Public Service Administrator  
Position Number: 40070-24-11-000-00-01  
Division: Web Management Services  
Incumbent: Vacant  
Supervisor: Director  
Location: Cook

Agency: Department of Children & Family Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-16-00-000-40-01  
Division: Director's Office  
Incumbent: Vacant  
Supervisor: Director Samuels  
Location: Cook County

Agency: Department of Professional Regulation  
Position Title: Senior Public Service Administrator  
Position Number: 40070-24-05-200-00-01  
Division: Statewide Enforcement  
Incumbent: Wayne Straza  
Supervisor: SPSA 40070-24-05-000-00-01  
Location: Cook

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

Agency: Department of Professional Regulation  
Position Title: Senior Public Service Administrator  
Position Number: 40070-24-05-500-00-01  
Division: Statewide Enforcement  
Incumbent: Vacant  
Supervisor: SPSA 40070-24-05-000-00-01  
Location: Cook

D. Requests for 4d(3) Exemption Approved by the Commission

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-900-01-01  
Division: Assistant Director's Office  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

Agency: Office of Banks and Real Estate  
Position Title: Senior Public Service Administrator  
Position Number: 40070-50-92-100-00-01  
Division: Bureau of Real Estate Professions  
Incumbent: Vacant  
Supervisor: Commissioner  
Location: Cook

Agency: Office of Banks and Real Estate  
Position Title: Senior Public Service Administrator  
Position Number: 40070-50-92-200-00-01  
Division: Bureau of Administration  
Incumbent: Robert Thompson  
Supervisor: Commissioner  
Location: Sangamon

Agency: Office of Banks and Real Estate  
Position Title: Senior Public Service Administrator  
Position Number: 40070-50-92-300-00-01  
Division: Bureau of Banks and Trust Companies  
Incumbent: Scott Clarke  
Supervisor: Commissioner  
Location: Sangamon

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

Agency: Office of Banks and Real Estate  
Position Title: Senior Public Service Administrator  
Position Number: 40070-50-92-400-00-01  
Division: Bureau of Residential Finance  
Incumbent: Vacant  
Supervisor: Commissioner  
Location: Cook

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-51-000-00-01  
Division: Field Operations  
Incumbent: Waverly Robinson  
Supervisor: SPSA (40070-44-50-000-00-01)  
Location: Cook

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-53-000-00-01  
Division: Field Operations  
Incumbent: Vacant  
Supervisor: SPSA (40070-44-50-00-00-01)  
Location: Cook

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-54-000-00-01  
Division: Field Operations  
Incumbent: Peter Andrews  
Supervisor: SPSA (40070-44-50-000-00-01)  
Location: Kane

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-55-000-00-01  
Division: Bureau of Residential Finance  
Incumbent: Suzanne Faulkner  
Supervisor: SPSA (40070-44-50-000-00-01)  
Location: Peoria

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

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-56-000-00-01  
Division: Field Operations  
Incumbent: Raymond Bailey  
Supervisor: SPSA (40070-44-50-000-00-01)  
Location: Sangamon

Agency: Department of Employment Security  
Position Title: Senior Public Service Administrator  
Position Number: 40070-44-57-000-00-01  
Division: Field Operations  
Incumbent: Vacant  
Supervisor: SPSA (40070-44-50-000-00-01)  
Location: Jefferson

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-000-01-02  
Division: Assistant Director's Office  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Sangamon

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-400-01-01  
Division: Bureau of Strategic Sourcing and Procurement  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-700-01-01  
Division: Bureau of Strategic Sourcing and Procurement  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

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

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-950-01-01  
Division: Bureau of Strategic Sourcing and Procurement  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-600-01-01  
Division: Bureau of Strategic Sourcing and Procurement  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

Agency: Central Management Services  
Position Title: Senior Public Service Administrator  
Position Number: 40070-37-41-800-01-01  
Division: Bureau of Strategic Sourcing and Procurement  
Incumbent: Vacant  
Supervisor: Assistant Director  
Location: Cook County

Agency: Department of Professional Regulation  
Position Title: Senior Public Service Administrator  
Position Number: 40070-24-05-100-00-01  
Division: Statewide Enforcement  
Incumbent: Vacant  
Supervisor: SPSA 40070-24-05-000-00-01  
Location: Cook

Agency: Department of Professional Regulation  
Position Title: Senior Public Service Administrator  
Position Number: 40070-24-05-300-00-01  
Division: Statewide Enforcement  
Incumbent: Michael Lyons  
Supervisor: SPSA 40070-24-05-000-00-01  
Location: Cook



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

Agency: Environmental Protection Agency  
Position Title: Senior Public Service Administrator  
Position Number: 40070-46-21-100-00-01  
Division: Legal Counsel  
Incumbent: Joseph Svoboda  
Supervisor: Director  
Location: Sangamon County

Agency: Department of Public Aid  
Position Title: Senior Public Service Administrator  
Position Number: 40070-33-70-000-00-62  
Division: Division of Finance  
Incumbent: Vacant  
Supervisor: Director  
Location: Sangamon County

V. MOTION TO GO INTO EXECUTIVE SESSION

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO HOLD AN EXECUTIVE SESSION TO CONSIDER APPEALS OF DISMISSAL 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, Chicago, Illinois, at 10:50 a.m.

Present: George R. 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; Robert B. Powers; Barb Jeffers, DHS; and Marianne Armento, Technical Services Division Manager, CMS (by telephone).

VII. 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.

Dismissal

Bijou, Sandra                      Administrative Assistant I                      Human Services

CHARGES:    Time Abuse and Neglect in the Performance of Duties, and  
                  Failure/Inability to Perform Assigned Duties/Responsibilities  
Request for hearing filed: September 23, 2002

Settlement agreement reached and Stipulation to Dismiss signed by the parties. Case closed by letter dated December 1, 2003.

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

VIII. COURT DECISIONS ON ADMINISTRATIVE REVIEW

On October 18, 2000 Michael Gunther, an IDOT employee, was discharged for Misrepresentation of Medical Condition in order to obtain Workers Compensation benefits and Conduct Unbecoming a State Employee. On October 11, 2001 the Commission rejected the Recommended Decision of the Hearing Officer and upheld the discharge. Gunther filed a Complaint for Administrative Review, but failed to serve IDOT with a summons. On April 15, 2002 the trial court granted IDOT's Motion to Dismiss for failure to serve a necessary party. Gunther appealed, and on October 28, 2003 the Appellate Court, in an unpublished opinion, upheld the dismissal. On December 1, 2003 the Appellate Court granted IDOT's motion to publish the opinion.

IX. AMENDMENTS IN CLASS SPECIFICATIONS

A. Comments on Class Specifications

1. Correctional Captain

The Department of Corrections has been the sole agency user of the Correctional Captain class since its inception. Director Roger E. Walker, Jr. of the Department of Corrections has requested that the Correctional Captain class be abolished, as his agency no longer uses the class. No incumbents or positions presently exist within this classification; the last incumbents vacated the class effective August 1, 2003.

B. Recommendations for Commission Action

The class specifications for the following classes, submitted by the Director of Central Management Services, were found satisfactory.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE CLASS SPECIFICATIONS FOR THE FOLLOWING CLASSES, TO BE EFFECTIVE JANUARY 1, 2004.**

Abolitions

Correctional Captain

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION UNANIMOUSLY ADOPTED TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION STAFF NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

X. 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 November 30, 2003.

	<u>10/31/03</u>	<u>11/30/03</u>
Agriculture	0	1
Central Management Services	7	7
Children & Family Services	1	0
Employment Security	0	2
Historic Preservation	2	1
Natural Resources	26	33
Public Health	1	0
State Police	1	1
Transportation	1	0
Veterans' Affairs	<u>1</u>	<u>1</u>
	40	46

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

Dismissal of Appeal- Failure to Appear at Hearing

<u>Name</u>	<u>Title</u>	<u>Department</u>
Thomas Jackson	Office Specialist	Children & Family Services

Charge: Unauthorized Absences

Request for hearing filed: October 7, 2003

Results: The appeal was dismissed with prejudice due to Respondent's failure to appear at the hearing.

Decision dated: 12/18/03

Administrative Law Judge: Daniel Stralka

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE, THE MOTION UNANIMOUSLY ADOPTED TO DISMISS THE APPEAL OF THOMAS JACKSON WITH PREJUDICE DUE TO HIS FAILURE TO APPEAR AT THE HEARING.**

Dismissal

Charles Kohr	Hearings Referee	Employment Security
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Charge: Inappropriate Conduct of a Sexual Nature in the Workplace

Request for hearing filed: October 9, 2003

Results: It was found that the charges for discharge were proven in part, but do not warrant the discharge of the Respondent. A 90-day suspension was substituted for the discharge of Respondent.

Decision dated: 12/18/03

Administrative Law Judge: Daniel Stralka

**IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE, THE MOTION UNANIMOUSLY ADOPTED TO SUBSTITUTE A 90-DAY SUSPENSION FOR THE DISCHARGE OF CHARLES KOHR.**

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS (continued)

Dismissal

Joseph Mungai                      Registered Nurse 1                      Human Services

Charge: Failure and Inability to Return from Leave of Absence and Inability to Perform Duties and Responsibilities of the Position

Request for hearing filed: January 31, 2003

Results: The evidence proved that Respondent was unable to perform the responsibilities and duties of his Registered Nurse 1 position. The evidence also proved Respondent failed to chose among the options offered to him by DHS when his leave of absence was terminated, and he failed to return to work. While the Respondent argued for the Commission to make a determination that his injury was an "on-the-job injury" as contemplated by the Collective Bargaining Agreement, the Commission is not empowered to do so -- that is the province of the Industrial Commission. If Respondent prevails before the Industrial Commission, DHS may then be forced to reconsider Respondent's entitlements.

Decision dated: 12/18/03

Administrative Law Judge: Daniel Stralka

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE, THE MOTION UNANIMOUSLY ADOPTED TO UPHOLD THE DISCHARGE OF JOSEPH MUNGAI.**

Dismissal

<u>Name</u>	<u>Title</u>	<u>Department</u>
Robert B. Powers	Sr. Public Service Administrator	Civil Service Commission

Charge: Falsely signed CMS-2 forms as the Director of Central Management Services, which is a violation under the Personnel Code

Request for hearing filed: June 2, 2003

Results: The charges for discharge were proven and discharge was upheld.

Decision dated: 12/18/03

Administrative Law Judge: William F. Trapp

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE, THE MOTION UNANIMOUSLY ADOPTED TO UPHOLD THE DISCHARGE OF ROBERT B. POWERS.**

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS (continued)

Dismissal

Elizabeth Terrell      Mental Health Tech III      Human Services

Charge: Recipient abuse.

Request for hearing filed: February 15, 2001

8/22/02 - Remanded back to Administrative Law Judge for additional evidence.

10/17/02 - Appeal dismissed with prejudice by Commission due to lack of jurisdiction.

11/3/03 - Remanded back to CSC by Circuit Court of Cook County for decision on merits of case.

Results: The Commission reversed the findings of the Administrative Law Judge and upheld the discharge of the Respondent, Elizabeth Terrell.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE, THE MOTION UNANIMOUSLY ADOPTED TO UPHOLD THE DISCHARGE OF ELIZABETH TERRELL.**

XII. STAFF REPORT

- FY05 budget has been submitted.
- Executive Director Stralka distributed copies of the FY03 Annual Report.
- There was discussion regarding the different variations in the 4d(3) transmittal letters to the Commission, after which it was the Commission direction to request an opinion letter from the Attorney General to ensure that the Central Management Services' (CMS) letters are sufficient to meet the statutory requirement written recommendation by the Director of CMS prior to Commission consideration.
- Executive Director Stralka distributed Meeting Date Schedule for 2004.
- Ethics Bill was discussed and how it impacts the Commission and our need to create timesheets and adopt Personnel Rules.
- Open Meetings Act will require us to record executive sessions effective January 1, 2004. Executive Director Stralka discussed how this will be accomplished.

December 18, 2003

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, January 15, 2004 at 9:00 a.m. in the Commission's Chicago Office.

XIV. MOTION TO ADJOURN.

**IT WAS MOVED BY COMMISSIONER DORGAN, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION UNANIMOUSLY ADOPTED TO ADJOURN THE MEETING AT 11:15 A.M.**