



STATE EMPLOYEES' APPEALS COMMISSION

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Gabriel Paul, Director and Chief ALJ

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MINUTES OF THE REGULAR MEETING
OF THE STATE EMPLOYEES' APPEALS COMMISSION
APRIL 30, 2019

The regular meeting of the State Employees' Appeals Commission was held on April 30, 2019, at 10:00 A.M. EST, in the Indiana Government Center South, Conference Center Room D, 302 West Washington Street, Indianapolis, Indiana 46204. The Chair, Jonathan Mayes, called the Commission to order at 10:00 A.M. EST. The following four Commissioners were present, and constituted a quorum.

COMMISSIONERS PRESENT:

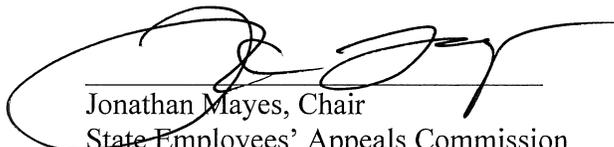
Jonathan Mayes, Chair
Cynthia Springer (participated telephonically)
Frank Sullivan, Jr.
B. Curtis Wilkinson

1. The Commission considered the minutes from the December 6, 2018, meeting. Commissioner Sullivan moved for the minutes to be approved and Commissioner Wilkinson seconded. The Commission approved the minutes as written by a 4-0 vote.
2. The Commission noted thirty-three (33) new Civil Service System complaints filed since the last meeting. The new Civil Service complaints were listed in the Commission's public agenda as follows:
 1. Amy Williams v. DCS, 12-18-079
 2. David Hicks v. FSSA, 12-18-080
 3. Robert Roberts v. IYC-DOC, 12-18-081
 4. Noel Resler v. FSSA, 01-19-001
 5. Joy Mettler v. FSSA, 01-19-002
 6. Teppei Ichikawa v. FSSA, 01-19-003
 7. Lanetta Inman v. FSSA, 01-19-004
 8. John Hommel v. ISD, 01-19-005
 9. James Waddick v. FSSA, 01-19-006
 10. Katlyn Wainwright v. ISDH, 01-19-007
 11. Debera Backhus v. DNR, 01-19-008
 12. Tracy McQueen v. DCS, 01-19-009
 13. Karen Ampey v. DCS, 01-19-010
 14. Rene Galvan v. DCS, 01-19-011
 15. Timothy Meyer v. IVH, 02-19-012
 16. Thomas Stewart v. FSSA, 02-19-013
 17. Veronica Reed v. DCS, 02-19-014

18. Joshua Stotler v. LJCF-DOC, 02-19-015
19. Amanda Greer v. DCS, 02-19-016
20. Karen Hellmich v. DCS, 02-19-017
21. Bryan Veale v. INDOT, 02-19-018
22. Keith Krajewski v. IGC, 02-19-019
23. Beverly Korobkin v. DWD, 02-19-020
24. Robert Rafert v. DWD, 02-19-021
25. Akinmayowa Akinlosotu v. FSSA, 02-19-022
26. Timothy Upchurch v. DOC, 03-19-023
27. Richard Norris v. FSSA, 03-19-024
28. Lindsey Orr v. CIF-DOC, 03-19-025
29. Dale Muzik v. DOC, 03-19-026
30. Jordan Gelsomini v. AGO, 03-19-027
31. Jerry Daffron v. WCF-DOC, 04-19-028
32. Terry Spicer v. ICJI, 04-19-029
33. Troy Cambe v. MCF-DOC, 04-19-030

3. Commissioner Wilkinson moved to have the cases assigned to the Chief ALJ for further assignment. The motion was seconded by Commissioner Sullivan and approved by a 4-0 vote.
4. The Commission reviewed the metrics for 2018 and the first quarter of 2019. Chairman Mayes asked the ALJ if these metrics were in-line with SEAC's historical metrics and the ALJ affirmed that they were. Commissioner Sullivan questioned what the term "lack of jurisdiction" meant with regards to case dismissal, and the ALJ responded that it indicated the case had been dismissed for failing to state a rule, law, or public policy that was violated, therefore giving SEAC jurisdiction to hear the matter, or, conversely, that just cause was shown for issuing the discipline, in classified employee cases. Chairman Mayes asked how the majority of cases are resolved, and the ALJ answered that most cases are resolved upon dispositive motion. Chairman Mayes then asked if the Commission would review appeals by either party in those instances and the ALJ answered that if a case has been disposed of via dispositive motion, a party wishing to appeal the ALJ's order would pursue judicial review. Chairman Mayes indicated that the Commission had previously heard oral arguments on dispositive motions before. The ALJ confirmed, but indicated that under AOPA his orders of dispositive motions are considered final orders of the Commission and therefore judicial review is the appropriate next step for a party to appeal. The Commission had no further comments on the topic.
5. A discussion was then held concerning the remaining 2019 Commission meeting dates. Chairman Mayes asked whether any cases will be ripe for oral argument in time for the originally scheduled August 27, 2019, meeting. The ALJ answered that he has two cases scheduled for hearing in late June and July 2019: Marshall v. DOC and McQueen v. DCS. Chairman Mayes question why the Marshall v. DOC hearing was bifurcated, to which the ALJ informed the Commission that witness availability required that the hearing be bifurcated. The Commission decided to postpone the August 27, 2019, meeting and set November 12, 2019, as the final meeting.

6. The case of Mindy Wright v. DCS, SEAC Cause No. 04-17-027, was heard by oral argument on Petitioner's timely objection and Respondent's response. The Chief ALJ published the "Findings of Fact, Conclusions of Law, and Non-Final Order" on February 13, 2019, for the aforementioned case, which provided judgment for the Petitioner after an evidentiary hearing. Petitioner Wright appeared by counsel, Mr. Glen Koch. Respondent DCS appeared by counsel, Ms. Whitney Fritz. Both parties provided oral argument, after which Commissioner Sullivan moved for purposes of discussion to dissolve the Order and find that Petitioner's termination was with just cause. Commissioner Springer seconded. Chairman Mayes indicated that if a lower form of discipline had been given to the Petitioner, or if Petitioner had any previous discipline, the matter would be viewed differently. However, he indicated that since the standard in this case was just cause and progressive discipline should be used, it would have been appropriate for Respondent to course correct Petitioner and issue a reprimand or suspension rather than a termination. Commissioner Wilkinson indicated that the ALJ was in the best position to view the facts and determine the outcome since he held the hearing. Commissioner Wilkinson did not find a reason to overturn the ALJ's decision. Following the public deliberation, Chairman Mayes called for a vote. Commissioner Sullivan voted to reverse the ALJ's decision and uphold the termination. Subsequently, the telephonic connection with Commissioner Springer was lost. Chairman Mayes noted that because Commissioner Springer had seconded the motion prior to her connection being lost, he would record her vote as a vote to reverse the ALJ's decision. Chairman Mayes voted to affirm the ALJ's Order in its entirety, as did Commissioner Wilkinson. Thus, the Commission voted 2-2. Because a majority was not obtained under I.C. § 4-15-1.5-5, no official action was taken on the ALJ's Order and thus the Non-Final Order of the ALJ in this matter stands as the Final Order with no revisions.
7. Seeing no further new business, Chair Mayes closed the meeting at 11:09 AM with the next meeting set for November 12, 2019, at 10:00 A.M. in Conference Center, Room 1.


Jonathan Mayes, Chair
State Employees' Appeals Commission
Date: Nov. 12, 2019