

**ARIZONA STATE PERSONNEL BOARD**  
**MEETING MINUTES**  
**AUGUST 10, 2016**

The Arizona State Personnel Board meeting was called to order by Joe Beers at 11:07 a.m. The meeting was held at 1400 West Washington Street, Suite 280, Phoenix, Arizona. Board members in attendance were Mark Ziska, Kevin Donnellan, and Chad Kirkpatrick. Staff members present were Jeff Bernick as Counsel for the Board, Laurie Barcelona, Executive Director and Robin Van Staeyen, Administrative Assistant II.

The board called for comments from the public. There being no public comments, Mark Ziska moved to adopt the minutes from the May 10, 2016 and June 8, 2016 meetings. Chad Kirkpatrick seconded the motion which carried unanimously.

Next, the board considered the dismissal appeal of *Lori Fresquez v. Department of Corrections.*

Ms. Fresquez was not present to speak.

James Green, Assistant Attorney General representing the Department of Corrections, stated that the Appeals court made a decision after the hearing officer's recommendation was submitted, which made clear that A.R.S. §38-1106(H) requires a hearing officer or the Personnel Board to state whether "just cause" existed for the disciplinary action. Mr. Green added that the hearing officer's recommendation does not explicitly state that "just cause" existed and asked the board to state that "just cause" existed in their order. Continuing, Mr. Green stated that Ms. Fresquez had turned in her equipment before the end of her shift on February 15, 2016 and while on her final security check found an inmate who was unresponsive and couldn't radio anyone or activate the alarm. Additionally, Ms. Fresquez had failed to do a perimeter check within an hour as required by policy. Due to the serious nature of the misconduct of Ms. Fresquez, Mr. Green explained that it warranted termination due to the policies, orders and directives she violated.

Kevin Donnellan inquired as to whether Ms. Fresquez had any prior discipline. Mr. Green stated that all the violations were related to this one incident, which was two class fours and one class three.

Chad Kirkpatrick inquired if it was common practice for the correctional officers to turn in their equipment early so that they could leave on time; as well as wanting confirmation that the warden had issued a directive that this would no longer be tolerated. Mr. Green answered in the affirmative and that the officers had initially abided by the directive, but began to backslide a few weeks prior to the incident.

Mark Ziska moved to have an Executive Session and Kevin Donnellan seconded the motion. The board went into executive session at 11:15 a.m. The public session resumed at 11:19 a.m.

Kevin Donnellan wanted clarification that the hearing officer report found "just cause", but did not use the words "just cause". Mr. Green answered in the affirmative.

Chad Kirkpatrick inquired about the one class three and two class four violations. Mr. Green stated that one class four was for violating the directive to not turn in equipment before the end of the shift, the second class four was for violating the policy of not reporting that her co-workers were turning in their equipment before the end of their shift, and the class three was for failing to accomplish a security check within an hour. Mr. Kirkpatrick asked if the "just cause" was for a series of violations or just the one class four for turning in equipment early. Mr. Green explained that the report was based on the incident of one particular day and there was no doubt that on that day she turned in her equipment early.

There being no further discussion, Mark Ziska proposed the following motion:

"Finding that the Department of Corrections has proven by a preponderance of the evidence that the material facts on which the dismissal was based and finding that just cause existed and that the dismissal was not arbitrary and capricious, I move we adopt the Hearing Officer's Findings of Fact and Conclusions of Law as our own. I then move that the appellant's appeal be denied and the agency's action of dismissal be upheld."

Chad Kirkpatrick seconded the motion which carried unanimously.

The board then considered the dismissal appeal of **Tinesha Hill vs. Department of Economic Security**.

Ms. Hill stated that she takes responsibility for the charges, but believed that punishment was excessive due to the fact that she had been completing interviews in the same manner for the past three years and had never been disciplined and that the process is still being conducted in the same manner. Ms. Hill asked the board to reconsider her appeal.

Mark Ziska inquired as to her statement regarding the interviews being conducted in the same manner. Ms. Hill stated that she was terminated for avoiding calls from clients and she disagreed with the charge because putting a client on hold for more than five minutes is a practice that is still being used in her department. Furthermore, she wondered why she was never disciplined for this practice in the past or even given any type of verbal reprimand.

Chad Kirkpatrick asked for confirmation that her performance was the same over the years and was not given any feedback regarding any improper performance. Ms. Hill answered in the affirmative and added that she had gotten good appraisal reports until this one particular incident, which resulted in an unfavorable appraisal report.

Christina Hamilton, Assistant Attorney General representing the Department of Economic Security, stated that evidence presented at the hearing included 23 recordings of Ms. Hill avoiding calls or giving wrong information during the time frame of January 28, 2016 through February 3, 2016. Ms. Hamilton further stated that Ms. Hill's performance was not evident due to an inefficient monitoring system, but the monitoring system has now been corrected. Furthermore, Ms. Hill's co-workers who have similar violations as Ms. Hill are also being disciplined in the same manner.

Chad Kirkpatrick inquired about a new monitoring system. Ms. Hamilton stated that the employees' job expectations have remained the same, but that quality control in the department is now looking into the recorded calls for different issues.

Kevin Donnellan asked if others get the same discipline. Ms. Hamilton answered in the affirmative.

There being no further discussion, Joe Beers proposed the following motion:

"Finding that the Department of Economic Security has proven by a preponderance of the evidence that the material facts on which the dismissal was based and that the dismissal was not arbitrary and capricious, I move we adopt the Hearing Officer's Findings of Fact and Conclusions of Law as our own. I then move that the appellant's appeal be denied and the agency's action of dismissal be upheld."

Mark Ziska seconded the motion which carried unanimously.

Next, the board considered the dismissal appeal of **Javier Jimenez vs. Department of Corrections.**

Mr. Green, Assistant Attorney General representing the Department of Corrections, stated that he had no objection to the continuance of a request by Mr. Jimenez to continue this matter to the next board meeting.

There being no discussion, Mark Ziska proposed the following motion:

"I move that the Javier Jimenez case be continued to the next regular scheduled board meeting."

Kevin Donnellan seconded the motion which carried unanimously.

The board then considered scheduling future board meetings. Kevin Donnellan proposed the following motion:

"I move we hold our next regularly scheduled open public meetings of the Board on the 15<sup>th</sup> day of September, 18<sup>th</sup> day of October and 16<sup>th</sup> day of November at 11:00 o'clock a.m. at 1400 West Washington Street, Suite 280, Phoenix, Arizona. I also move we hold an executive session on the same dates at the same location at 10:30 a.m."

Mark Ziska seconded the motion which carried unanimously.

There being no further business before the board, Chad Kirkpatrick proposed the meeting be adjourned. Mark Ziska seconded the motion which carried unanimously. The meeting adjourned at 11:34 a.m.

*(Quotations of board members in these minutes have been reviewed by staff for grammatical content, and certain grammatical changes may have been made by staff administratively. No changes to content have been made by staff administratively or otherwise.)*

Respectfully submitted:

Robin Van Staeyen  
Robin Van Staeyen, Administrative Assistant II  
Arizona State Personnel Board

8/31/16  
Date Prepared