

**BOARD OF PERSONNEL APPEALS
TELEPHONE CONFERENCE
MINUTES – DECEMBER 8, 2015 MEETING**

PRESENT:

Anne MacIntyre, Presiding Officer
Jim Soumas, Alternate Board Member
Quint Nyman, Board Member – in person

Amy Verlanic, Board Member
Rina Moore, Board Member

STAFF ATTENDING:

Tim Little, Board Attorney
John Andrew
Pam McDaniel
Max Hallfrisch, by telephone

BOARD BUSINESS

APPROVAL OF MINUTES (.46:1.51):

Member Moore made a motion for the approval of the minutes for November 19, 2015 with the correction that Board Attorney Tim Little attended in person. Member Nyman seconded the motion. Motion passed 5-0.

NEXT MEETING DATE (1.52:2.18):

The next scheduled meeting is January 21, 2016, pending appeals, currently there is nothing on the agenda.

PUBLIC COMMENT (2-3-103 MCA) (2.19:2.37):

No public comment was made

STAFF/ATTORNEY COMMENTS – (2.38:3.20):

Board Attorney Tim Little stated that Windy Knutson emailed a copy of the Court Order on the Sheila Cozzie case. The Board's Order was vacated

UNFAIR LABOR PRACTICE 3-2014: Little Rocky Mountain Classified Employees, MEA-MFT vs. Board of Trustees of Hays-Lodge Pole School

Anne MacIntyre was the Presiding Officer in this matter. Kris Goss represented Board of Trustees of Hays-Lodge Pole School. Karl Englund represented the Little Rocky Mountain Classified Employees, MEA-MFT.

The matter before the Board was to determine if the Hearing Officer, Terry Spear erred in his Findings of Fact; Conclusions of Law and Recommended Order. Arguments were heard, questions were asked by Board Members.

Since the oral argument was heard on November 19, 2015, the Board Members convened after complete review of the file to take action on the matter.

Presiding Officer MacIntyre made the following motions:

To sustain the Union's exceptions to the findings of fact and changing the recommended order and adopt the Union's recommendation to change the findings. Member Nyman seconded the motion. Motion passed 5-0.

To sustain the Union's exceptions to the proposed order, ultimate conclusions of law that the members of the bargaining unit are not entitled to back pay or reinstatement and adopt the Union's proposals Numbers 6, 7 and 8 in the Union's opening brief. Member Nyman seconded the motion. Motion passed 5-0.

Members of the Little Rocky Mountain Classified Employees Association are entitled to reinstatement to the positions they held prior to May 16, 2013 and back pay and less earnings until their reinstatement. Member Verlanic seconded the motion. Motion passed 5-0.

To adopt paragraphs 9 and 10 of the Appellant's opening brief, Unit members are entitled to the back pay amounts set forth in the complainant's proposed decision regarding remedies up to remedies hearing in January 2015 and without adjustment for unemployment benefits received. Motion withdrawn.

The Board holds in this matter unemployment insurance benefits are collateral source and not deductible from an award of back pay in these proceedings. Member Nyman seconded the motion. Motion passed 5-0.

To adopt paragraphs 9 and 10 of the Appellant's opening brief, Unit members are entitled to the back pay amounts set forth in the complainant's proposed decision regarding remedies up to remedies hearing in January 2015 and without adjustment for unemployment benefits received. Member Moore seconded the motion. Motion passed 5-0.

The District has failed to prove that any employee failed to mitigate his or her losses. Move that the Board so hold. Member Nyman seconded the Motion. Motion passed 5-0.

Bargaining unit members remain entitled to back pay less interim earnings since the hearing in January 2015 until reinstatement. If the parties are unable to agree on the amounts between them, the Board will hold a hearing on this issue at a later time. Member Nyman seconded the motion. The motion was amended to stipulate notice of agreement by February 5th and then come before the Board on February 18, 2016 for a hearing on the damage amounts. Motion passed 5-0.

Put together a Final Order that merges the hearings officer's prospective order and the recommended order. Member Nyman seconded the motion. Also note in the context that there are some items in the prospective order for number 10, an error in the date, no bargaining occurred in November or December of 2013 and it should be 2012. It is not in chronological sequence. Then in discussion on page 11, reference to Amil Belgarde and it reads Belgarde Amil and this needs to be corrected as well. Motion passed 5-0.

Member Nyman motioned that piggy backs on her motion in regards to the negation for back pay that if there does have to be a hearing that each party file a brief in advance, so that the issues are framed for us ahead of time. Presiding Officer Seconded the motion. The motion was amended to include that the briefs be filed by February 12th and simultaneous. Motion passed 5-0.

Meeting adjourned