



**MINUTES OF THE ONE-HUNDRED-AND-EIGHTIETH  
MEETING OF THE MERIT BOARD – May 18, 2011**

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***State Universities Civil Service System Office  
1717 Philo Road, Suite 24  
Urbana, Illinois 61802  
&  
(Video Conference)  
University of Illinois at Chicago  
College of Pharmacy  
Room 270  
833 Wood Street  
Chicago, Illinois  
&  
(Video Conference)  
Southern Illinois University Carbondale  
Morris Library  
Conference Room, 1<sup>st</sup> Floor  
605 Agricultural Drive  
Carbondale, IL***

Chair Maitland called the meeting to order at 10:03 a.m.

Members present at the primary meeting location were: Joanne E. Maitland, Chair, representing Illinois State University; Bruce Friefeld, representing Governors State University; Robert T. Marshall, Jr., representing Northern Illinois University; and Robert D. Webb, representing Eastern Illinois University.

Members present at the Chicago videoconference location were: Betsy Hill, representing Chicago State University; and James D. Montgomery, representing the University of Illinois.

Member present at the Carbondale videoconference location was: Donna Manering, representing Southern Illinois University.

Members absent were: William L. "Bill" Epperly, representing Western Illinois University; Karan Hasara, representing the University of Illinois; and Patricia Brown Holmes, representing the University of Illinois.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Bryan Perrero, Assistant Director, Legal Services; Teresa Rademacher, Secretary for the Merit Board; and Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

### ***Consideration of participation by other Merit Board Members, not physically present at meeting site***

No members requested participation by teleconference.

### ***Introduction of new Merit Board Members***

Chair Maitland welcomed Patricia Brown Holmes, representing the University of Illinois, who replaced Lawrence Oliver II; Bruce Friefeld, representing Governors State University, who replaced Kristi DeLaurentiis; Robert T. Marshall, Jr., representing Northern Illinois University, who replaced Barbara Vella; and Donna Manering, representing Southern Illinois University, who replaced John Simmons to the Merit Board.

### ***Executive Session***

Chair Maitland explained that the purpose of this agenda item was to discuss a quasi-adjudicative matter in accordance with section 5 ILCS 120/2(c)(4) of the Open Meetings Act. Mr. Friefeld made a motion to go into Executive Session at 10:10 a.m. Dr. Webb seconded Mr. Friefeld's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The meeting reopened at 10:18 a.m. Chair Maitland reported that no action was taken during the closed session.

### ***Public Comments***

The University System office received five requests to present public comments from the following persons.

- *Anthony J. Fitzgerald, Sr.*
- *Gary Fry*
- *Elyne Cole and/or Shig Yasunaga*
- *Rick Atterberry*
- *Phil Martini*

Mr. Friefeld made a motion to allow Anthony J. Fitzgerald, Sr., retired employee, to address the Merit Board regarding discharge proceedings of civil service employees at the University of Illinois at Urbana-Champaign campus. Dr. Manering seconded Mr. Friefeld's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried. Mr. Fitzgerald addressed the Board and expressed his concern, as a former supervisor at the University of Illinois at Urbana-Champaign campus, about the way employees are currently being disciplined. He claimed that the University does not follow their own policies and procedures and there is no consistency in how employees are disciplined and/or are being treated. Mr. Fitzgerald asked that all employees be treated fair and equal and that the University follow their own procedures.

Dr. Webb made a motion to allow Gary Fry, employee of the University of Illinois at Urbana-Champaign, to address the Merit Board regarding fair and consistent discipline. Mr. Friefeld seconded Dr. Webb's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried. Mr. Fry addressed the board and stated that he has been employed for 21 years as an Ironworker at the University of Illinois Urbana-Champaign and has been on the Employee Advisory Committee representing the University of Illinois at Urbana-Champaign for 14 years. Mr. Fry further stated that he had been involved in disciplinary issues and agreed with Mr. Fitzgerald's comments made earlier. Mr. Fry stated that the policies of the university clearly state that the university will strive to ensure consistency and uniform discipline, but this had not been specifically handled correctly at the F & S Department. Mr. Fry further stated that a message needs to be sent to the university that the Merit Board will not tolerate certain types of disciplinary actions. Mr. Fry felt that at the last Merit Board meeting that this issue was addressed, but evidently it was not.

Elyne Cole, Associate Provost for Human Resources, and Shig Yasunaga, Associate University Counsel, University of Illinois at Urbana-Champaign, requested to address the Merit Board to provide public comments regarding the Baker Discharge Case, No. UIUC-10-8. The Bylaws of the University Civil Service Merit Board specifically state that discharge shall not constitute appropriate matters to speak before the Merit Board (Section VI, No. 4 of the Bylaws). The request to speak before the Merit Board failed for a lack of a motion.

Mr. Montgomery made a motion to allow Rick Atterberry, employee and Chair of the Council of Academic Professionals, University of Illinois at Urbana-Champaign, to address the Merit Board regarding exemption authority of the University of Illinois and conversion of Academic Professional positions to Civil Service positions. Dr. Manering seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried. Mr. Atterberry addressed the board and stated that there are 22 members on the

Council and mentioned all of the Academic Professionals at this meeting today are here on their own time. Mr. Atterberry highlighted a section of the 2008 report of the Provost's AP Task Force. He further stated that academic employees are a unique category of employees who teach, are engaged in research, advise students, direct programs, and provide specialized administrative and technical services. Mr. Atterberry further stated that even if new civil service professional classifications are created that this does not make them appropriate for use for what historically have been Academic Professional positions. Restrictions on recruiting, hiring, hiring of only State of Illinois residents, may result in the loss of future and current talent. The bumping of employees severely disrupts the operations of the university, which results in the loss of key employees. SB 1150 would result in a third party making employment decisions for the Urbana campus and would have a crippling effect on the employment process at the university. The Civil Service classifications and the Civil Service System do not fulfill the needs currently met by appropriately classified Academic Professional positions. Therefore his group urges the Merit Board to oppose the reclassification of appropriately exempted Academic Professional positions and to oppose the removal of the exemption authority from the university.

Dr. Manering made a motion to allow Phil Martini, Vice President, SEIU Local 73, to address the Merit Board regarding exemption procedures for Principal Administrative Appointments (PAAs). Mr. Montgomery seconded Dr. Manering's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried. Mr. Martini addressed the board and stated that in the late 1990's the Merit Board revised their procedures that allowed the University System to give the authority to exempt positions to the universities, specifically section 36e(3) of the Statute. After this change, a drop in Civil Service positions was reported. Since 2003, 45% of Civil Service positions have been eliminated and PAAs have increased by 31%. Several audits have been conducted at the University of Illinois at Chicago and the University System office has found that 67% to 75% exempted positions audited are misclassified. Civil Service positions are being replaced by Academic Professional positions; the wages are 20% higher, benefits are double for vacation and sick leave. The University System office has sent hundreds of notifications to the Human Resources office regarding these exemptions. Executive Director Morelock has no authority to take any action against the university. A lot of misinformation has been put out regarding SB 1150. SEIU supports the Executive Director's recommendation to support SB 1150 and to restore the authority with the University System office.

***Report of the State Universities Civil Service Advisory Committee – Barney Bryson, Chair***

The Merit Board heard a report from Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. The Committee last met on April 14 and 15, 2011 at the University of Illinois at Urbana-Champaign. The Committee discussed in great detail with the University System office staff the development and the revisions of classifications; discussed the rule proposal change regarding Principal Administrative Appointments; discussed the out-of-state hiring rule; discussed SB 1150; and other committee activities. There is nothing in the civil

service rules that address APs, the Statute refers to Principal Administrative Appointments. The approval process for Principal Administrative Appointments should be returned to the University System office. “Specialists, Coordinators, and Assistant to” titles have been misused by the universities because the universities have been allowed to manage these titles. Thousands of dollars and hours have been spent to fix the problem. He further stated that two groups can rectify this situation, the Merit Board and the legislature by approving SB 1150.

### ***Report of the Human Resource Directors Advisory Committee***

The Merit Board heard a report from Maureen Parks, representative of the Human Resource Directors Advisory Committee. The Committee last met on April 29, 2011. The Committee discussed SB 1150 and the future of civil service and the pilot program. Each of the state Human Resource (HR) Directors are concerned with the removal of the exemption authority and moving it to the University System. They feel it will have a serious effect on the universities. The HR group is concerned on how 12 (University System office employees) individuals will be able to handle the approval process for all of the exemptions.

The March 2011 Quarterly Employee Served Report shows that there are 18,383 civil service employees and 8,675 36e(3) employees. Each university is audited on a biennial basis and that the universities do receive audit findings. She stated that this is normal, whether it is a civil service audit or a financial audit. She further reported that there have been serious audit findings at the University of Illinois at Chicago, but the university is taking serious actions to correct these findings. The reality is that many schools are very dependent on hiring Academic Professional positions because of federal grants and contracts. The universities need timely hiring processes in order to fulfill contractual agreements. Executive Director Morelock has brought about many positive changes over the last nine years and the universities need to work with him to utilize the JCAR process to make changes to the Civil Service Rules. The HR group is concerned on how the Pilot Program will be brought into the regular civil service rules and if not done correctly, the universities will lose valuable options in the hiring processes.

### ***Consideration of the Minutes of the 179<sup>th</sup> Meeting of the Merit Board, February 16, 2011***

The minutes of the 179<sup>th</sup> meeting of the Merit Board, February 16, 2011 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Montgomery moved to approve the minutes of the 179<sup>th</sup> meeting of the University Civil Service Merit Board. Ms. Hill seconded Mr. Montgomery’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***Consideration to destroy the recording of the Executive Session of the 173<sup>rd</sup> Meeting of the Merit Board, August 19, 2009***

Mr. Morelock explained that in accordance with the Open Meetings Act, recordings of closed sessions must be kept for 18 months from the date of the recording. The Closed Session minutes of the 173<sup>rd</sup> meeting of the Merit Board, August 19, 2009, had been approved and released by the Merit Board on November 18, 2009. Based on these facts, the recording could be destroyed.

Ms. Hill moved to destroy the Closed Session recording of the 173<sup>rd</sup> meeting of the Merit Board, August 19, 2009. Mr. Montgomery seconded Ms. Hill's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***Consideration of Discharge Proceeding Number ISU-10-6 filed against Theopholis (T.J.) Haywood by Illinois State University***

On April 26, 2011, the Secretary for the Merit Board mailed the Hearing Record for the Theopholis (T.J.) Haywood (ISU-10-6) discharge case to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this discharge matter at this meeting.

Chair Maitland asked Mr. Perrero to give a summary of the case. Mr. Perrero summarized the Written Charges for Discharge and alternative orders. On December 8, 2010, Mr. Haywood was served with Written Charges for Discharge. The alleged ground for discharge was the following: continued excessive, unauthorized and unexcused absenteeism and continued failure to use proper call-in procedures. Mr. Haywood was employed at ISU as a Food Service Sanitation Laborer since August 6, 2007. Mr. Haywood repeatedly violated the attendance policy of ISU. Mr. Haywood did not attend the discharge hearing which was held on January 21, 2011 at ISU.

Chair Maitland asked for a motion to either discharge, reinstate with a 60-day suspension, or reinstate Mr. Haywood. After discussion, Mr. Montgomery made a motion that Mr. Haywood be discharged. Ms. Hill seconded Mr. Montgomery's motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Montgomery.....Aye  
Dr. Webb .....Aye  
Mr. Epperly.....Absent  
Mr. Friefeld.....Aye  
Ms. Hasara.....Absent  
Ms. Hill.....Aye

Judge Holmes .....Absent  
 Mrs. Maitland .....Aye  
 Dr. Manering .....Aye  
 Mr. Marshall .....Aye

The following decision and order was therefore adopted.

**STATE OF ILLINOIS**



**STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

<b>THEOPHOLIS (T. J.) HAYWOOD,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee-Petitioner,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. ISU-10-6</b>
<b>ILLINOIS STATE UNIVERSITY,</b>	)	
	)	
<b>Employer-Respondent.</b>	)	

**DECISION AND ORDER OF THE  
 UNIVERSITY CIVIL SERVICE MERIT BOARD**

**PROCEDURAL HISTORY**

Discharge proceedings have been commenced by **ILLINOIS STATE UNIVERSITY**, employer, against **THEOPHOLIS (T. J.) HAYWOOD**, employee, by service of Written Charges for Discharge by certified mail on December 8, 2010 and the Employee-Petitioner, **THEOPHOLIS (T. J.) HAYWOOD**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on January 21, 2011 in conformity with the procedures set forth in section

250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

### **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated December 8, 2010
2. Suspension Notice Pending Discharge, dated December 8, 2010
3. Employee-Petitioner's written request for a Hearing, dated December 16, 2010
4. Acknowledgement of Hearing request to Employee-Petitioner, dated December 20, 2010
5. Notice of Hearing to Hearing Officer Reynolds , dated January 7, 2011
6. Notice of Convening of Hearing to the parties of record, dated January 7, 2011
7. Employer-Respondent Witness List and Exhibit List, dated January 20, 2011
8. Transcript of Evidence and Exhibits
9. Request to Hearing Officer Reynolds for Findings of Fact, dated January 31, 2011
10. Findings of Fact, rendered by Hearing Officer Reynolds, dated February 16, 2011
11. Correction letter of when case will be heard before the Merit Board, dated April 4, 2011
12. Letter to Merit Board members, dated April 26, 2011

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.

2. That the Hearing Record, as supplemented, supports and sustains the following charges of the employer, **ILLINOIS STATE UNIVERSITY**, against the employee, **THEOPHOLIS (T. J.) HAYWOOD**, and establishes just cause for discharge, as follows:
  1. Continued excessive, unauthorized and unexcused absenteeism.
  2. Continued failure to use proper call in procedures.

Subsequent to the decision making leave the employee committed the following infractions:

1. May 8, 2009 – Oral Warning for excessive absenteeism
2. August 28, 2009 – Written Reprimand for unscheduled occurrences
3. August 28, 2009 – Written Reprimand for failure to use proper call-in procedures
4. December 22, 2009 – Disciplinary Suspension for 1-work day for unauthorized an unexcused absences in excess of university policy
5. December 22, 2009 – Disciplinary Suspension for 1-work day for improper call-in on November 17, 2009
6. February 5, 2010 – Disciplinary Suspension for 4-work days for unauthorized and unexcused absences in excess of university policy
7. March 24, 2010 – Disciplinary Suspension for 15-work days for unauthorized and unexcused absences in excess of university policy
8. March 24, 2010 – Disciplinary Suspension for 4-work days for no call/no show on March 14, 2010
9. May 11, 2010 – Disciplinary suspension for 15-work days for failure to follow time schedules and improper call-in on April 30, 2010

### **DECISION AND ORDER**

#### **WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **ILLINOIS STATE UNIVERSITY**, to the extent not inconsistent with the findings made herein.

2. The employee, **THEOPHOLIS (T. J.) HAYWOOD** is hereby separated from the service of his employer, **ILLINOIS STATE UNIVERSITY**, and that the effective date of his discharge shall be as of May 18, 2011.

**DATED AND ENTERED** this 18<sup>th</sup> day of May, 2011.

**UNIVERSITY CIVIL SERVICE MERIT BOARD**

By: /s/ Joanne E. Maitland

Joanne Maitland  
Chair

ATTEST:

/s/ Teresa M. Rademacher

Teresa M. Rademacher  
Secretary for the Merit Board

**Consideration of Discharge Proceeding Number UIUC-10-21 filed against Donna L. Greene by the University of Illinois at Urbana-Champaign**

On May 2, 2011, the Secretary for the Merit Board mailed the Hearing Record for the Donna L. Greene (UIUC-10-21) discharge case to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this discharge matter at this meeting.

Chair Maitland asked Mr. Perrero to give a summary of the case. Mr. Perrero summarized the Written Charges for Discharge and alternative orders. On December 3, 2010, Ms. Greene was served with Written Charges for Discharge. The alleged grounds for discharge were the following: threatening and intimidating behavior towards co-workers; use of racially divisive language with the intent to offend and intimidate; and misrepresentation – sending letter(s) with false addresses to university employees. Ms. Greene was a Plumber at the university and also served as President of Easy Pay and Data, Inc., a tax preparation firm. Ms. Greene admitted that she considered herself savvy when it comes to financial matters. At least 14 letters bearing various return addresses from around the country, but all with cancellation stamps from Champaign, were received by various employees at the university. The letters targeted a certain employee in the F & S department where Ms. Greene worked. Also, at least nine faxes containing the same information were transmitted to various university employees. The targeted employee received documents relating to his bankruptcy and a note warning him that he was taking too much pleasure in discharging employees and called him a racial slur.

It was discovered that the faxes came from Selec Source, a company in Atlanta, Georgia where Ms. Greene’s sister is employed. Ms. Greene’s sister denied sending the faxes and that other employees at Selec Source had access to the fax machine which was located in a hallway. It was noted that the targeted employee was not Ms. Greene’s supervisor.

Chair Maitland stated that the Employee-Petitioner and the Employer-Respondent had both filed motions to appear before the Merit Board. Dr. Webb made a motion to allow parties to represent oral arguments. Mr. Montgomery seconded Dr. Webb’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Mr. Yasunaga, Attorney for Employer-Respondent, stated that the targeted individual involved in this case was in a HR role. The Hearing Officer found that the university had sustained its burden of proof for charges 1 and 3, but had not for charge 2. The university was not able to prove this charge based on the finding of “intent” as stated in the charges. In summary, Mr. Yasunaga asked that the Merit Board discharge the employee.

Mr. Otto, Attorney for Employee-Petitioner, stated that Ms. Greene had been employed at the university for over 22 years. Ms. Greene had no prior disciplinary issues, she was the only African-American female Plumber, and that she had received outstanding evaluations over the years. Someone was very angry with the targeted employee, but it was not Ms. Greene. Mr. Otto further gave an overview of the case. Ms. Greene and the targeted employee both testified that they had no problems with each other. Mr. Otto further stated that there is no evidence to suggest that Ms. Greene did anything as stated in the charges.

After discussion by the Merit Board, Chair Maitland asked for a motion to either discharge, reinstate with a 60-day suspension, or reinstate Ms. Greene. Mr. Montgomery made a motion to reinstate Ms. Greene with a 60-day suspension. The motion failed for a lack of a second.

Mr. Montgomery made a motion to reinstate Ms. Greene. The motion failed for a lack of a second.

Ms. Hill made a motion to discharge Ms. Greene. The motion failed for a lack of a second.

Mr. Montgomery made a motion to reinstate Ms. Greene with a 60-day suspension. Ms. Hill seconded Mr. Montgomery’s motion. After further discussion, Dr. Webb asked Mr. Montgomery to revise his motion to reinstate the employee, instead of reinstatement with a 60-day suspension. Mr. Montgomery agreed to the revised motion. Dr. Webb seconded the revised motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Montgomery.....Aye  
Dr. Webb .....Aye

Mr. Epperly.....Absent  
 Mr. Friefeld.....Aye  
 Ms. Hasara.....Absent  
 Ms. Hill.....No  
 Judge Holmes .....Absent  
 Mrs. Maitland.....Aye  
 Dr. Manering .....Aye  
 Mr. Marshall.....Aye

The following decision and order was therefore adopted.

**STATE OF ILLINOIS**



**STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

<b>DONNA L. GREENE,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee-Petitioner,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. UIUC-10-21</b>
<b>UNIVERSITY OF ILLINOIS at Urbana-Champaign,</b>	)	
	)	
<b>Employer-Respondent.</b>	)	

**DECISION AND ORDER OF THE**  
**UNIVERSITY CIVIL SERVICE MERIT BOARD**

**PROCEDURAL HISTORY**

Discharge proceedings have been commenced by the **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, employer, against **DONNA L. GREENE**, employee, by service of Written Charges for Discharge by certified mail on December 3, 2010 and the Employee-Petitioner,



**DONNA L. GREENE**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on February 15, 2011 in conformity with the procedures set forth in section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

### **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated December 3, 2010
2. Suspension Notice Pending Discharge, dated December 3, 2010
3. Employee-Petitioner's written request for a Hearing, dated December 7, 2010
4. Acknowledgement of Hearing request to Employee-Petitioner, dated December 13, 2010
5. Notice of Hearing to Hearing Officer Kirn , dated December 15, 2010
6. Notice of Convening of Hearing to the parties of record, dated December 15, 2010
7. Employer-Respondent Witness List and Exhibit List, dated January 12, 2011
8. Request for Continuance, dated January 12, 2011
9. Response to Continuance, dated January 14, 2011
10. Rescheduling Notice of Hearing to Hearing Officer Kirn , dated January 18, 2011
11. Rescheduling Notice of Convening of Hearing to the parties of record, dated January 18, 2011
12. Employer-Respondent Supplemental Witness List and Exhibit List, dated February 9, 2011
13. Post-Hearing Brief Extension, dated February 24, 2011
14. The Board of Trustees of the University of Illinois at Urbana-Champaign's Written Closing Argument, dated March 11, 2011
15. Employee's Post Hearing Arguments, dated March 11, 2011
16. Transcript of Evidence and Exhibits
17. Request to Hearing Officer Kirn for Findings of Fact, dated March 16, 2011
18. Findings of Fact, rendered by Hearing Officer Kirn, dated March 27, 2011
19. Certification of Hearing Record, dated April 5, 2011
20. Entry of Appearance and Request for Oral Argument, dated April 18, 2011
21. Notice of Receipt and Filing of Entry of Appearance and Request for Oral Argument, dated, April 19, 2011
22. Motion for Personal Appearance Before the Merit Board, dated April 19, 2011
23. Notice of Receipt and Filing of Motion for Personal Appearance Before the Merit Board, dated April 20, 2011
24. Letter to Merit Board members, dated May 2, 2011

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, does not support and sustain one or more of the charges of the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, against the employee, **DONNA L. GREENE**, and/or the charges as proven by said employer fail to establish just cause for discharge.

**DECISION AND ORDER**

**WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, to the extent not inconsistent with the findings made herein.
2. The employee, **DONNA L. GREENE**, shall immediately be reassigned to perform the duties in a position in her classification without loss of compensation.

**DATED AND ENTERED** this 18<sup>th</sup> day of May, 2011.

**UNIVERSITY CIVIL SERVICE MERIT BOARD**

By: /s/ Joanne E. Maitland  
Joanne Maitland  
Chair

ATTEST:

/s/ Teresa M. Rademacher  
Teresa M. Rademacher  
Secretary for the Merit Board

**Consideration of Discharge Proceeding Number NIU-10-2 filed against Anthony Kafka by Northern Illinois University**

On May 9, 2011, the Secretary for the Merit Board mailed the Hearing Record for the Anthony Kafka (NIU-10-2) discharge case to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this discharge matter at this meeting.

Chair Maitland asked Mr. Perrero to give a summary of the case. Mr. Perrero summarized the Written Charges for Discharge and alternative orders. On December 15, 2010, Officer Kafka was served with Written Charges for Discharge. The alleged grounds for discharge center around an incident that occurred on May 27, 2010. Officer Kafka had requested to be off on a certain day. The schedule which was posted prior to May 27 had Officer Kafka off on the day he had requested, but the schedule posted on May 27 showed Officer Kafka working on the day he had requested off. Officer Kafka became upset with the situation and made life-threatening comments.

After discussion, Chair Maitland asked for a motion to either discharge, reinstate with a 60-day suspension, or reinstate Officer Kafka. Mr. Friefeld made a motion that Officer Kafka be discharged. Mr. Montgomery seconded Mr. Friefeld's motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Friefeld.....Aye  
Ms. Hasara.....Absent  
Ms. Hill.....Aye  
Judge Holmes .....Absent  
Mrs. Maitland.....Aye  
Dr. Manering .....Aye  
Mr. Marshall.....Aye  
Mr. Montgomery.....Aye  
Dr. Webb .....Aye

Mr. Epperly.....Absent

The following decision and order was therefore adopted.

**STATE OF ILLINOIS**



**STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

<b>ANTHONY KAFKA,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee-Petitioner,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. NIU-10-2</b>
<b>NORTHERN ILLINOIS UNIVERSITY,</b>	)	
	)	
<b>Employer-Respondent.</b>	)	

**DECISION AND ORDER OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD**

**PROCEDURAL HISTORY**

Discharge proceedings have been commenced by **NORTHERN ILLINOIS UNIVERSITY**, employer, against **ANTHONY KAFKA**, employee, by service of Written Charges for Discharge by personal service on December 15, 2010 and the Employee-Petitioner, **ANTHONY KAFKA**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on February 28, 2011 in conformity with the procedures set forth in section

250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

### **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated December 15, 2010
2. Suspension Notice Pending Discharge, dated December 15, 2010
3. Employee-Petitioner's written request for a Hearing, dated December 17, 2010
4. Acknowledgement of Hearing request to Employee-Petitioner, dated December 20, 2010
5. Agreed Motion to Continue Hearing, dated January 3, 2011
6. Acknowledgement of Agreed Motion to Continue Hearing, dated January 4, 2011
7. Notice of Hearing to Hearing Officer Kirn , dated January 5, 2011
8. Notice of Convening of Hearing to the parties of record, dated January 5, 2011
9. Employee-Petitioner's Exhibits and Witness List, dated February 23, 2011
10. Employer-Respondent's List of Witnesses and Exhibits, dated February 25, 2011
11. Agreed Order for Closing Briefs, dated March 4, 2011
12. Post-Hearing Brief of Petitioner Anthony Kafka, dated March 24, 2011
13. Employer-Respondent's Post-Hearing Brief, dated March 30, 2011
14. Transcript of Evidence and Exhibits
15. Request to Hearing Officer Kirn for Findings of Fact, dated April 4, 2011
16. Findings of Fact, rendered by Hearing Officer Kirn, dated April 15, 2011
17. Letter to Merit Board members, dated May 9, 2011

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.

2. That the Hearing Record, as supplemented, supports and sustains the following charges of the employer, **NORTHERN ILLINOIS UNIVERSITY**, against the employee,

**ANTHONY KAFKA**, and establishes just cause for discharge, as follows:

1. Aggravated assault in violation of 720 ILCS 5/12-2(a)(16).
2. Disorderly Conduct in violation of 720 ILCS 5/26-1(a)(1).
3. Official Misconduct in violation of 720 ILCS 5/33-3(b).
4. NIU Workplace Violence Prevention Policy/Procedure, Section II.
5. Department Rules and Regulations, Section I(A), Personal Conduct, Police Authority and Expectations Rules.
6. Department Rules and Regulations, Section I(C), Criticism or Malicious Gossip; Section II, General Duty Requirements.
7. Department Rules and Regulations, Section II, General Duty Requirements, (B), General Knowledge of Laws and General Orders.
8. Rules and Regulations, Section VII, Penalties, (B), Punishable Offenses.

#### **DECISION AND ORDER**

#### **WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **NORTHERN ILLINOIS UNIVERSITY**, to the extent not inconsistent with the findings made herein.
2. The employee, **ANTHONY KAFKA** is hereby separated from the service of his employer, **NORTHERN ILLINOIS UNIVERSITY**, and that the effective date of his discharge shall be as of May 18, 2011.

**DATED AND ENTERED** this 18<sup>th</sup> day of May, 2011.

#### **UNIVERSITY CIVIL SERVICE MERIT BOARD**

By: */s/ Joanne E. Maitland*

Joanne Maitland  
Chair

ATTEST:

/s/ Teresa M. Rademacher  
Teresa M. Rademacher  
Secretary for the Merit Board

**Consideration of the Board of Trustees of the University of Illinois at Urbana-Champaign's Motion for Reconsideration regarding Discharge Proceeding Number UIUC-10-8 filed against Jonathan D. Baker by the University of Illinois at Urbana-Champaign**

Mr. Morelock updated the Merit Board on the Jonathan D. Baker discharge case. At the February 2011 meeting of the Merit Board, the Merit Board took action to reinstate Mr. Baker with a 60-day suspension. On March 4, 2011, the employer filed "The Board of Trustees of the University of Illinois at Urbana-Champaign's Motion for Reconsideration" of the decision made by the Merit Board at the February 16, 2011 meeting. The motion also asked that the Merit Board extend the timeframe for appeal for administrative review. The University of Illinois at Urbana-Champaign was informed of the timeframe requirement through their Legal Counsel and elected not to file for administrative review regarding this matter within the 35-day timeframe.

Chair Maitland asked for a motion to deny or accept the motion. Ms. Hill made a motion to deny the "The Board of Trustees of the University of Illinois at Urbana-Champaign's Motion for Reconsideration". Mr. Montgomery seconded Ms. Hill's motion.

Mr. Montgomery went on record that once a decision has been made by the Merit Board it should stand.

A roll call vote was taken and the motion was approved with the following vote:

- Ms. Hill.....Aye
- Judge Holmes .....Absent
- Mrs. Maitland.....Aye
- Dr. Manering .....Aye
- Mr. Marshall.....Aye
- Mr. Montgomery.....Aye
- Dr. Webb .....Aye
- Mr. Epperly.....Absent
- Mr. Friefeld.....Aye
- Ms. Hasara.....Absent

**Update and authorization for the Executive Director to implement and administer the Merit Board Budget for FY 2012**

Mr. Morelock updated the Merit Board on the status of the FY 2012 operating budget. Recently SB 2443 and HB 3700 were amended to capture the University System office budget. SB 2443 was passed by the Senate and establishes a 6% reduction to the University System office budget for next fiscal year. Also, HB 3700 was passed by the House and establishes a 5 1/2% reduction to the University System office budget for next year. Mr. Morelock presented an Amended Resolution to expend funds and manage the budget for FY 2012.

Chair Maitland requested a motion on the Amended Resolution presented by Executive Director at the meeting. Mr. Montgomery made a motion to adopt the following Resolution.

**AMENDED RESOLUTION**

*BE IT RESOLVED THAT contingent upon the availability of funds and final approval by the Governor's office, the Merit Board authorizes the Executive Director to administer the FY 2012 budget, including the possible implementation of up to a 3% salary increase for agency employees, incorporating a merit-based component administered in accordance with applicable Merit Board policies and Pay Administration Guidelines, and with a corresponding proportionate salary increase for the Executive Director, contingent upon the availability of funds. The Merit Board also authorizes the Executive Director to make any other expenditures necessary for the operation of the State Universities Civil Service System and the Merit Board office, commencing July 1, 2011 and continuing until such time as the FY 2012 appropriation becomes effective or the Merit Board directs otherwise.*

Dr. Webb seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

**Consideration of Public Officials Errors and Omissions Insurance – July 1, 2011 through June 30, 2012**

Mr. Morelock requested that the Merit Board allow him to investigate, research, and purchase public errors and omissions insurance for the period of July 1, 2011 through June 30, 2012.

Mr. Montgomery made a motion that the Executive Director be directed to investigate and purchase, based on budgetary discretion, a Public Officials Errors and Omissions Insurance Policy for Merit Board members and University System Office staff. Ms. Hill seconded Mr.

Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion was unanimously approved.

***Review of recent legislative actions to amend sections 36d, 36e, 36g, 36h, 36j, and 36o of the State Universities Civil Service Act and adding a new section 36t***

Mr. Morelock updated the Merit Board on SB 1150 which would have amended the State Universities Civil Service Act (Act). SB 1150 was amended on April 8 that included changes to sections 36d, 36e, 36g, 36h, 36j, and 36o and a new 36t of the Act. Many of the sections are technical changes, except for section 36e which dealt with the exemption of positions from civil service guidelines. Mr. Morelock further clarified the term "Academic Professional". This is a term specifically used by the University of Illinois and is not found anywhere in the Civil Service System Act. The Act refers to Principal Administrative Appointments. It is important to note that the exemption authorization process referenced in SB 1150 did not include positions for presidents/vice presidents; faculty; teaching and research; and dean positions. Mr. Morelock further stated that the bill had passed the Senate, but it was hung up in a House committee and would probably not be acted on by the House during this session of the General Assembly.

***Update on proposed rule changes to section 250.30 of the Illinois Administrative Code (80 Ill. Adm. Code §250.30) and corresponding Exemption Procedures Manual***

Mr. Morelock stated that the University System office has been working with the various advisory committees regarding the proposed rule change to section 250.30 of the Illinois Administrative Code (80 Ill. Adm. Code §250.30) and the current Exemption Procedures Manual. Copies of the draft proposals were provided. Mr. Morelock further informed the Merit Board that they will have to take the final action on any final rule revision.

***Discussion and consideration of actions to address audit issues at the University of Illinois at Chicago***

Mr. Morelock updated the Merit Board on the University of Illinois at Chicago (UIC) audit activities. Several reports were submitted in the agenda materials which highlighted activities. Ms. Parks updated the Merit Board and stated that the university has taken an approach to look at all of the positions by going over each major academic unit and department. All new and current positions will go through a job analysis process. There have been several significant employment and procedural changes at UIC. The university has been in constant contact with the University System office to work out the various issues. The Medical Center has been completed; 322 positions have been reviewed and 262 of those positions will be moving from

academic professional to civil service. Several meetings were held with the staff so they would understand how their employment relationship would change. The timetable continues to move forward. The University System office will be updated on a monthly basis through various reports.

### ***Biennial Audit Program – Review of Recent Activities***

Included in the agenda material were copies of final audit reports for Southern Illinois University School of Medicine; University of Illinois College of Medicine at Rockford; and Illinois State University. It was noted that each report contained findings related to the inappropriate exemption of Principal Administrative Appointments.

### ***Annual Ethics Training for Merit Board Members and Staff***

Executive Director Morelock stated that each member had been mailed a packet on April 21, 2011, regarding the Ethics Training for calendar year 2011. The material included the Ethics Training for Appointees to State of Illinois Boards. Mr. Morelock reminded the Board that all members needed to complete this training by May 31, 2011 and to return the Acknowledgement of Participation form to Teresa Rademacher by the due date. Ethics training for University System employees would be conducted on-line during the timeframe of May 9 through June 14, 2011.

### ***Report of the Executive Director***

Executive Director Morelock provided an agency report which included the following items:

- updated the Merit Board on the final FY 2011 expenditures;
- updated the Merit Board on the recent classification/examination changes; and
- informed the Merit Board of interagency activities with a list of University/Agency visits included in agenda materials.

### ***Report of Legal Counsel***

Bryan Perrero, Assistant Director, Legal Services, updated the Merit Board on outstanding legal matters. Mr. Perrero reported that thus far during FY 2011, 56 Written Charges for Discharge

have been served on employees by the various universities/agencies. Of those 56 cases, 17 employees had requested hearings. Three cases were settled today and three cases remain pending for the August Merit Board meeting. Mr. Perrero further stated that the Michael Rettig discharge case had gone to Administrative Review. Mr. Rettig was discharged from Northern Illinois University at the November 17, 2010 Merit Board meeting. Mr. Rettig filed a Summons for Administrative Review on December 3, 2010. The case has been filed and the Office of the Illinois Attorney General will be representing the Merit Board members and Tom Morelock. The case is scheduled for a case management hearing on May 31, 2011.

### ***Other Items as Presented***

The next meeting of the Merit Board will be on Wednesday, August 17, 2011. Dr. Webb made a motion to adjourn the meeting. Mr. Friefeld seconded Dr. Webb's motion. A voice vote was taken and approved. The meeting adjourned at 12:30 p.m.

Respectfully submitted,

*/s/ Teresa M. Rademacher*

Teresa M. Rademacher  
Secretary for the Merit Board

APPROVED:

*/s/ Joanne E. Maitland*

Joanne E. Maitland, Chair

August 17, 2011

Date