

**MICHIGAN CIVIL SERVICE COMMISSION**  
**Public Meeting**  
**April 26, 2017**

**Present:** Janet McClelland, Chair  
James Barrett, Commissioner  
Jase Bolger, Commissioner  
Robert W. Swanson, Commissioner  
Janine M. Winters, State Personnel Director

**1. CALL TO ORDER**

The meeting of the Civil Service Commission (Commission) was opened by Vice-Chair McClelland at 10:08 a.m., in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

**Approval of Minutes**

Vice-Chair McClelland requested a motion to approve the minutes of the December 14, 2016 meeting. On motion duly made and supported, the minutes of the December 14, 2016 meeting were approved.

**2. AMENDMENTS TO AGENDA**

There were no amendments to the agenda.

**3. INFORMATIONAL REPORTS**

**State Personnel Director's Report**

The Commission received the following report from the State Personnel Director.

Department of Environmental Quality

On December 20, 2016, a request was received to establish an unclassified position to serve as the Outreach Director. Concurrently, the position of Associate Director was abolished. The request was approved, effective January 1, 2017.

On December 21, 2016, a request was received to establish an unclassified position to serve as the Department Director's Chief of Staff. Concurrently, the position of the Economic & Strategic Initiatives Director was abolished. The request was approved, effective January 15, 2017.

On January 17, 2017, a request was received to establish an unclassified position to serve as the External Relations Chief of Staff. Concurrently, the position of the Policy & Legislative Affairs Director was abolished. The request was approved, effective January 15, 2017.

Department of Natural Resources

On January 18, 2017, a request was received to establish an unclassified position to serve as the Special Advisor for Communications. Concurrently, the position of the Outdoor Adventure Center Director was abolished. The request was approved, effective January 15, 2017.

On January 31, 2017, a request was received to establish an unclassified position to serve as the Legislative Liaison. Concurrently, the position of the Policy Advisor to the Director position was abolished. The request was approved, effective January 29, 2017.

On February 21, 2017, a request was received to establish an unclassified position to serve as the Special Advisor for Southeast Michigan. Concurrently, the position of the Public Information officer will be abolished. The request was approved, effective February 12, 2017.

#### Department of Attorney General

On December 28, 2017, a request was received to establish an unclassified position to serve as the Chief Deputy Director. Concurrently, the position of the Chief Legal Counsel was abolished. The request was approved, effective January 1, 2017.

#### Department of State Police

On March 30, 2017, a request was received to establish an unclassified position to serve as the Special Assistant to the Director. The request was approved, effective March 26, 2017.

### **Regulations**

Civil Service rules require that the director report to the commission on the promulgation of regulations to further implement the commission rules. Since the last report, the following regulations were promulgated:

#### **Reissuance of All Civil Service Regulations (effective January 1, 2017)**

SPDOC 16-06 reissued all regulations to (1) update out-of-date rule references, agency names, and contact information; (2) standardize formatting and citation conventions; and (3) correct typographical errors. The revisions also struck unnecessary rule references and definitions. These revisions did not include any material changes to the text of standards of any regulation. SPDOC 17-02 also issued a single document containing all currently promulgated regulations.

#### **Regulation 5.18, Complaints About Benefits (effective March 12, 2017)**

SPDOC 17-02 amended Regulation 5.18, Complaints About Benefits, by:

- Updating the table of third-party administrators to reflect current plans and TPAs.
- Updating language to direct LTD appeals to the Employee Benefits Division instead of the Office of the State Employer.
- Streamlining the appeal process by eliminating one of two levels of administrative appeal before final appeal to the commission.
- Clarifying the record to be considered in appeals.

#### **4. UNFINISHED BUSINESS**

There was no unfinished business.

#### **5. NEW BUSINESS**

##### **A. Election of Officers**

On motion duly made and supported, Janet McClelland was unanimously elected chair.

On motion duly made and supported, Jim Barrett was unanimously elected vice-chair.

**B. Letters of Understanding (Interim Approval Granted) between OSE and AFSCME, MCO, and UAW**

Item 5.B includes six interim approval granted letters of understanding since the Commission's last meeting. They include LOUs on transfers and shift trading for the MCO; on an attendance incentive pilot program for AFSCME; and on overtime exceptions and apparel policies for the UAW.

On motion duly made and supported, Items 5.B.1 and 5.B.2, Letters of Understanding between OSE and MCO, were unanimously approved.

On motion duly made and supported, Item 5.B.3, Letter of Understanding between OSE and AFSCME, was unanimously approved.

On motion duly made and supported, Items 5.B.4, 5.B.5 and 5.B.6, Letters of Understanding between OSE and UAW, were unanimously approved.

**C. Minimum Compensation Increase (Interim Approval Granted)**

Item 5.C is the interim approval granted by the director with the consent of the chair to increase the minimum compensation for five classes with wage levels previously below the \$8.90 to which the state's minimum wage was increased effective January 1, 2017.

On motion duly made and supported, Item 5.C, Minimum Compensation Increase was unanimously approved.

**D. Amendments to Rule 5-6 (Interim Approval Granted)**

Item 5.D is proposed rule changes to authorize, effective October 1, 2017, pilot signing-and retention-bonus programs for Registered Nurse Managers. The concept was approved by the commission during last year's coordinated compensation plan process. Staff circulated proposed rule language to implement the program.

On motion duly made and supported, Item 5.D, Amendments to Rule 5-6, was unanimously approved.

**6. PUBLIC COMMENT**

**ADJOURNMENT**

There being no further items for Commission approval or public comments to be heard, Chair McClelland called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 10:17 a.m.

I, Janine M. Winters, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission meeting of April 26, 2017.

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Janine M. Winters  
State Personnel Director

**MICHIGAN CIVIL SERVICE COMMISSION**  
**Public Meeting**  
**September 20, 2017**

**Present:** Janet McClelland, Chair  
James Barrett, Commissioner  
Jase Bolger, Commissioner  
Robert W. Swanson, Commissioner  
Janine M. Winters, State Personnel Director

**1. CALL TO ORDER**

The meeting of the Civil Service Commission (Commission) was opened by Chair McClelland at 10:02 a.m., in the Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

**Approval of Minutes**

Chair McClelland requested a motion to approve the minutes of the April 26, 2017 meeting. On motion duly made and supported, the minutes of the April 26, 2017 meeting were approved.

**2. AMENDMENTS TO AGENDA**

There were no amendments to the agenda.

**3. INFORMATIONAL REPORTS**

**State Personnel Director's Report**

The State Personnel Director reported that ten requests from departments to establish unclassified positions and nine requests to abolish were received and approved.

Interim approval was also granted for appointments to the Employment Relations Board. Susan H. Zurvalec was reappointed to serve as chair through May 1, 2018. Matthew J. Wesaw was appointed to serve as a member through May 1, 2019. The Honorable William C. Whitbeck was reappointed to serve as a member through May 1, 2020.

**4. UNFINISHED BUSINESS**

There was no unfinished business.

**5. NEW BUSINESS**

**A. Employment Relations Board Appointments**

On motion duly made and supported, the interim reappointments of Susan H. Zurvalec as chair through May 1, 2018, and the Honorable William C. Whitbeck as a member through May 1, 2020, and the interim appointment of Matthew J. Wesaw as a member through May 1, 2019, were unanimously approved.

**B. Letters of Understanding (Interim Approval Granted) between LARA and MSEA**

A letter of understanding on provisions for vacant Workplace Safety Representative positions within MIOSHA was previously granted interim approval by the director with the

consent of the chair. On motion duly made and supported, Item 5.B., Letter of Understanding between LARA and MSEA, was unanimously approved.

**C. Proposed Amendments to Rules 2-5, 2-16, 3-2, 3-4, 3-5, 5-6, 6-2, 6-3, 6-4, 6-7, 6-9, 8-3, and 9-1**

General Counsel John Gnodtke stated that commissioners asked staff to review the rules for potential gains in operational efficiencies. Staff reviewed previous bargaining impasses and grievances and complaints from current and past administrations, directors, and HR staff. A recurring area of concern was agencies' authority to assign staff. Since the commission approved collective bargaining in 1980, many different union provisions on bumping, recall, transfers, overtime assignment, shift assignment, and scheduling have developed that are administratively challenging. The proposed amendments were based on a goal of simplification by applying the same rules that cover staffing for nonexclusively represented employees to all employees. Additional proposed changes included standardizing provisions on paid union leave and dues authorization, reinstating rules of general applicability as a failsafe measure, prohibiting bargaining on merit-pay systems, and instituting a new critical-position-pay pilot program for NEREs.

After the proposed amendments were circulated, staff met with four unions to discuss the proposals. The commission also received over 1,000 comments during the public-comment period. About 98% were nearly identical comments opposing the rules generated through a website set up by the Michigan AFL-CIO. They urged rejection because civil servants deserve the right to bargain over important job protections. Around 20 other unique brief statements of opposition were submitted. Comments supporting the proposal were received from the Mackinac Center, Michigan Chamber of Commerce, and Michigan Freedom Fund.

AFSCME, MCO, MSEA, SEIU, and UAW submitted comments against the proposals. They focused on the importance to employees of seniority-based protections and benefits provided under the current union contracts, the effects on unions' ability to provide services if paid union leaves were cut, and opposition to the potential unilateral amendment of contracts by the commission through rules of general applicability. The OSE provided the employer's coordinated response supporting the proposals, which included examples of the status quo under union contracts that were administratively burdensome and inefficient.

Based on the meetings and public comments, staff drafted four clarifying amendments to the rules as circulated. The first was to correct a typo by inserting the word "and" in rule 6-3.2(b)(9). The second was housekeeping to delete a missed reference in rule 6-3.9(a) referencing union contracts being able to address union leave. Another change to rule 6-9.3(c) would add a sentence to specifically recognize that the director could authorize paid administrative leave for specified labor-relations activities in regulations, as is currently done for NEREs. The final change was to modify the definition of rule of general applicability to limit its use to the compensation plan after a declaration of budgetary emergency by the governor. This was done to address concerns that the proposed rule was too broad.

After a motion was duly made and supported to adopt Resolution 5.C, the comment and discussion period began.

Commissioner Barrett explained his belief that the goal for creating civil service in the 1930s was not simply to prevent cronyism and patronage. While this was certainly a goal, history shows that this was not the only or even the primary goal. Commissioner Barrett highlighted the purpose section of the initial civil service act, which read: "The purpose of this Act is

to... increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.” The original 1940 constitutional provision also required that candidates be evaluated “exclusively on the basis of merit, efficiency, and fitness.” In 1963, the commission’s constitutional provision was amended to add language requiring that all positions be created or abolished only for “reasons of administrative efficiency.” Commissioner Barrett expressed concern that the current system (1) uses seniority hours as a proxy for fitness and efficiency when that number is unrelated to actual merit and (2) prohibits considering actual efficiency and employees’ skills and fitness. The unions were asked to clarify how mechanical application of seniority hours is an appropriate method to achieve the primary historical goal of improving personnel administration through a system based on merit, efficiency, and fitness.

Commissioner Barrett asked staff to address claims in media reports and comments on the decreasing quality of the workforce and inability to recruit candidates, allegations that the proposals would cut overtime pay, and assertions that grievance rights were being lost. Director Winters summarized the quality and number of applicant pools and the benefits offered. She also summarized that overtime pay was not affected by the proposals, which addressed the scheduling of overtime. General Counsel Gnodtke clarified that the proposals maintain grievance rights, but provide for their consideration by the commission instead of arbitrators under contractual grievance processes.

Commissioner Bolger echoed concerns of President Franklin Delano Roosevelt about the need for special consideration of the relationship between public servants and the public. He stated that the current system reduces responsiveness to the will of the people. Commissioner Bolger advocated acting now because the parties should have time to prepare for bargaining next summer and because some of these common-sense reforms have not been acted on despite being identified almost 25 years ago.

Commissioner Bolger highlighted hundreds of pages of union agreements creating dozens of unique bumping procedures that can require several hundred hours of staff time just to figure out what will happen during one layoff. He also asked about the equity in treating employees differently on these conditions of employment, including the 30% of the workforce that is not unionized. General Counsel Gnodtke was asked to and did summarize several dozen definitions of seniority, tiebreakers, and exceptions across all the contracts. Commissioner Bolger asked for comments to focus on facts and the public we serve.

Commissioner Swanson first indicated that he understood the motivation for the proposals, which would have made his life easier when he was director of a department. But he also believed that the resulting provisions were the result of negotiations and concessions, so unilateral changes are antithetical to the bargaining process and undermine trust. He also commented that rules of general applicability were never invoked, detrimental to labor-management relations, and were not supported by a clear statement of need.

Commissioner Swanson moved to amend the resolution to not amend rules 6-2, 6-3.1, 6-3.4, 6-3.10, and thus not reinstate rules of general applicability. The motion received no support and failed.

Commissioner Swanson then moved to amend rule 6-3.9(c)(6) in the resolution to allow the 2,088 hours to be used by multiple employees for union business instead of limiting it to a single officer. The motion received no support and failed.

At the request of the chair, General Counsel Gnodtke summarized the public comment provisions in the bylaws. Chair McClelland asked speakers to focus on substantive discussion of the proposals and their most salient issues. She emphasized that the commissioners had reviewed several hundred pages of public comments and wanted to use time effectively and not just have comments reread or hear previously made arguments. She also asked unions to discuss how current union contracts, which require that staff be assigned work only based on seniority and prohibit considering employee performance, are consistent with effective public administration and a civil service based on merit, efficiency, and fitness.

Ava Barbour and Ed Mitchell commented on behalf of UAW. They emphasized that seniority is used in union contracts to promote fairness and efficiency and avoid individualized determinations based on nepotism or cronyism. Seniority is also a reward to employees for long service to the state and a fair way of choosing between large groups of employees. The proposals would not prioritize who served longest, but who someone knows or supported in the last election. For nearly 40 years, collective bargaining and union representation have fostered a stable workforce benefiting employees and taxpayers. Vague claims of streamlining have not shown that the current system is broken.

Chair McClelland asked for clarification of how union provisions requiring managers to take the most senior employee with no consideration of job match or only choose from among the three most senior when filling positions met concepts of merit and fitness. Mr. Mitchell responded that any candidate would have to be minimally qualified and long-term employees have the experience and ability to do the job.

Commissioner Bolger asked why supervisory time is excluded from seniority hours if service to the state was to be respected. Mr. Mitchell responded that once they left the bargaining unit they were no longer doing the work. Ms. Barbour indicated that the seniority provisions were bargained over and the proposed changes came out of nowhere.

UAW appreciated the clarification to the proposed rule of general applicability, but continued to argue it was unnecessary and ill-advised. The administration of the staff-assignment provisions was described as routine. UAW also highlighted that its contractual grievance process was more efficient than the civil service system and argued that hiring additional hearing officers would be needed to offset the gatekeeping function performed by unions. Reducing leave time would also hamper the unions' ability to play this role and would ultimately not save the state money. UAW also noted its disgust at unjustified suppression of union representation. UAW concluded by asserting that state employment before collective bargaining was based on favoritism, nepotism, and cronyism.

Commissioner Barrett asked UAW to comment on the OSE's example of a single bump chain requiring over 1,000 hours of HR staff time just to implement in addition to the time lost from the hundreds of resulting bumps where employees had to learn new jobs. He asked why the NERE system that still ensure seniority bumping with recall rights was not acceptable. UAW could not speak on the OSE's example, but suggested time spent on the front end would affect time on the back end. UAW also questioned the efficiency of the NERE system and grievance process.

President Tom Tylutki and Chief of Staff Andy Potter commented for MCO. MCO emphasized its strong working relationship with management and 50-year commitment to address concerns together. MCO labeled the proposal as a slap in the face that would erase bargains with the OSE. Recruiting and morale problems were cited. MCO argued that the

unique security issues its employees face are not conducive to one-size-fits-all solutions. MCO referenced partnerships with the employer where systems were revamped to save millions of dollars and find new recruits.

Chair McClelland asked about existing overtime equalization processes for NEREs. MCO responded that the system created by employees was efficient and manageable. Chair McClelland also noted that the proposal would allow agencies flexibility to address unique agency concerns.

President Ken Moore and Labor Relations Coordinator Peter Clark commented for MSEA. MSEA argued that the rules do not address the diversity of services, classifications, and agencies served by MSEA. This diversity demands individual and unique rules. MSEA criticized the proposal to reinstitute rules of general applicability as politics. MSEA argued that the contractual staff-assignment procedures are merit-based because employees do not get 20 years of seniority unless they are good employees.

Chair McClelland asked whether the seniority-based processes achieved the best fit of employee and position. MSEA responded that its contract allowed the employer to choose from among the three most senior employees and long-time employees are competent and would fit.

MSEA asked why rules of general applicability were sought now. Chair McClelland emphasized that the rule was intended for emergency situations and revised to address concerns on its breadth. Director Winters described thousands of layoffs that a rule of general applicability could have prevented during a budget crisis in the 1980s.

MSEA stated that the proposal would remove protections bargained for in good faith less than a year earlier. MSEA also noted that seniority benefits reward employees for service at no cost to taxpayers, unlike pay for performance. MSEA criticized the lack of procedure in the regulations addressing staff-assignment issues and argued that the details in the union agreements are needed to address them. Absent these procedures, MSEA indicated concern that favoritism would occur.

MSEA also indicated that it has a fantastic relationship with all departments and has collaborated to reduce the number of arbitrated grievances over the years. MSEA argued that its arbitration process has fewer levels and is more efficient than the NERE appeal process. MSEA also questioned whether it was clear where complaints would be filed if the proposal was adopted. MSEA also expressed concern that the reforms to bumping and recall would prevent retention of skilled workers.

President George Heath and Bargaining Unit Presidents David Berridge, Joey Combs, and Arnold Beller commented for SEIU, which asked the commission to remember that it represented state employees. The commission was created to take politics out of the state personnel system as a neutral and not represent employee nor management interests exclusively. The proposed changes are not neutral and were not negotiated or talked about. SEIU questioned the need for rules of general applicability given employees' demonstrated willingness to make concessions through negotiations. SEIU also objected to the proposed changes to union leaves because one person could not possibly handle the different issues statewide across three very different contracts.

The unit presidents argued that the proposal was designed to take away employees' voice and protection and questioned whether employees would have access to the commission.



Current language comes from over 30 years of working together with departments to create fair and equitable approaches for staff assignment. Prohibiting the subject will allow misuse by the employer. They emphasized the three separate units represent employees at hundreds of worksites and in over 100 classifications. The reduction to a single paid position for union leave would be unworkable. SEIU also questioned the fairness of changing a contract's term unilaterally while it was in effect. Rules of general applicability should not be used. Mutual provisions must be honored. Unions have made concessions in the past through communication and negotiation in good faith. SEIU claimed that the proposal would prevent a grievance over an arbitrary and capricious action. The SEIU echoed the comments of other unions and asked the commission to avoid the negative impact of the proposals and send the issues back to the parties for collective bargaining.

General Counsel Gnodtke clarified that the rules specifically authorize grievances to be filed for arbitrary actions. They do not prevent grievances in such situations.

President Lawrence Roehrig, Vice President Robyn Clark, and Mark Williams commented for AFSCME. AFSCME indicated that the commission has accomplished something already by uniting the labor movement. Top-down imposition of conditions is what led to Flint. Unions can solve problems without slowdowns or strikes if treated as equals. The commission was created to protect employees from employers. It should do something right with the OSE to collaborate and make things work. Rules reached through mutual respect work better than a whip, chain, and chair. AFSCME argued that its contract not only focuses on seniority, but allows consideration of experience and performance. AFSCME has worked with the OSE through concessions to address budgetary issues and negotiations to improve efficiency. There are few grievances in process on overtime and seniority where the union works with the employer. The proposals will not help morale. AFSCME asked to be allowed to be part of the solution.

State Employer Marie Waalkes commented in support of the proposal. She stood behind the written comments, which were provided after consultation with state agencies. Commissioner Swanson asked why substantive problems were not raised at the bargaining table. Ms. Waalkes replied that departments indicated that they had brought up issues, but they had not gone through. Commissioner Swanson also asked for the rationale for supporting rules of general applicability when her predecessors had opposed it as detrimental. Ms. Waalkes indicated that the employer could still go back and discuss concessions even with the rule in place.

State Representative Tim Greimel commented in opposition to the proposal. He stated that state workers put their lives on the line and deserved respect and dignity in the workplace. Representative Greimel stated that the rules would make workers less efficient, less productive, and reestablish political favoritism. Limiting the scope of collective bargaining risked going back to the days before bargaining and unrest. He highlighted rules of general applicability as egregious. He claimed the rules would prohibit resolution of grievances on state time and require managers and workers to spend time after hours. He expressed concern with giving managers and directors more power to assign staff, which risked allowing favoritism and corruption. He believed the proposals could make it harder to attract quality applicants, further lower morale, and drive good people away.

State Representative Scott Dianda commented in opposition to the proposal. He stated that what is in place has worked well since 1963. Labor-management relations can ensure issues never get to the grievance process. While the state is trying to attract businesses,

the commission should not lower morale and hang concerns over the heads of long-term employees. The commission should have an open dialogue about changes to the system.

Wendy Block, senior director of health policies, human resources, and business advocacy for the Michigan Chamber of Commerce, commented in support of the proposal. She highlighted the additional flexibility for managers and modernization of systems that will lead to a more productive workforce. She stated that compensation based on performance and not just seniority is long overdue. Ms. Block also supported changes regarding dues deductions and cutting taxpayer subsidies for around 34 government employees who report to work but do work for their unions.

Dirk Wilcox, senior attorney at the Mackinac Center, commented in support of the proposal. He referenced his written comments, which were previously submitted. While he appreciated that current systems were negotiated in good faith, the system that has developed focuses on unchanging procedures instead of improving best practices. The rules must be updated to encompass best practices and ensure taxpayer money is well spent and public services are well managed.

Bob Kopasz, chair of the Michigan State Employee Retirees Association, commented in opposition to the proposal. He expressed concern about the proposal's lack of specifics. Mr. Kopasz described his role in bargaining sessions. The shift assignment provisions were among the most important provisions to employees. He expressed concern that the employer still tried to circumvent these provisions. Mr. Kopasz stated his hope that the state and commission would move labor relations forward and not backwards.

Michael Duell spoke in opposition to the proposal. He indicated that he began as a contract employee for MDOT before being hired as a civil servant. He stated that contract employees were used because managers could not manage, yet these poor managers remain in their positions. Mr. Duell argued that NEREs' efficiency had to be improved. He also spoke of the need to reward workers for good performance and highlighted the creation of extra layers of management to reward employees. Mr. Duell indicated that employees were being lured away by private employers who could offer higher salaries. The state must pay fairly, offer flexible hours and respect, inspire autonomy among employees, and improve benefits.

After a short recess, public comment resumed.

Diane Adams, a dental hygienist, expressed her concern that the proposed rules will not allow workers' safety to be guaranteed. She expressed concern over the state's economy and the lack of employees' voice.

Russ Bellant commented in opposition to the proposal. Mr. Bellant indicated he had worked in the public and private sector as management and as a union member. He stated that unions can bring higher standards than management. Mr. Bellant warned that less participation is a failed model under emergency management, in Europe, and in Michigan. He referenced Aramark, the Detroit school system, and Flint. He argued that the proposals are not about efficiency, but about eliminating voices and urged avoidance of partisanship.

Charles Blockett, former commissioner, summarized his history with the state. He argued that the current systems have been handled for decades without the technology available today. He stated that focus on cost savings led to the situations at the veterans facility and with prison food workers and that the commission should start by considering rules on

contracting out. Mr. Blockett indicated that the proposals could destroy good labor relations and that life would be hell if they passed.

John Eck commented in opposition to the proposal. Mr. Eck noted that an advisory taskforce on civil service reform had recommended allowing collective bargaining, which was implemented in 1980. A 1987 taskforce endorsed the progress. Strong unionism has worked and departments cannot be trusted to know the ins and outs. The current system with the OSE and commission works well. Mr. Eck accused Commissioners Bolger and Barrett of being political.

Brent Heyer, an electrician for the state, expressed his concerns and focused on proposed changes on overtime equalization. He indicated his worry that the state would have unqualified people performing electrical work that could create safety risks. He also stated that he worked for the state based on its better fringe benefits, leave entitlements, and overtime opportunities than other employers, but the proposals could cause people to leave state employment for higher wages elsewhere.

Roderick Jackson commented in opposition to the proposal. He stated that it hurt to see what is going on in America and an attack on workers by our own government. He described the proposal as a blatant attack on rights of workers and unions used to force out the voice of reason. Mr. Jackson called commissioners biased and asked that the unfair and unrighteous changes not be forced on employees.

Michelle Kusnier commented in opposition to the proposal. She stated that she was able to be hired back to state employment after a layoff because of help from her union and that she works for the state because of the union.

SEIU 517M Executive Director Liza Estlund Olsen commented in opposition to the proposal. She stated that although labor-management meetings could be testy, they ultimately resolved issues without grievances. She argued that there was no reason for the proposal and that the proposal for rules of general applicability reused political language from 20 years ago. Ms. Estlund Olson accused Commissioners Bolger and Barrett of hostility to unions and claimed the governor's appointments had created a political commission. She criticized the unwillingness to consider the amendments proposed by Commissioner Swanson. She disputed that the changes had anything to do with efficiency and questioned reducing the rights of unionized workers to what the smaller population of NEREs have.

After public comment ended, the commissioners discussed the proposal.

Commissioner Swanson stated that the more things are mutually discussed, the more collaboration occurs and the better we all are. He questioned what problems the rules addressed. Commissioner Swanson indicated that they were not substantive problems, but were what was viewed in some corners as allowing too much for the state and union to talk about. Commissioner Swanson described this as an attack on state employees rather than treating them as colleagues and partners in government. He characterized them as the governor's rule changes since he has appointed the majority of commissioners. He called adopting the rules a disservice.

Commissioner Bolger indicated that these issues had not been addressed for decades. He also defended authorizing rules of general applicability rather than waiting for an emergency to begin emergency preparations. Commissioner Bolger stated that he was convinced that the changes will increase efficiency, improve effectiveness of state service, and empower

employees to do the work. While he appreciated the passion in the room and the service provided by employees, Commissioner Bolger indicated that most employees did not voice opposition and several reached out to him with support but were not comfortable doing so publicly.

Commissioner Barrett asked for clarification of issues that would remain part of collective bargaining process. General Counsel Gnodtke indicated several dozen subjects related to compensation, benefits, grievances, discipline, reimbursements, leaves, health and safety, union issues, and conditions of employment that could still be bargained.

Chair McClelland stated that the constitutionally based merit system since 1941 has maintained an equitable employment system for state employees on a “for cause” basis. She disagreed that the proposals diminished the merit system by adjusting its bargaining process. State government is not the private sector. Expanding prohibited subjects does not leave represented employees without any protections. They have the same protections in affected subjects as non-represented employees. Chair McClelland appreciated the feedback received from the OSE, unions, employees, and the general public. She believed that the revised proposal will enable state government to conduct operations in a way to serve the people of the state through efficient and standardized processes while maintaining a system for employees to have a voice.

On motion duly made and supported, Resolution 5.C, was approved by a vote of 3 to 1, with Commissioner Swanson voting No.

## **6. PUBLIC COMMENT**

John Collins addressed the commission to express his concern over the lack of action taken by other state agencies in response to discrimination complaints involving migrant workers. He asked for establishment of (1) a centralized system to report discrimination and track complaints, (2) a statewide set of protocols to investigate complaints including timeliness standards, and (3) mandatory training for those investigating these complaints.

## **ADJOURNMENT**

There being no further items for Commission approval or public comments, Chair McClelland called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 2:08 p.m.

I, Janine M. Winters, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission meeting of September 20, 2017.

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Janine M. Winters  
State Personnel Director

**MICHIGAN CIVIL SERVICE COMMISSION**  
**Public Meeting**  
**December 13, 2017**

**Present:** Janet McClelland, Chair  
James Barrett, Commissioner  
Jase Bolger, Commissioner  
Robert W. Swanson, Commissioner  
Janine M. Winters, State Personnel Director

**1. CALL TO ORDER**

The meeting of the Michigan Civil Service Commission (Commission) was opened by Chair McClelland at 10:07 a.m. in the Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

**Approval of Minutes**

Chair McClelland requested a motion to approve the minutes of the September 20, 2017 meeting. On motion duly made and supported, the minutes of the September 20, 2017 meeting were approved.

**2. AMENDMENTS TO AGENDA**

There were no amendments to the agenda.

**3. INFORMATIONAL REPORTS**

**State Personnel Director's Report**

The state personnel director reported that one request from the Department of Talent and Economic Development was received to establish an unclassified position of Deputy Director of Legislative Affairs. Concurrently, the position of Director of Talent Communications was abolished. The request was approved, effective September 21, 2017.

**4. UNFINISHED BUSINESS**

There was no unfinished business.

**5. NEW BUSINESS**

**A. Fiscal Year 2018 Proposed Travel Rates (Interim Approval Granted)**

Sherri Irwin, Department of Technology, Management and Budget, Vehicle and Travel Services, requested the commission approve travel rates for FY18, including a decrease in the standard travel rate.

On motion duly made and supported, Agenda Item 5-A was unanimously approved.

**B. MCSC Budget Resolutions**

Amy Pung, Director of the Office of Financial and Administrative Services presented information on the FY17 Aggregate Payroll Certification and FY18 Commission Budget.

On motion duly made and supported, Resolutions 5-B(1) and 5-B(2) were unanimously approved.

**C. Coordinated Compensation Panel Recommendation**

General Counsel John Gnodtke stated that the Coordinated Compensation Panel (CCP) has issued its recommendation for NERE compensation to the commission. The CCP recommends a 2% base-pay increase for FY19, which tracks a raise previously approved by the commission for represented employees. The CCP also recommends adopting an OSE proposal to adjust the pay schedule for State Police Lieutenant and Lab Manager 14 classes. The CCP does not recommend adoption of a MAGE proposal for an additional 5% base-pay increase for RN Managers. Pilot retention and recruitment bonuses were approved by the commission last year, which took effect in October, that the CCP felt should be given a chance before additional action was taken. The CCP also recommends funding of \$200,000 for the NERE professional development fund.

MAGE President Al Quattrin addressed the commission and focused on compensation of RN supervisors, which MAGE has addressed in the past. The recruitment and retention bonuses for RN Supervisors came about to address mandatory-overtime problems that exacerbate retention. The CCP panel strongly encourages agencies to participate in these programs, but the three departments that employ nurses have indicated they will not take advantage of the programs. DHHS indicated it might consider the signing bonus, but not the retention bonus. DMVA and DOC have indicated no interest in implementing these bonuses.

Andrea Vanderbergh, Nurse Executive at Hawthorne Center, addressed the commission on her experience in the private sector and for the state. She indicated that RN positions have been posted the entire time that she has been back. Interviews occur as soon as an application is received, but there are still RN vacancies. RN Managers start at the top of the State of Michigan pay scale, so there is no room for growth and nurses still make over \$5.00 less than private nurses who do not have to supervise. The state's population is also violent and not appealing. State hospitals have a high percentage of patients with forensic involvement who have committed crimes. The children's hospital has a significant number of children with intellectual disabilities and autism spectrum disorders that can be very violent. There is a high potential for nurses to be attacked and injury rates are several times higher than at private hospitals. While there are benefits to working for the state, a further increase in pay is sorely needed.

Commissioner Swanson acknowledged the problem of recruiting and expressed that the recruitment bonus could be a greater incentive to attracting qualified candidates than the suggested 5% increase in pay.

Quattrin responded that both are needed given the market. After additional comments from Quattrin and Vanderbergh, Commissioner Barrett asked if departmental representatives could address the rationale for not offering bonuses.

DHHS HR Director Victoria Grant and MDOC HR Director Jonathan Patterson both indicated that finalization of spending plans was needed to determine whether budgets would allow participation, but neither had decided not to participate. Grant indicated that DHHS intended to take advantage of those opportunities if the money was there. Patterson also indicated that the DOC had retention and recruitment issues with RNs and not RN Managers.

Commissioner Swanson strongly encouraged departments involved to use these tools to move forward on this issue. Chair McClelland agreed that the tools are meant for agencies to pinpoint where there is a recruitment or retention problem.

On motion duly made and supported, the Coordinated Compensation Panel Recommendation was unanimously approved.

**D. Letter of Understanding Psychiatrist Retention Bonus (UAW)**

General Counsel John Gnodtke indicated Item 5-D is a letter of understanding (LOU) between the UAW and OSE establishing a discretionary retention bonus for psychiatrists due to difficulty in filling these positions. Staff has reviewed the LOU and identified no prohibited subjects of bargaining implicated. The effective date for the LOU will be October 1, 2018, unless a legislative waiver is obtained.

On motion duly made and supported, the Letter of Understanding on Psychiatrist Retention Bonus was unanimously approved.

**E. NERE Psychiatrists Compensation Increase**

General Counsel John Gnodtke introduced Item 5-E, which is a related request involving three managerial psychiatrist classifications. DHHS, the only state agency currently using the classes, has asked to have the 19 and 20 level classes join the 21-level class in a performance-pay plan instead of a schedule with steps. DHHS has also asked to increase the maximum rate of pay for all three classes. The OSE supports the request. The transition to performance pay would take effect immediately based on the existing pay range. Increases in maximum pay rates would need to be included in the FY 2019 budget and take effect October 1, 2018, unless a legislative waiver is obtained.

On motion duly made and supported, Resolution 5-E was unanimously approved.

**F. Unclassified Pay Recommendations**

Item 5-F is the non-binding pay recommendation for unclassified positions that Article 11, § 5 of the Michigan constitution requires. Resolution 5-F would approve a base-pay increase of up to 2% for unclassified positions to track those received by classified employees, as has historically been done.

On motion duly made and supported, Resolution 5-F was unanimously approved.

**G. Increased Minimum Compensation for Classifications**

Item 5-G is a recommendation to increase the minimum wage for four non-career classifications to match the increase in the state's minimum wage that will take effect January 1, 2018. Similar increases have been approved the last few years.

On motion duly made and supported, Resolution 5-G was unanimously approved.

**H. SPDOC 17-10 Draft Amendments to Rules 2-3, 2-6, 3-6, 5-3, 8-1, and 8-2**

Item 5-H are revisions to the commission's rules on performance ratings, disciplinary ratings, and probationary ratings, which were circulated for public comment in October. The proposals were mainly organizational and stylistic. A major focus was making the rules more concise. Additionally, provisions on probationary ratings, which are part of the selection process, were all moved to chapter 3 of the rules to emphasize this fact. The proposals

attempted to better distinguish between grievable disciplinary actions, such as reprimands and interim ratings, and non-disciplinary actions, such as counseling and discussions of performance. The proposals also clarified agencies' ability to extend probationary and follow-up periods without issuing ratings and facing discipline, while newly allowing probationary employees to request a rating if not promptly issued and be granted status if no action is taken. The commission received some comments and staff met with representatives from two unions to discuss the proposals. Based on feedback, staff are recommending a few minor changes and corrections from the circulated proposal, which are reflected in Resolution 5-H. The only substantive change included is decreasing the maximum period for extension to follow-up rating periods from twelve months to six. The modified proposal also clarifies that behavior is part of performance. If the commission approves these rule amendments, the director plans to issue revised regulations to correspond to the approved rule changes.

David Berridge, president of the Scientific and Engineering Unit, highlighted a few issues of concern to SEIU. General Counsel John Gnodtke clarified that an employee would be granted status or returned to satisfactory status if an agency did not respond to the employee's request for a rating after one was not timely issued. This tracks current practice for employees under disciplinary interim ratings and would allow employees to make similar requests for all three rating types.

Berridge also inquired about new language authorizing feedback that are not ratings that could be used as part of future ratings, but have no process for review when given. General Counsel Gnodtke explained that periodic progress meetings are not disciplinary actions and are thus no different from other counselings or instructions of expectations. If a disciplinary rating or action is taken based in any part on these conversations, the validity of them could be challenged at that point. The rule amendments were intended to encourage feedback and counseling between staff and management and clarify that non-disciplinary discussions and counselings are not adverse actions subject to grievance processes.

Berridge indicated that SEIU appreciated the reduction in the maximum length of a follow-up rating period before a rating was required, but believed that an extension of a rating should also be grievable as discipline. If the employee believes the extension is being issued without cause and has facts or circumstances to prove they are now satisfactory and the interim service rating should not be extended, there must be an avenue to grieve their concern. General Counsel Gnodtke indicated that the current rules have a default follow-up rating period of three months, but the employer could make it for any length. Staff viewed six months as providing reasonable flexibility granting appointing authorities discretion on how to proceed with follow-up ratings while still encouraging relatively prompt attention that also prevents employees from being in limbo for up to a year as was initially proposed.

On motion duly made and supported, Resolution 5-H was unanimously approved.

**I. Collective Bargaining Agreement - MSPTA and OSE (Interim Approval Granted)**

Item 5-I is the collective bargaining agreement between the MSPTA and OSE. The staff review under the commission's more limited role in trooper bargaining under article 11, § 5, identified no concerns. To facilitate the legislative-waiver process, interim approval was granted with the consent of the chair shortly after ratification. The contract is now before the commission for final approval.

On motion duly made and supported, Resolution 5-I was unanimously approved.



**J. Letters of Understanding (Interim Approval Granted)**

Item 5-J is two letters of understanding involving the Department of Corrections. The first involves a shift-trading policy at two facilities with MCO. The second addresses firearms training and carrying policy with UAW. Both have been granted interim approval and are now before the commission for final approval.

On motion duly made and supported, Item 5-J(1) Letter of Understanding DOC Shift Trades at Ojibway and Baraga Correctional Facilities and 5-J(2) DOC Firearms Training and Carrying Policy were unanimously approved.

**6. PUBLIC COMMENT**

There was no public comment.

**ADJOURNMENT**

There being no further items for Commission approval or public comments, Chair McClelland called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 10:57 a.m.

*These minutes will become final upon approval by the Civil Service Commission.*