

September 16, 2004

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
SEPTEMBER 16, 2004

I. OPENING OF MEETING AT 9:02 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George E. Richards, Betty Bukraba, Raymond W. Ewell and Barbara J. Peterson, Commissioners; Daniel Stralka, Andrew Barris and Leonard J. Sacks of the Commission staff; Roxanne Nava, Department of Commerce and Economic Opportunity; Carolyn Adams, Department of Human Services; Sarah Cummins, Department of Lottery; and Steven M. Cohen, Respondent.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 19, 2004

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD AUGUST 19, 2004.

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

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	150	5
Agriculture	585	18
Arts Council	20	1
Capitol Development Board	16	0
Central Management Services	1223	109
Children and Family Services	3552	41
Civil Service Commission	5	0
Commerce & Econ. Opportunity	494	60
Commerce Commission	58	0
Corrections	14,464	114
Criminal Justice Authority	72	3
Deaf and Hard of Hearing Comm.	7	1
Developmental Disabilities Council	12	1
Elections Board	55	1
Emergency Management Agency	110	2
Employment Security	2003	26
Environmental Protect. Agency	1141	13
Fin. & Prof. Regulation	892	22
Guardianship and Advocacy	111	6
Historic Preservation Agency	262	6
Human Rights Commission	11	2
Human Rights Department	147	7
Human Services	15,734	61
Industrial Commission	162	7
Investment Board	3	1
Labor	83	7
Labor Relations Board Educational	16	2
Labor Relations Board Local	2	0
Labor Relations Board State	18	2
Law Enforce. Trng. & Standard Bd.	25	1
Medical District Comm.	2	0
Military Affairs	147	3
Natural Resources	1847	27
Pollution Control Board	26	3
Prisoner Review Board	24	0
Property Tax Appeal Board	24	2
Public Aid	2356	23
Public Health	1157	28
Revenue	2166	53
State Fire Marshal	135	7
State Police	1537	7
State Police Merit Board	5	1
State Retirement System	80	1
Transportation	2970	1
Veterans Affairs	1176	3
TOTALS	55,085	678

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

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.
 - 4. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 - 5. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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

- The Department of Corrections withdrew the requests for exemption regarding Items G, I, and J.
- The Commission staff had questions regarding the potential overlap in the policy-making authority of the Manager Citizens Response Program position at the Illinois Environmental Protection Agency (Item K). Commission staff member, Andrew Barris, spoke to Kevin Tirey at the IEPA, to inquire about the position and its policy-making authority as compared to the 4d(3) exempt position in the Office of Communications and the recently exempt Media Administrator position at CMS. Tirey stated that the proposed position is entirely different than the position in the Office of Communications and the Media Administrator position at CMS. Tirey explained that there is no overlap between the positions because the proposed position's primary policy-making duties entail the proactive dissemination of information and the advertisement of environmental conservation, awareness and safety while the other two positions mentioned above are primarily concerned with interoffice communications and responding to the news media. Due to the fact that there appears to be no overlap, the Commission staff recommends exemption.
- The Commission staff had questions regarding the Lottery positions designated as Items D1 (Promotions) and D2 (Event Sponsorship). The Lottery organizational chart revealed that a 4d(3) exempt Marketing position already existed at Lottery. Specifically, the staff had questions as to the differences in policy-making responsibility and potential overlap between the proposed positions for exemption and the previously exempted position. Lottery Superintendent Carolyn Adams and Sarah Cummins addressed the Commission. Cummins currently holds the Marketing position at Lottery. She explained that the primary policy responsibility of the Promotions position is to create new promotional opportunities for Lottery. She also explained that the primary policy responsibility of the Events/Sponsorship position is in attending the many Lottery sponsored events and making on-site policy decisions regarding the advertisement of the Lottery. Unlike other state agencies, Lottery's primary purpose is to generate revenue and the only way to do that is through intense marketing and the specialization of each aspect of marketing - similar to the organization structure of a for-profit private company. Commissioner Richards inquired as to what made the proposed positions policy-making positions as opposed to management positions. After Cummins stated that the positions were not merely managerial positions, Chairman Kolker inquired as to the specific policy-making responsibilities of each position and Cummins assured the Commission that each position was independently responsible for making policy decisions, providing several examples of each position's area of specialization. Chairman Kolker noted that the authority to determine which businesses or events the Lottery associates itself with is a strong factor in favor of exemption. Considering the huge revenues Lottery

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

generates, \$1.7 billion, and if made exempt, the 4d(3) positions still only comprise less than 5% of the Lottery workforce, it was determined that exemption is appropriate for both positions.

- The Commission staff had questions regarding Items C, E, and F. These positions are titled Regional Economic Development Officers. Item C is at the Environmental Protection Agency; Item E is at the Department of Natural Resources and Item F is at the Department of Agriculture. Each position is intended to work with the Department of Commerce and Economic Opportunity in the implementation of its Opportunity Returns program. Roxanne Nava, Assistant Director with the Department of Commerce and Economic Opportunity, addressed the Commission regarding the duties and responsibilities of the positions. She explained that in order to meet the objectives of the Opportunity Returns program these positions were necessary in working with DCEO to provide immediate response capabilities to the issues that arise regarding each agency's function, i.e. a business is looking to improve/repair its building consistent with the objectives of Opportunity Returns but it must also insure that the necessary steps are taken to comply with EPA's rules and regulations. The above-described scenario is the type of policy-making responsibility the Regional Economic Development Officers will have with their respective agencies. Nava assured the Commission that the very nature of the positions require policy making authority in order to promote plans for growth for businesses consistent with goals of Opportunity Returns and to also insure compliance with the rules and regulations of the Environmental Protection Agency, the Department of Natural Resources and the Department of Agriculture. These positions would also shepherd Opportunity Returns initiatives through their respective agencies to ensure sufficient resources are devoted to accomplishing these programmatic activities. For these reasons, the staff recommended exemption for all three positions.

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

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE OR APPROVE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS IN ACCORDANCE WITH STAFF RECOMMENDATION:

C. Requests for 4d(3) Exemption Withdrawn by the Department of Revenue

The following 4d(3) requests for exemption were withdrawn prior to the September 16, 2004 meeting.

Position Title: Public Service Administrator
Position Number: 37015-29-00-000-70-01
Division: Sheridan Project
Incumbent: Vacant
Supervisor: Assistant Director
Location: La Salle

Position Title: Public Service Administrator
Position Number: 37015-29-00-000-70-02
Division: Sheridan Project
Incumbent: Vacant
Supervisor: Assistant Director
Location: Sangamon County

Position Title: Public Service Administrator
Position Number: 37015-29-00-000-70-03
Division: Sheridan Project
Incumbent: Vacant
Supervisor: Assistant Director
Location: Cook County

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

D. Request for 4d(3) Exemption Continued by the Commission

The following 4d(3) request for exemption was continued at the September 16, 2004 meeting until the October 21, 2004 meeting:

Agency:	Department of Natural Resources
Position Title:	Senior Public Service Administrator
Position Number:	40070-12-09-000-00-01
Division:	Office of Business Management
Incumbent:	Vacant
Supervisor:	Director
Location:	Sangamon

E. Requests for 4d(3) Exemption Approved by the Commission

The following 4d(3) requests for exemption were approved at the September 16, 2004 meeting:

Agency:	Environmental Protection Agency
Position Title:	Senior Public Service Administrator
Position Number:	40070-46-00-000-00-07
Division:	Director's Office
Incumbent:	Vacant
Supervisor:	Director
Location:	Cook County

Agency:	Department of Revenue
Position Title:	Senior Public Service Administrator
Position Number:	40070-25-94-200-00-01
Division:	Lottery-Promotions Office
Incumbent:	Vacant
Supervisor:	Lottery Superintendent
Location:	Cook County

Agency:	Department of Revenue
Position Title:	Senior Public Service Administrator
Position Number:	40070-25-90-200-10-01
Division:	Lottery-Events/Sponsorship Office
Incumbent:	Vacant
Supervisor:	Lottery Superintendent
Location:	Cook County

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

Agency: Department of Natural Resources
Position Title: Senior Public Service Administrator
Position Number: 40070-12-00-300-00-01
Division: Director's Office
Incumbent: Vacant
Supervisor: Director
Location: Cook County

Agency: Department of Agriculture
Position Title: Senior Public Service Administrator
Position Number: 40070-11-01-000-00-02
Division: Director's Office
Incumbent: Vacant
Supervisor: Director
Location: Sangamon County

Agency: Department of Corrections
Position Title: Senior Public Service Administrator
Position Number: 40070-29-00-000-60-01
Division: Planning and Research
Incumbent: Vacant
Supervisor: Agency Director
Location: Sangamon County

Agency: Environmental Protection Agency
Position Title: Senior Public Service Administrator
Position Number: 40070-46-00-200-00-03
Division: Director's Office
Incumbent: Vacant
Supervisor: Director
Location: Sangamon County

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

E. **Request for Rescission of 4d(3) Exempt Status Approved by the Commission**

The following 4d(3) request for rescission of exempt status was approved at the September 16, 2004 meeting:

Agency:	Department of Public Aid
Position Title:	Senior Public Service Administrator
Position Number:	40070-33-00-230-00-61
Division:	Office of the Director
Incumbent:	Vacant
Supervisor:	Deputy Director 40070-33-00-040-00-21
Location:	Sangamon County

V. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO HOLD AN EXECUTIVE SESSION TO CONSIDER APPEALS OF DISMISSAL FILED WITH THE COMMISSION.

VI. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Chicago, Illinois at 11:00 a.m.

Present:

Chris Kolker, Chairman; George E. Richards, Betty Bukraba, Raymond W. Ewell and Barbara J. Peterson, Commissioners; Daniel Stralka, Andrew Barris and Leonard J. Sacks of the Commission staff; and Steven M. Cohen, Respondent.

VII. 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 as of August 31, 2004.

	<u>7/31/04</u>	<u>8/31/04</u>
Agriculture	8	9
Central Management Services	8	9
Children & Family Services	6	3
Comm. & Econ. Opportunity	2	1
Emergency Management Agency	1	1
Environmental Protection	2	1
Historic Preservation	34	33
Human Rights	1	0
Natural Resources	51	40
Public Aid	4	3
Transportation	3	2
Totals	120	102

VIII. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

- **DISCHARGE**

DA-10-04

Respondent	Robert P. Jones	Appeal Date	8/11/03
Agency	DHS	Decision Date	8/31/04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Conduct Unbecoming A State Employee.	Recommended Decision	Charges Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE DISMISSED AND THAT THE RESPONDENT, ROBERT P. JONES, BE DISCHARGED.

- **DISCHARGE**

DA-75-04

Respondent	Steven M. Cohen	Appeal Date	11/24/03
Agency	DHS	Decision Date	9/1/04
Type of Appeal	Discharge	ALJ	Leonard Sacks
Charge	Conduct Unbecoming A State Employee.	Recommended Decision	Charges Proven; 90-Day Suspension In Lieu Of Discharge Recommended.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE UPHeld AND SUBSTITUTE A 90-DAY SUSPENSION (IN ADDITION TO THE 30 DAYS PENDING DISCHARGE) IN LIEU OF THE DISCHARGE OF THE RESPONDENT, STEVEN M. COHEN.

VIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL (continued)

- **DISCHARGE**

DA-76-04

Respondent	Sharon B. Newell	Appeal Date	12/01/03
Agency	DHS	Decision Date	9/02/04
Type of Appeal	Discharge	ALJ	Leonard Sacks
Charge	Abuse of Time	Recommended Decision	Charges Proven; (Unspecified) Suspension In Lieu Of Discharge Recommended.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE UPHELD AND THAT SAID CHARGES DO NOT WARRANT THE DISCHARGE OR ANY DISCIPLINE OF THE RESPONDENT, SHARON B. NEWELL.

- **DISCHARGE**

DA-74-04

Respondent	Kent Yager	Appeal Date	11/21/03
Agency	CMS	Decision Date	9/03/04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Failure To Return From An Approved Leave Of Absence.	Recommended Decision	Charges Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE DISMISSED AND THAT THE RESPONDENT, KENT YAGER, BE DISCHARGED.

VIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL (continued)

- **DISCHARGE**

DA-85-04

Respondent	Kendrick Brantley	Appeal Date	2/23/04
Agency	Agriculture	Decision Date	9/03/04
Type of Appeal	Discharge	ALJ	Leonard Sacks
Charge	Unauthorized Absence; Inappropriate Conduct.	Recommended Decision	Charges Proven; 90-Day Suspension (In Addition To 30-Day Suspension Pending) In Lieu Of Discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE UPHELD AND SUBSTITUTE A 90-DAY SUSPENSION (IN ADDITION TO THE 30 DAYS PENDING DISCHARGE) IN LIEU OF THE DISCHARGE OF THE RESPONDENT, KENDRICK BRANTLEY.

IX. APPEALS TERMINATED WITHOUT DECISION

- **DISMISSAL**

DA-102-04

Respondent	Fred Graham	Appeal Date	6/09/04
Agency	Human Services	Decision Date	9/03/04
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge	Unauthorized Absence; Inappropriate Conduct.	Recommended Decision	Respondent Failed To Appear At Hearing; Appeal Dismissed.

IX. APPEALS TERMINATED WITHOUT DECISION (continued)

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE DISMISSED.

- **DISMISSAL**

DA-98-04

Respondent	James D. Kline	Appeal Date	6/04/04
Agency	DHS	Decision Date	9/03/04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Abuse Of Time.	Recommended Decision	Discharge Appeal Dismissed – Untimely Filing.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO REJECT THE RECOMMENDED DECISION GRANTING THE PETITIONER’S MOTION TO DISMISS AND REMAND IT TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF FURTHER PROCEEDINGS.

- **LAYOFF APPEAL**

LA-58-04

LA-59-04

Petitioners	Edith LeMasters and Barbara Prosperini	Appeal Date	9/05/03
Agency	Labor Relations Board	Decision Date	8/24/04
Type of Appeal	Layoff	ALJ	Daniel Stralka
Charge	Violation Of Section 302.530 Of Personnel Code And Rules.	Recommended Decision	No Violation Of Personnel Code Or Rules Found.

IX. APPEALS TERMINATED WITHOUT DECISION (continued)

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEALS OF THE RESPONDENTS, EDITH LEMASTERS AND BARBARA PROSPERINI, BE DISMISSED.

- **DISMISSAL**

LA-95-04

Petitioner	Carol Brigman	Appeal Date	5/26/04
Agency	Human Services	Decision Date	8/30/04
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge	Conduct Unbecoming A State Employee--2 Counts.	Recommended Decision	Appeal Dismissed; Agreed Settlement Between The Parties.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT, CAROL BRIGMAN, BE DISMISSED.

X. STAFF REPORT

- Executive Director Daniel Stralka reminded the Commissioners of the October 8, 2004 deadline for participating in the ethics training.
- Executive Director Daniel Stralka was pleased to report that a new multi-function copier had been purchased and is to be installed on September 29, 2004.
- The meeting schedule for 2005 will be placed on next month's agenda.
- Business card format was discussed and approved.

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X. STAFF REPORT (continued)

- Executive Director Daniel Stralka reported that CMS has agreed to provide the Commission with notice of any Personnel Code or Rule amendments for our consideration. This is consistent with the mandates of Section 10 of the Personnel Code.
- Executive Director Daniel Stralka is to contact CMS regarding the availability of an agency representative for Commission meetings.

XI. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, October 21, 2004 at 9:00 a.m. in the Commission's Chicago Office.

XII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED TO ADJOURN THE MEETING AT 11:10 A.M.