

May 20, 2011

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
May 20, 2011

I. OPENING OF MEETING AT 1:08 P.M. AT 400 WEST MONROE STREET, SUITE 306,
SPRINGFIELD, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba (by telephone), Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Roneta Taylor, Julie Moscardelli, Mark Magill and Bill Lipsmire, Illinois Department of Central Management Services; Michele Cusumano, Illinois Department of Natural Resources; Jeanine Hamm (by telephone), Administrative and Regulatory Shared Services Center; Susan Gold (by telephone), Rick DiDomenico (by telephone), and Don Seasock (by telephone), Illinois Department of Financial and Professional Regulation; and Angie Oxley (by telephone), Illinois Department of Revenue.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD ON APRIL 15, 2011

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 15, 2011.

May 20, 2011

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	147	10
Agriculture.....	417	16
Arts Council.....	19	2
Capitol Development Board	46	0
Central Management Services	1,404	112
Children and Family Services.....	2,918	48
Civil Service Commission	4	0
Commerce & Economic Opportunity	422	66
Commerce Commission.....	79	0
Corrections.....	11,771	103
Criminal Justice Authority.....	62	5
Deaf and Hard of Hearing Comm.	7	1
Developmental Disabilities Council	9	1
Emergency Management Agency	91	7
Employment Security	1,857	29
Environmental Protection Agency.....	888	16
Financial & Professional Regulation	474	41
Gaming Board.....	92	5
Guardianship and Advocacy	106	7
Healthcare and Family Services.....	2,251	25
Historic Preservation Agency	187	9
Human Rights Commission	14	2
Human Rights Department	152	8
Human Services	13,325	73
Illinois Torture Inquiry Relief Commission.....	1	1
Insurance.....	248	12
Investment Board.....	2	1
Juvenile Justice	1,228	20
Labor.....	77	7
Labor Relations Board Educational	13	2
Labor Relations Board State	16	2
Law Enforcement Training & Standards Bd.....	18	2
Medical District Commission	2	0
Military Affairs.....	121	3
Natural Resources	1,217	26
Pollution Control Board.....	21	1
Prisoner Review Board	19	0
Property Tax Appeal Board	25	1
Public Health	1,086	40
Racing Board	2	0
Revenue	1,996	58
State Fire Marshal.....	136	12
State Police	1,275	4
State Police Merit Board.....	5	1
State Retirement Systems	87	2
Transportation.....	2,443	0
Veterans' Affairs	1,237	8
Workers' Compensation Commission	172	7
TOTALS	48,189	796

Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

B. Requests for 4d(3) Exemption and Proposed Rescission of 4d(3) Exemption

Executive Director Daniel Stralka reported:

- As to Item C, this request is for the Manager of the Office of Medicaid Certification and Program Services, a position that reports to the Deputy Director of Budget and Finance who reports to the Director of the Illinois Department of Children and Family Services. This position is responsible for handling Medicaid claims on behalf of the agency which bring in \$12,000,000 with a goal of increasing that by 50% in the next three years. After reviewing the position description of an equivalent position in Budget & Finance – the Manager of Federal Financial Participation which is already 4d(3) exempt – Staff found there to be significant overlap that would preclude principal policy exemption for this request. The agency responded by noting that each position handles a different type of Federal claim. Staff reviewed the position description of the other position which made no such distinction when it was submitted and approved in June 2008. The Federal Financial Participation position description indicates it is responsible for all reimbursement functions and specifically includes Medicaid. The Minutes for that meeting indicate that its function in determining Medicaid eligibility was a factor in Staff’s recommendation to approve 4d(3) exemption. It was also specifically noted then that additional requests in this program area may dilute the basis for exemption such that the Federal Financial Participation position may no longer qualify for exemption.

In addition, this position is the subject of a pending petition before the Illinois Labor Relations Board to be included in a collective bargaining unit and the agency is not attempting to exclude it from the unit. The Manager of Federal Financial Participation is excluded from a bargaining unit.

This request was continued from last month’s meeting at the agency’s request. Not having heard from the agency, Commission Staff sent out a reminder e-mail on May 9. There has been no agency response. For these reasons, Staff recommended denying this request. Chairman Kolker noted the Commission’s unwillingness to approve a principal policy exemption for a position in a collective bargaining unit.

- As to Item D, this request is for the Deputy Director of the Office of Performance Management in the Department of Public Health, a position that reports to the Director. It has agency-wide principal programmatic responsibilities in developing and managing performance management and quality improvement policies and initiatives to be applied to all agency programs, and then to ensure that these initiatives remain aligned with the agency’s strategic mission. These efforts are designed to improve program efficiencies and effectiveness. For these reasons, Staff recommended approval of this request.
- As to Item E, this request is for the Coordinator of Real Estate Appraisal, a statutory position created by the Real Estate Appraiser Licensing Act (225 ILCS 458/25-15) which reports to the Director of the Department of Professional Regulation. This position serves as a non-voting member of the Real Estate Appraisal Administration

and Disciplinary Board as well as being the “direct liaison” between the agency and the profession. It develops policies for administering the statewide real estate appraisal program.

A statutory change in 2009 changed this position from a statutory “four year term” to an appointment “subject to the Personnel Code.” It is not the only agency position to have this language and others have previously been granted 4d(3) exemptions. It is uncertain whether the Commission considered this language at that time. Now that it is before the Commission, a question that arose is whether the legislative intent is that the position be under the Personnel Code as opposed to a non-Code position in which case it would be eligible for exemption under Section 4d(3), or whether it was intended that the position be subject to all three jurisdictions of the Personnel Code in which case it would not be eligible for Section 4d(3) exemption. Without knowing the legislative intent, Commission Staff favored the former interpretation. This is based on Section 10 of the Personnel Code which, in applying Personnel Code coverage to Commission employees, uses the language “subject to the provisions of Jurisdictions A, B and C of this Act (the Personnel Code).” If the legislature intended full Code coverage, it could have used this language to reflect its intent. However, the intent of this 2009 change remains uncertain.

In addition, there is significant overlap with the already exempt Director of Real Estate Investigations which is not a statutory position. The agency has explained how the requested position deals mainly with the administration of the Act while the Investigator position deals with enforcement of the Act. It is a set up common to the agency for several other professions it regulates. However, the agency did acknowledge the similarity of the language used in the position descriptions and agreed to clarify the Investigator position description. For these reasons, Staff recommended approval of this request. In addition, since the Act and position both expire on January 1, 2012, any approved exemption should not extend beyond that date.

Susan Gold, Deputy General Counsel at Illinois Department of Financial and Professional Regulation, noted that her agency has a similar position for the nursing profession which was previously granted 4d(3) exemption. Chairman Kolker inquired whether the agency had made an inquiry as to the legislative history behind this language in the Act and Susan Gold indicated it had not.

- As to Item F, this request is for the Executive Contract and Software License Manager, a position that reports to the Deputy Director of the Bureau of Communication and Computer Services (BCCS) at Central Management Services who in turn reports to the Director. BCCS is the central entity responsible for all computer and telecommunications services throughout the State of Illinois. The Commission in the past has recognized this significant technical responsibility and its role in providing these services which affect not only State agencies but various other governmental entities that interact electronically with it when evaluating BCCS exemption requests. This position is responsible for developing and enforcing policies related to how the State uses its software – purchasing, monitoring, tracking,

distribution, and ensuring compliance with licensing restrictions. These are system-wide responsibilities so the impact is significant. For these reasons, Staff recommended approval of this request. Julie Moscardelli, Human Resources Manager at Central Management Services, noted that this position's responsibilities extend to mainframe, server, and laptop software which expenditures total approximately \$35,000,000 annually.

- As to Item G1, this request is for the Chief Labor Relations Director at the Department of Revenue, a position that reports to the Director. The responsibilities of this position are somewhat self-explanatory and have historically sufficed to support an exemption request. Revenue is somewhat unique in that it no longer has an exempt Human Resources position to perform or oversee this function. For these reasons, Staff recommended approval of this request.
- As to Item G2, this request is for the Chief Financial Reporting Director in the Department of Revenue, a position that reports to the Administrative Program Services Director who reports to the agency Director. This position has principal policy responsibility for the Financial Control Bureau, in essence carrying out policies related to the depositing and allocating of \$30 billion a year into 78 state funds for over 70 different taxes and programs. In addition, this position is responsible for the accounts receivable policy/reporting for \$1.1 billion in taxpayer liabilities. It has significant independent authority and interacts with numerous external State entities to carry out these financial control and generally accepted accounting procedures reporting responsibilities. This function is not part of the Shared Services Center fiscal authority. For these reasons, Staff recommended approval of this request.
- As to Item H, this request is for the Director of the Office of Architecture, Engineering, and Grants in the Department of Natural Resources, a position that reports to the Director. This position has principal policy responsibility for the agency's capital improvement program which encompasses not only buildings and recreational facilities but also other improvements such as roads and bridges, trails and docks and other amenities related to public use of the land the agency controls. It also includes awarding and managing of grants to units of local government to accomplish the same. These powers and authorities are specifically given to the agency and set forth in several statutory provisions. For these reasons, Staff recommended approval of this request.
- As to Item I, this request is for a Special Assistant to the Director of the Department of Natural Resources. This position serves as the Strategic Planner for the agency, a function now performed by another 4d(3) exempt position that is being abolished. For these reasons, Staff recommended approval of this request.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 4-0 TO DENY AND GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

- C: Manager, Medicaid Certification, and Program Services (Children and Family Services)**
- D: Deputy Director, Office of Performance Management (Public Health)**
- E: Coordinator of Real Estate Appraisal (Financial & Professional Regulation)**
- F: Executive Contract & Software License Manager (Central Management Services)**
- G1: Chief Labor Relations Director (Department of Revenue)**
- G2: Chief Financial Reporting Director (Department of Revenue)**
- H: Director, Office of Architecture, Engineering, and Grants (Natural Resources)**
- I: Special Assistant to the Director (Natural Resources)**

The following 4d(3) exemption request was denied on May 20, 2011

C. Illinois Department of Children and Family Services

Position Number	40070-16-20-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Budget and Finance
Functional Title	Manager, Medicaid Certification and Program Services
Incumbent	Vacant
Supervisor	Deputy Director of Budget & Finance, who reports to the Director
Location	Sangamon County

The following 4d(3) exemption request was granted through January 1, 2012 on May 20, 2011:

E. Illinois Department of Financial and Professional Regulation

Position Number	40070-13-40-350-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Coordinator of Real Estate Appraisal
Incumbent	Vacant
Supervisor	Director of Professional Regulation
Location	Cook County

The following 4d(3) exemption requests were granted on May 20, 2011:

D. Illinois Department of Public Health

Position Number	40070-20-01-040-00-81
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Performance Management
Functional Title	Deputy Director for the Office of Performance Management
Incumbent	Vacant
Supervisor	Director
Location	Cook County

F. Illinois Department of Central Management Services

Position Number	40070-37-10-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communication & Computer Services
Functional Title	Executive Contract and Software License Manager
Incumbent	Vacant
Supervisor	Deputy Director, Bureau of Communication & Computer Services, who reports to the Director
Location	Sangamon County

G1. Illinois Department of Revenue

Position Number	40070-25-00-000-20-01
Position Title	Senior Public Service Administrator
Bureau/Division	Labor Relations
Functional Title	Chief Labor Relations Director
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

G2. Illinois Department of Revenue

Position Number	40070-25-10-300-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Administrative Services
Functional Title	Chief Financial Reporting Director
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

H. Illinois Department of Natural Resources

Position Number	40070-12-20-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Architecture, Engineering, and Grants
Functional Title	Director
Incumbent	Vacant
Supervisor	Deputy Director, who reports to the Director
Location	Sangamon County

I. Illinois Department of Natural Resources

Position Number	40070-12-00-120-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Special Assistant to the Director
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

J. Proposed Rescission of Exemption

As to the proposed rescissions, Executive Director Stralka noted that the reason these positions were included for proposed rescission was due to extended vacancy in excess of two years. On April 18, 2011, he provided notice to the Director of Central Management Services in accordance with Commission Rules followed by letters to all affected agency directors notifying them of which positions might be placed on this month's agenda for rescission and why. These notices included 23 positions. Since that time, many telephone calls occurred and e-mails and correspondence exchanged with agency representatives regarding these proposed rescissions. Many issues were resolved during this initial period so that when it came time to finalize the agenda only ten positions were included for the Commission to determine if their 4d(3) exemption should be rescinded.

As a reminder, Commission rules provide that rescissions shall be approved only after the Commission has determined that an adequate level of managerial control exists in exempt status which will insure responsive and accountable administrative control of agency programs. It was Commission staff's position that such control exists for all these proposed rescissions.

- As to Items J2 & J9, the agencies reported that the positions have been filled. For that reason, Staff recommended that these proposed rescissions be denied.
- For the remaining items, the agencies all provided a variety of reasons as to why the positions remain unfilled but that they all have been proceeding with efforts to fill them and wish to retain the exemption. Staff had no objection to these responses and was satisfied with these representations, noting that all agencies have administrative

epars pending, a process agencies must go through to fill positions. Staff also noted how decisions to fill positions at this time of year are likely contingent on fiscal year 2012 appropriations, an issue that remains very much up in the air. Staff noted that all these positions will likely reappear on the August agenda if not filled by then.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO DENY THE PROPOSED RESCISSIONS FROM 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

- J1: IOCI, Media Administrator (Central Management Services)**
- J2: Assistant Warden Programs-Pinckneyville (Corrections)**
- J3: Assistant Warden Programs-Vienna (Corrections)**
- J4: Assistant Warden Operations-Hill (Corrections)**
- J5: Assistant Warden Programs-Western Illinois (Corrections)**
- J6: Deputy Director, Operations (Juvenile Justice)**
- J7: Assistant Warden, Operations-IYC Chicago (Juvenile Justice)**
- J8: Assistant Warden Programs-Harrisburg (Juvenile Justice)**
- J9: Assistant Warden Programs-Joliet (Juvenile Justice)**
- J10: Policy Advisor, Informal Conference Board (Revenue)**

The following 4d(3) exemption rescissions were denied on May 20, 2011:

	Agency	Position Number	Functional Title
J1	Central Mgmt. Services	40070-37-80-100-01-22	IOCI, Media Administrator
J2	Corrections	40070-29-62-200-00-01	Assistant Warden Programs-Pinckneyville
J3	Corrections	40070-29-86-200-00-01	Assistant Warden Programs-Vienna
J4	Corrections	40070-29-98-300-00-01	Assistant Warden Operations-Hill
J5	Corrections	40070-29-99-200-00-01	Asst, Warden Programs-Western IL
J6	Juvenile Justice	40070-27-00-100-00-01	Deputy Director, Operations
J7	Juvenile Justice	40070-27-17-300-00-01	Assistant Warden, Operations-IYC Chicago
J8	Juvenile Justice	40070-27-20-200-00-01	Asst. Warden Programs-Harrisburg
J9	Juvenile Justice	40070-27-35-200-00-01	Assistant Warden Programs-Joliet
J10	Revenue	40070-25-00-100-60-01	Policy Advisor, Informal Conf. Board

V. CLASS SPECIFICATIONS

The following class titles were submitted for creation by the Director of Central Management Services:

May 20, 2011

Educator Trainee (HR-010)
Educator Trainee (RC-063)

Staff Analysis: Assistant Executive Director Andrew Barris contacted John Logsdon at Central Management Services Technical Services about the need for the new class and/or the fact that the proposed class was represented by two different collective bargaining units. Logsdon explained that the Educator trainee class was need at the state level to compete against school districts for new qualified teachers. It was explained that student teachers generally spend their last year or semester working in a school within a school district, teaching classes and getting compensation and credit towards their degree before they graduate. The State of Illinois offered no such system for prospective teachers and is unable to hire a student until after the student graduates. Therefore, certain agencies that use teachers such as the Illinois School for the Deaf, Department of Corrections and/or Juvenile Justice, and the Department of Human Services would be on “more equal footing with the school districts” in hiring qualified teachers. Logsdon explained that the Educator class was represented by the American Federation of State, County and Municipal Employees (AFSCME) and the Illinois Federation of Teachers (IFT) and therefore it was anticipated that the two bargaining entities would seek representation of the Educator Trainee positions. Chairman Kolker inquired about the role of the AFSCME bargaining unit and the number of available teachers. Bill Lipsmire, Central Management Services Technical Services, indicated that it was anticipated that the IFT (HR-010) and AFSCME (RC-063) would represent the new classification.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 3-0 WITH COMMISSIONER EWELL ABSTAINING, TO APPROVE THE CREATION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE JUNE 1, 2011:

Educator Trainee (HR-010)
Educator Trainee (RC-063)

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 400 West Monroe Street, Suite 306, Springfield, Illinois at 2:35 p.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba (by telephone), Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	3/31/11	4/30/11	4/30/10
Aging	0	0	1
Agriculture	1	0	0
Central Management Services	0	1	0
Children and Family Services	3	2	6
Employment Security	2	5	3
Healthcare and Family Services	1	3	1
Historic Preservation Agency	1	1	1
Human Services	2	1	2
Natural Resources	8	9	1
Property Tax Appeal Board	2	3	1
Transportation	5	1	0
Veterans' Affairs	1	0	0
Totals	26	26	16

IX. INTERLOCUTORY APPEALS

RV-7-11¹

Petitioner	Brenda L. Crouse	Appeal Date	07/22/10
Agency	Transportation and Central Management Services	Decision Date	04/22/11
Type	Rule Violation	ALJ	Andrew Barris
Issue(s)	No jurisdiction	Proposal for Decision	Dismissed subject to approval of Commission.

RV-8-11

Petitioner	Linda L. Bumgarner	Appeal Date	07/22/10
Agency	Transportation and Central Management Services	Decision Date	04/22/11
Type	Rule Violation	ALJ	Andrew Barris
Issue(s)	No jurisdiction	Proposal for Decision	Dismissed subject to approval of Commission.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE PETITIONERS’ FAILURE TO FILE THEIR APPEALS WITHIN 180 DAYS AFTER THE DATE ON WHICH THEY KNEW, RECEIVED NOTICE OF, OR, THROUGH THE USE OF REASONABLE DILIGENCE, SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION OR NONCOMPLIANCE RESULTED IN THE COMMISSION HAVING NO JURISDICTION OVER THIS MATTER. THE CONSOLIDATED APPEAL IS DISMISSED FOR LACK OF JURISDICTION.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA YES

S-44-11

Employee	Judith A. Motluck	Appeal Date	03/22/11
Agency	Human Services	Decision Date	05/06/011
Type	Suspension	ALJ	Daniel Stralka
Issue(s)	Motion to Dismiss; no jurisdiction	Proposal for Decision	Grant Motion to Dismiss.

¹ RV-7-11 and RV-8-11 were consolidated on April 22, 2011.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO GRANT THE MOTION TO DISMISS AS THE EMPLOYEE SIGNED THE RESOLUTION OF MARCH 8, 2011 IN WHICH SHE AGREED TO SERVE A 30-DAY DISCIPLINARY SUSPENSION AND ALSO AGREED TO REFRAIN FROM INITIATING ANY GRIEVANCE, ADMINISTRATIVE OR OTHER JUDICIAL PROCEEDINGS ARISING OUT OF THE DISCIPLINARY ACTION. THEREFORE, THE CIVIL SERVICE COMMISSION HAS NO JURISDICTION OVER THIS MATTER AND THE MOTION TO DISMISS IS GRANTED.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA YES

X. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-20-11

Employee	Mariah Welch	Appeal Date	09/14/10
Agency	Corrections	Decision Date	05/06/11
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Allowed trading and trafficking between housing unit offenders, brought contraband into Correctional Center & trafficked to an offender, socialized with offenders.	Proposal for Decision	Charges are partially proven and warrant 60-day suspension in lieu of discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM, MODIFY, AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PARTIALLY PROVEN AND WARRANT A 60-DAY SUSPENSION IN LIEU OF DISCHARGE. THE PROVEN CHARGES WARRANT A 14-DAY SUSPENSION IN LIEU OF DISCHARGE BECAUSE THE PREPONDERANCE OF THE EVIDENCE INDICATES THAT THE VIOLATIONS WERE MINIMAL WITHIN THE CONTEXT OF THE ROBINSON CORRECTIONAL CENTER'S PAST PRACTICE.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA YES

DA-24-11

Employee	Sammy L. Hines	Appeal Date	10/14/10
Agency	Human Services	Decision Date	05/04/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Mental abuse of an individual; providing false/conflicting information during an investigation	Proposal for Decision	Charges are partially proven and warrant 60-day suspension in lieu of discharge.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM, MODIFY, AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES FOR DISCHARGE APPROVED BY THE DIRECTOR OF THE ILLINOIS DEPARTMENT OF CENTRAL MANAGEMENT SERVICES HAVE BEEN PARTIALLY PROVEN BUT THE UNIQUE FACTUAL CIRCUMSTANCES WARRANT A 30-DAY SUSPENSION IN LIEU OF DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MAY 4, 2011 AND BECAUSE HINES’ ACTIONS IN LOUDLY TELLING A RESIDENT TO “SHUT UP” – WHILE OBJECTIONABLE – WERE INSUFFICIENT TO WARRANT SUCH A LENGTHY SUSPENSION. A 30-DAY SUSPENSION IS SUFFICIENT TO CENSURE THE EMPLOYEE FOR HIS ACTIONS AND MAKE IT CLEAR THAT SUCH CONDUCT IS NOT ACCEPTABLE IN THE WORKPLACE AND SUBJECT TO DISCIPLINE. THEREFORE, SAID PROVEN CHARGES WARRANT A 30-DAY SUSPENSION IN LIEU OF DISCHARGE.

**KOLKER YES EWELL YES
 PETERSON YES DALIANIS
 BUKRABA YES**

DA-31-11

Employee	Adrienne D. Hinds	Appeal Date	11/19/10
Agency	Human Services	Decision Date	05/02/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MAY 2, 2011.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA YES

DA-32-11

Employee	Victoria S. Senor	Appeal Date	12/03/10
Agency	Human Services	Decision Date	05/06/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Sleeping on duty	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 3-1 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MAY 6, 2011.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA NO

RV-55-10

Petitioner	George T. Rivera	Appeal Date	06/14/10
Agency	Transportation	Decision Date	04/25/11
Type	Rule Violation	ALJ	Andrew Barris
Allegation(s)	Violation of Personnel Rules Sections 302.435 and 302.790	Proposal for Decision	No violation.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE EMPLOYEE HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT A VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES OCCURRED AS ALLEGED.

KOLKER YES EWELL YES
PETERSON YES DALIANIS
BUKRABA YES

RV-22-11

Petitioner	Rick D. Anderson	Appeal Date	09/22/10
Agency	Central Management Services	Decision Date	04/22/11
Type	Rule Violation	ALJ	Andrew Barris
Allegation(s)	Violation of Personnel Rules Section 303.45	Proposal for Decision	Violation of Personnel Rules Section 303.30; CMS directed to reinstate Anderson's Step 4 grievance for review and final determination.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY CHAIRMAN KOLKER, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM, MODIFY, AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION. THE PETITIONER HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT VIOLATED SECTION 303.30 OF THE PERSONNEL RULES BY IMPROPERLY DISMISSING THE PETITIONER'S GRIEVANCES AT STEP 4 OF THE GRIEVANCE PROCESS BECAUSE THE EVIDENCE INDICATED THAT THE RESPONDENT DID NOT APPOINT A GRIEVANCE COMMITTEE TO HEAR THE PETITIONER'S GRIEVANCES AT SUCH A COMMITTEE. THE RESPONDENT ARGUED THAT IT DID NOT HAVE THE OPPORTUNITY TO ADDRESS SECTION 303.30 OF THE PERSONNEL RULES BECAUSE THE PETITIONER INITIALLY CITED A VIOLATION OF SECTION 303.45. THE RESPONDENT ALSO ARGUED THAT THE PETITIONER DID NOT BRING "GRIEVABLE CLAIMS" UNDER THE PERSONNEL RULES AND SUGGESTED THAT THIS WAS THE REASON FOR THE FAILURE TO APPOINT A GRIEVANCE COMMITTEE PURSUANT TO SECTION 303.30 OF THE PERSONNEL RULES. THESE ARGUMENTS ARE UNPERSUASIVE.

OTHER THAN THE RESPONDENT'S STATEMENT "NO FOURTH-STEP DISCUSSIONS OR MEETINGS WERE REQUIRED" IN ITS DECEMBER 17, 2010 CORRESPONDENCE PRIOR TO THE PROPOSAL FOR DECISION, NO EXPLANATION WAS PROVIDED AS TO WHY THERE WERE NO "DISCUSSIONS OR MEETINGS" DESCRIBED IN SECTION 303.45. SECTIONS 303.10 TO 303.45 OUTLINE THE GRIEVANCE PROCESS AT ISSUE. SECTION 303.30 SPECIFICALLY USES THE MANDATORY LANGUAGE "SHALL" IN REQUIRING THE DIRECTOR OF CENTRAL MANAGEMENT SERVICES TO APPOINT A GRIEVANCE COMMITTEE TO HEAR 4TH LEVEL GRIEVANCES.

ALTHOUGH THE PETITIONER'S GRIEVANCES MIGHT REFERENCE THE AFSCME CONTRACT AND/OR ULTIMATELY BE WITHOUT MERIT, THE RESPONDENT POINTS TO NO LANGUAGE IN SECTIONS 303.10 TO 303.45 TO SUGGEST THAT THE DIRECTOR OF CENTRAL MANAGEMENT SERVICES HAS THE AUTHORITY, BASED SOLELY ON HIS OWN

DISCRETION AND WITHOUT THE CONSENT OF THE PARTIES, TO SUMMARILY DISMISS THE PETITIONER’S 4TH LEVEL GRIEVANCES WITHOUT APPOINTING A GRIEVANCE COMMITTEE TO CONSIDER SUCH CLAIMS. IN SUM, THE FOUR GRIEVANCES DISMISSED BY THE DIRECTOR ADDRESSED THE FOLLOWING ISSUES: A DISPARITY IN JOB RESPONSIBILITIES AND COMPENSATION BETWEEN UNION POSITIONS AND THE PETITIONER’S POSITION AS AN EXECUTIVE 1/MERIT COMPENSATION EMPLOYEE, A “PAY FREEZE” IMPOSED ON THE PETITIONER BECAUSE HE WAS A MERIT COMPENSATION EMPLOYEE, THE PETITIONER’S COMPENSATION OF “STRAIGHT TIME” VERSUS “TIME AND A HALF” AS AN EXECUTIVE 1.

ON THEIR FACE, THESE ISSUES CAN PROPERLY BE CATEGORIZED AS ISSUES CONCERNING THE PETITIONER AND/OR “CONDITIONS OF STATE EMPLOYMENT WHICH DIRECTLY AFFECT THE GRIEVANT IN THE PERFORMANCE OF HIS/HER OFFICIAL DUTIES” AS SET FORTH IN SECTION 303.10. CENTRAL MANAGEMENT SERVICES IS DIRECTED TO COME INTO COMPLIANCE WITH THE PERSONNEL RULES BY REINSTATING THE PETITIONER’S STEP 4 GRIEVANCES FOR REVIEW AND FINAL DETERMINATION IN ACCORDANCE WITH SECTIONS 303.30 AND 303.45 OF THE PERSONNEL RULES.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

XI. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

DA-42-11

Employee	Ida C. Johnson	Appeal Date	03/07/11
Agency	Human Services	Decision Date	05/05/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Recipient physical abuse	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn (settled).

DA-46-11

Employee	Ashley Hanneken	Appeal Date	04/13/11
Agency	Human Services	Decision Date	05/09/11
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGES' PROPOSALS FOR DECISION TO DISMISS THE JOHNSON AND HANNEKEN APPEALS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

XII. STAFF REPORT

Executive Director Daniel Stralka reported:

- The Commission's fiscal year 2012 budget request was still being deliberated by the General Assembly. The House was considering a 17.9% reduction while the Senate was at a 5.4% reduction. Additional information had been forwarded to both appropriation committees to support the Commission's request.
- He attended an entrance conference with the Auditor General on May 10 over the performance audit called for in Legislative Audit Commission 141. This audit primarily affects the Illinois Department of Central Management Services.
- The Senate voted on May 13 to override the Governor's amendatory veto of SB1 affecting Commissioners throughout the State whose terms have expired but continue to serve on their various Boards and Commissions. It is now pending in the House.

Brian Collins made a brief presentation to the Commissioners on the current status of the Benefit Choice period.

Executive Director Stralka expressed ongoing concerns over the status of employee grievance committees. Pursuant to Section 303.30 of the Personnel Rules, an employee of the Civil Service Commission is designated to serve on a grievance committee to assist in the resolution of grievances at Step 4 of the process. However, it has been years since a grievance committee has been empanelled even though there are unresolved grievances. After discussion, it was the consensus of the Commission for the Executive Director to make a written inquiry on this issue to the Director of CMS and report back to the Commission.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, June 17, 2011 at 11:00 a.m. in the Commission's Chicago office.

May 20, 2011

XIV. MOTION TO ADJOURN

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 2:50 P.M.