



**MINUTES OF THE TWO-HUNDRED AND SEVENTH  
MEETING OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD –  
November 29, 2018**

**State Universities Civil Service System (University 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**

**Southern Illinois University Carbondale  
Zoom Room (Large Dining Room)  
1400 Douglas Drive  
Carbondale, IL**

**Call to Order and Roll Call**

Due to technical difficulties the University System location was unable to hear the members at the University of Illinois at Chicago video location therefore, Chair Cole called the meeting to order at 1:21 p.m.

Members present at the primary meeting location were: Daniel Caulkins, representing Eastern Illinois University; and Stuart King, representing the University of Illinois.

Members present at the Chicago video conference location were: Lyneir Cole, Chair, representing Western Illinois University; Carney Barr, representing Governors State University; Kambium Buckner, representing Chicago State University; John Butler, representing Northern Illinois University; Sherry Eagle, representing Northeastern Illinois University; and James Montgomery, representing the University of Illinois.

Member present at the Carbondale video conference location was: Thomas Britton, representing Southern Illinois University

Member present by audio conference was: Jill Smart, representing the University of Illinois.

Member absent was: Rocky Donahue, representing Illinois State University.

Also present were: Jeff Brownfield, Executive Director; David DeThorne, Legal Counsel; Teresa Rademacher, Secretary for the Merit Board; Michael Ginsburg, representative of the Human Resource Directors Advisory Committee (HRDAC); and Jill Odom, Chair, State Universities Civil Service Advisory Committee (EAC). Various other university employees and State Universities Civil Service System (University System) staff were also in attendance.

### ***Welcome new board members – Jeff Brownfield***

Mr. Brownfield welcomed two new board members to the Merit Board, John Butler, representing Northern Illinois University; and Sherry Eagle, representing Northeastern Illinois University.

He also thanked Mr. Montgomery for his 11 years of service on the Merit Board. Mr. Montgomery's term on the University of Illinois (U of I) Board of Trustees will be expiring in January 2019 and Mr. Montgomery will not be seeking reappointment to the board.

Mr. Brownfield also thanked Mr. Caulkins for his service on the Merit Board. Mr. Caulkins was recently elected to the General Assembly. Mr. Caulkins stated that he had submitted his resignation to the Eastern Illinois University Board of Trustees for his termination to be effective November 30, 2018.

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

Chair Cole asked for approval for Merit Board members not physically present to actively participate by other means in accordance with the Open Meetings Act requirements. Mr. Montgomery made a motion to allow Ms. Smart to participate by phone. Mr. Barr seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

### ***Public Comments***

Mr. Brownfield stated that the University System had received a request from Dave Beck, AFSCME, Local 31, to present public comments in regards to agenda item 14.

Mr. Beck thanked the University System office for the communications that have been made in regards to Grant Funded Positions possible rule change. Mr. Beck stated that it is very concerning to AFSCME, as well as other unions, that a rule is being considered based on the funding of positions. He felt that all civil service employees should have the same employment rights and that civil service employees should not be a 2<sup>nd</sup> class employees based on the funding source. He further felt that based on the proposed rule that this change will only deteriorate the strength of the State Universities Civil Service System when you break down different employees. There have been discussions that these positions do different work, but if two employees are in the same classification, and they are doing different work, then they would be in different classifications.

#### ***Consideration of the Minutes of the 206<sup>th</sup> Meeting of the Merit Board, June 26, 2018***

The minutes of the 206<sup>th</sup> Meeting of the Merit Board, June 26, 2018 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Barr moved to approve the minutes of the 206<sup>th</sup> Meeting of the Merit Board with a correction to page six adding that “Mr. Barr and the Merit Board” be added to paragraph three, line seven. Mr. Montgomery seconded Mr. Barr’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

#### ***Consideration of the Minutes of the Executive Committee of the Merit Board, September 18, 2018***

The minutes of the Executive Committee of the Merit Board, September 18, 2018 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Montgomery moved to approve the minutes of the Executive Committee of the University Civil Service Merit Board held on September 18, 2018. Mr. Barr seconded Mr. Montgomery’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

#### ***Report of the State Universities Civil Service Advisory Committee – Jill Odom, Chair***

The Merit Board heard a report from Jill Odom, Chair, State Universities Civil Service Advisory Committee (EAC). Ms. Odom thanked Mr. Montgomery and Mr. Caulkins for their years of

service on the Merit Board. Ms. Odom stated that EAC members are involved in day-to-day operations of the institutes, often times with more contact with students, staff and faculty than with administrators. Ms. Odom stated that EAC supports the idea of grant funded positions; however, also has concerns in regards to the monitoring and the enforcement of these positions. EAC members would like to know the next steps relating to the new PAA policy and procedures, understanding the process will take time for the universities. Ms. Odom asked the Merit Board members to look at how progress would be measured, how many positions will be reviewed monthly/quarterly, how many positions of those are open/vacant, and how many positions have been converted. In addition, EAC would like to know if the universities will be proactively moving positions from PAA to Civil Service or waiting for the University System office to conduct audits. Ms. Odom mentioned that Dr. King had meet with some of the EAC members to introduce themselves and to share their roles and goals.

Chair Cole asked Dr. King to share what he shared with the EAC members as they had several questions. Dr. King said it was an introductory meeting, getting to know each other, how the structure worked, and EAC members had educated him on topics.

Chair Cole stated that during the process of putting together the Exemption Procedures it was discussed how to enforce knowing the process will take a period of time and that there is a timeframe in which the University System office will check in with the universities.

### ***Report of the Human Resource Directors Advisory Committee – Michael Ginsburg***

The Merit Board heard a report from Michael Ginsburg, representative of the Human Resources Directors Advisory Committee (HRDAC). Mr. Ginsburg stated that Executive Director Brownfield had kept the HRDAC members up to date on substantive issues such as the employee discharge process, Exemption Procedures, and Grant Funded Project. HRDAC would like to review and provide input on the discharge process as the Merit Board reviews this topic. The Exemption Procedures needs to clarify what is being required at each institution concerning converting PAA positions to CS positions and the development of any implementation processes. He further stated that the Pilot Program was extended and the development of a proposal to convert to a permanent rule in regards to the Sponsored Project was necessary. He stated that the University of Illinois at Chicago felt that the demonstration project had been very successful and there was a strong need for this program going forward, but he was also aware that changes needed to be made to accommodate all the universities.

Mr. Montgomery asked the basis of differentiating between grant funded and university funded positions. Mr. Ginsburg explained that the purpose of this program was for grant funded positions to have a specific defined period of time and preventing bumping of status civil service employees out of jobs. Employees are aware when they are hired that their position was part of the grant funded project and that the position was for a specific timeframe.

Mr. Montgomery asked how the employees are treated differently from other civil service employees. Mr. Brownfield explained that the difference is when the grant funding expires, then the employment would end for a grant funded employee and that employee would not have any rights to bump other employees out their job.

Chair Cole asked if grant funded employees sign a contract when accepting these type of positions. Mr. Ginsburg confirmed that employees hired under this project do sign a contract and these employees are aware of their limited employment rights and that their employment will end when the grant funding expires.

Dr. Eagle asked if there are any current status employees in these grant positions. Mr. Ginsburg said a majority of employees are hired as new employees, but there are some status employees that work on grant projects.

Mr. Butler asked if employees are able to move from one grant funded position to another grant funded position. Mr. Ginsburg stated that “yes” an employee could move from one grant funded positions to another. Mr. Brownfield stated a concern with this project is how long an employee should be employed with these limited rights versus having the standard rights of a status civil service employee. He stated that finding the correct balance is a key factor in considering this grant funded project. Ms. Smart stated that as long as an employee was aware they are being hired with the limited rights there should be no concern. Dr. Eagle stated that it needed to be determined if this is actually a position issue or is this a money issue.

***Update on proposed rulemaking to Section 250.119 of the Code (80 Ill. Adm. Code 250.119) regarding language to add a Furlough Program***

Mr. Brownfield stated the Furlough Rule, Section 250.119, did pass the Joint Committee on Administrative Rules and would be effective later in December 2018.

Mr. Butler commented the new Furlough Rule did not provide a breakdown in non-state revenue or decrease in enrollment and asked if an employer is limited to using this new rule only to the statements in the examples in the rule. Mr. Brownfield stated that there would be a limit in which a university would be able to use this rule. However, if a university experiences dramatic enrollment loss leading to permanent job losses, then a Furlough Program would probably not solve the issue the university would have.

Mr. Butler asked if the General Assembly did not fund the university sufficiently per the rule, would the university then be able to use the program. Mr. Brownfield stated with the vast reductions over the years there is room to use this rule and for it to be utilized. Mr. Butler asked what this rule change was trying to solve. Mr. Brownfield stated that when the State budgets were not passed a few years back, an emergency furlough program was put into place for 150 days to help the universities bridge the gap for expenses. After the emergency rule expired, a

temporary rule was put in place and now that that rule has expired, it was recommended that a permanent rule be put in place.

Mr. Butler thanked everyone for the hard work that had been done, but that he had several concerns with this being the final rule. He stated that it is not entirely realistic to use a furlough program when a university is undergoing significant reductions in tuition and fees due to low enrollment and that the Merit Board will be back on this issue soon. Chair Cole stated the universities were looking for a way to preserve jobs when the budgets were not passed several years ago and that by having this rule in place it gives the universities guidelines to preserve jobs. Mr. Montgomery stated the question relates to the inability or shortfall in the budget, as opposed to other reasons why a university does not have sufficient funds. Mr. Butler confirmed that was the question and stated that the University System is too focused on state funds and is not aware how universities receive other funding and beyond the state funds and requested further discussions on this and other related topics.

***Update on proposed rulemaking to Section 250.110 of the Code (80 Ill. Adm. Code 250.110) regarding changes to the discharge/demotion rule***

Mr. Brownfield stated that the University System was proposed a few change to the Section 250.110 regarding the discharge/demotion process and that clarification was needed on a few issues. The first being on how subpoenas are issued so a new statement was added to help clarify how a subpoena was considered served. Also, a new section was added regarding settlement agreements in discharge/demotion cases which will allow universities and employees a process, other than discharge, to arrange for various types of settlement agreements prior to the Merit Board receiving the case. Also, per the request of Merit Board the minimum number of days that the Merit Board may suspend an employee has been reduced from 60 days to 3 days.

Mr. Butler asked if there was a platform for the HRDAC to review concerns with discharge procedures. Mr. Brownfield stated that the plan is to discuss this and overall issues with the discharge process with the HRDAC members. Chair Cole stated that the change in the minimum number of days a suspension was at the request of the Merit Board. Mr. Butler understood how this answers the problem of the Merit Board's concerns, but he wants to include how the problems will be answered to address the concerns of the HRDAC and the presidents. Mr. Brownfield clarified that the minimum day suspension is not the primary concern, but the overall discharge process is the main concern for HRDAC and the presidents. Mr. Butler stated the concern of the universities is that the Merit Board is overruling discharge decisions that occur at the university level. Mr. Barr commented that when universities bring frivolous cases to the Merit Board then the Hearing Officers, the Merit Board, staff, and counsel should be reimbursed by the university. Chair Cole stated that he understood the presidents' concerns, but the Merit Board does not have to always agree with the Human Resource department's decision and not everyone is going to be happy with the Merit Board's decision.

Mr. Montgomery made a motion to move the proposed rule changes to the First Notice period and to be published in the Illinois Register. Mr. Barr seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***Update on proposed rulemaking to Section 250.100 of the Code (80 Ill. Adm. Code 250.100) regarding changes to the transfer of Police Officers/examinations***

Mr. Brownfield stated that adding this rule is in direct response to HB3185 in regards to law enforcement officers. Conversations have been held with HRDAC, EAC, and the police Chiefs. Mr. Brownfield stated that in regards to (B) of the proposed changes, no more than 15% of entry level positions will need to be changed; however he stated that there needed to be some limitation. The Statute change goes into effect January 1, 2019. The Merit Board will be informed and will have an additional opportunity to make any changes once the rule is moved to the Second Notice Period.

Mr. Montgomery made a motion to move the proposed rule changes to the First Notice period and to be published in the Illinois Register. Mr. Caulkins seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***General Discussion regarding Principal Appointment Appeals/Communications***

Chair Cole questioned why the university presidents waited until two weeks before the implementation of the Exemption Procedures Manual which went into effect October 1, 2018 to send a letter to the Merit Board with their concerns. He further stated that the procedures had been approved back in January and questioned why the presidents had not discussed this with their Board of Trustees. He noted that a few had been informed. Chair Cole stated that he had met with HRDAC and EAC four times individually and that recently Mr. Brownfield and himself had a call with the presidents to explain the process and that he had recommended that the universities needed to follow the procedures. Chair Cole further stated that the issue the Merit Board now has is how will they regulate and enforce the procedures going forward.

Ms. Smart was shocked by the letter and mentioned that the university HR leaders needed to be held accountable and communicate these matters to their presidents, chancellors, provosts, etc. Also the members of the Merit Board need to be held accountable and they need to communicate with HR or speak directly with their presidents as needed. This letter came about because some of the universities were blindsided by the changes.

Chair Cole reiterated that these procedure changes were approved several months ago and that several meetings had been held with the HRDAC and they should have communicated this with

their presidents. He further stated that all the universities had participated in the phone meeting with the exception of the University of Illinois.

Ms. Smart stated that Ms. Painter had kept the university informed and that the University of Illinois did not start the implementation until after it was passed and that no one should be held accountable until a procedure has been passed. Ms. Smart and other University of Illinois Board members, along with Ms. Painter, have kept the University of Illinois Board of Trustees up-to-date. She further stated that as HR leaders and as Merit Board members it is our responsibility to keep the universities on board or work with them on issues so these type of situation do not arise again.

Mr. Brownfield stated that the audit program will not start up until the spring of 2019 so the universities can get some traction on the revised Exemption Procedures. The University System office will look at conversion plans and will be inquiring where the universities are at in the implementation process. Ms. Smart thanked Mr. Brownfield and agreed with the audit strategy, but also wanted the universities to continue going forward and implementing the new procedures.

Chair Cole thanked Ms. Smart for all her work in helping with the new procedures. The question of monitoring the conversation was discussed and the Merit Board wanted the HR groups to know that within 6 to 9 months the Merit Board would be looking to make sure progress was being made. The Merit Board wanted to confirm to everyone that all universities needed to begin the implementation process, but they are aware that not all universities will be at the same stage.

Mr. Butler stated that he has spoken with presidents and employees and have concerns on what the requirements are, especially those in PAA roles. The university will transition and convert as expected, meanwhile the University System office will be engaged by the university to see if certain positions will be exempt for special highly talented positions. There needs to be recognition that the universities have asked for these exemptions in good faith. Mr. Butler stated that the information he had been given is that this will cost Northern Illinois University over \$1,000,000 to convert employees for PAA to civil service.

Chair Cole stated that this matter has been a problem for the last 7 to 12 years. He stated that if a university had a question of whether a position should be PAA or civil service then they should consult the University System office. There has not been enforcement with the past practices and this causes the same problems going forward. We need to follow the law and establish a procedure or a policy. He further stated that the Merit Board chose to go with the procedure for a more immediate change and review in a year to see what progress has been made. If changes are not being made then the Merit Board will need to pursue the option of making this an administrative rule.

Mr. Caulkins stated the point goes back to the fact that the Merit Board relinquished the authority to the universities and created this situation



Mr. Butler agreed that something needed to be put in place and that conversions needed to be done when appropriate. However, he stated there were a number of situations when there should be latitude. Such as when a position is converted to civil service, the universities are asking for flexibility in credential assessments and the manner of which jobs are advertised and not leading with the minimum job requirements. The preferred experience or qualifications are listed first and the minimums are listed second, this is a simple change that could be made to help the universities. Chair Cole asked Mr. Butler to bring suggestions to the next Merit Board meeting on how to make these changes and that the Merit Board would be happy to discuss in depth, off line for time purposes. Mr. Brownfield also asked to meet with Mr. Butler individually to discuss his concerns.

Mr. Brownfield questioned Mr. Butler in regards to the large payments that he stated was going to costs NIU for conversions and asked for further background on this fact. Ms. Smart suggested that Mr. Brownfield have a one-on-one meeting with Mr. Butler or a small group that worked on the procedures to hear Mr. Butler's concerns.

Mr. Brownfield stated that were a decade's worth of audit reports stating that positions should have been civil service instead of PAA and for a university to indicate they could not make any of these changes is concerning, because nothing has happened on a large scale for the last decade.

### ***Governance, Risk, and Compliance Audit Program Activities***

For time purposes this agenda item was skipped.

### ***Report of the Executive Director – Jeff Brownfield***

Mr. Brownfield stated that universities have not been fully funded for several years and therefore grant funded employees should be a topic of conversation. This massive change to the Statute needs to be supported by the universities Board of Trustees, presidents, and government relations offices. The University System has talked with the HRDAC and the EAC regarding this change. A possible change is temporary appointments to grant funded appointments, an employee funded by a grant at least 70% or significant of pay with a probation of 24 months or another reasonable amount, then when the probation is over the employee becomes a status civil service employee. Mr. Barr stated that he believed there should be further discussions regarding this topic. Mr. Butler stated that he believed that this approach was incorrect and that the Merit Board needed to seek a means to reasonably exempt employees hired under grants and contracts. Chair Cole stated that the Merit Board will continue to work to find a solution. Mr. Britton asked what the next step would be before it could become a rule. Mr. Brownfield stated that the General Assembly would need to approve a change to the State Universities Civil Service Act and that the change would need to be sponsored by either a Representative or a

Senator. He further stated that the University System would continue to work with the HRDAC and workout any issues with the program. Ms. Smart stated that there needed to be continued movement to move the project to the next stage.

Dr. Eagle stated that the option is still at the university level, allowing the university to convert the position to status or let the grant funding appointment phase out. Universities are funded by multiple funding sources, grants being one of the purses. Are we stating that grants is one of the purses and will the Merit Board be looking at other funding sources going forward. Possibly broadening these and calling them restricted funds instead of grant funds. Mr. Brownfield said that all of these issues needed to be looked at, but that it needed to start somewhere and grant funding appointments were brought to us as an issue.

### ***Report of the Legal Counsel – David DeThorne***

Mr. DeThorne stated the biggest issue had been the statutory and regulatory changes that were proposed to Section 250.110 of the Code.

Mr. DeThorne updated members of the two outstanding administrative review cases, Willis and Colwell. The Willis case is in the appellate court. The Colwell case involving the last chance agreement has not been placed on a schedule to be heard.

### ***Consideration of the 2019 Schedule of Meetings of the Merit Board***

Mr. Cole suggested Ms. Rademacher send out potential dates and Merit Board members respond with available dates after reviewing their calendars.

### ***Executive Director' Salary***

Mr. Montgomery made a motion to go into Executive Session at 3:19 p.m. Mr. Barr seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The Open Session reconvened at 3:47 p.m.

Mr. Barr made a motion to give the Executive Director a salary increase of 3% effective December 1, 2018. Mr. Montgomery seconded Mr. Barr's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Mr. Brownfield thanked the Merit Board for the salary increase.

Mr. Brownfield mentioned that an Employment Contract was needed for himself and the new Legal Counsel position. Ms. Smart stated if it is not legally required to have a contract and that the Merit Board should not enter into an employment contract. Mr. Montgomery stated that job security is the issue that would be resolved for non-civil service employees. Mr. Brownfield stated that with the turnover of the Merit Board would warrant a reason for an employment contract. Ms. Smart stated that if an employment contract was agreed upon, then the main factor need to be based on performance.

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

Mr. Montgomery made a motion to adjourn the meeting. Dr. King seconded Mr. Montgomery's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The meeting adjourned at 3:55 p.m.

Respectfully submitted,

*/s/ Teresa Rademacher*

Teresa Rademacher  
Secretary for the Merit Board

APPROVED:

*/s/ Carney Barr*

Chair  
University Civil Service Merit Board

April 17, 2019

Date