



ARIZONA BOARD OF FINGERPRINTING

Mail Code 185 • Post Office Box 6129 • Phoenix, Arizona 85005-6129
Telephone (602) 322-8590 • Fax (602) 322-8594

Final Minutes for Special Session Meeting

Held September 26, 2003 at 8:30 a.m.

2222 West Encanto Blvd., Suite 350, Phoenix, Arizona

Board Members

Craig Emanuel, Department of Education, Chair
Mike LeHew, Department of Economic Security, Vice Chair
Alvin Vasicek, Administrative Office of the Courts
Kim Pipersburgh, Department of Health Services
Vernon Waite, Department of Juvenile Corrections

Executive Director

Dennis Seavers

CALL TO ORDER AND ROLL CALL

Mr. LeHew called the meeting to order at 9:44 a.m. and conducted a roll call. The following Board members were present: Mike LeHew, Kim Pipersburgh, and Vernon Waite. The following Board members were absent: Craig Emanuel and Alvin Vasicek. Mr. LeHew established that a quorum was present.

CALL TO THE PUBLIC

Mr. LeHew made a call to the public. Susan Sendrow, representing the Arizona Education Association, was present but did not submit any comments or request any action by the Board.

APPROVAL OF MINUTES

Ms. Pipersburgh made a motion to approve the minutes of the special meeting on August 29, 2003, and Mr. Waite seconded. The motion passed, 3-0.

GENERAL SESSION

A. Consideration of and adoption of Board rules

Mr. Seavers referred the Board members to his memo that summarized public comments on the exempt rules proposed at 9 A.A.R. 3517, August 8, 2003. He also referred the Board members to a proposed form of the Notice of Final Exempt Rulemaking.

Mr. LeHew asked whether any of the Board members had comments or questions about the rules, or whether they wanted any changes made. None of the Board members had comments or questions or requested any changes.

Mr. Seavers asked the Board to consider what he regarded to be minor changes to clarify the rules' language. On page 11, he asked that R13-11-104(A)(4) be changed to read, "For any arrests that occurred five years or less prior to the date on the Department's notice, regardless of whether the arrests were listed on the Department's notice, the police report for each arrest and documents from the appropriate court showing the disposition of the charge." On page 11, he asked that R13-11-104(A)(5) be changed to read, "For every criminal conviction, regardless of whether the offenses were listed on the Department's notice, documents from the appropriate court . . ." On page 11, he asked that R13-11-104(A)(6) be changed to read, "A statement written by the appellant that explains every arrest, regardless of whether the arrests were listed on the Department's notice." The Board decided that the rule instead should be changed to read, "A statement written by the appellant that explains each arrest, regardless of whether the arrests were listed on the Department's notice." On page 12, he asked that a comma be inserted into R13-11-105(A)(2), so that the rule would read, "Whether the documentation submitted in support of a good cause exception is sufficient to allow the Board or its hearing officer to grant a good cause exception, or whether the Board or its hearing officer require further documentation or oral testimony." On page 15, he asked that R13-11-109(A) be changed to read "The Board shall notify the ~~applicant~~-appellant in writing of the Board's decision and transmit findings of fact and conclusions of law." Mr. Waite asked whether the Board would be issuing findings of fact and conclusions of law for good cause exceptions granted under an expedited review. Mr. Seavers said that requirement would be an unintentional consequence of the rule's proposed language. He suggested that the Board change the rule to read, "The Board shall notify the ~~applicant~~ appellant in writing of the Board's decision and, if the good cause exception is granted at a hearing, transmit findings of fact and conclusions of law." Finally, on page 16, he asked that R13-11-110 be changed to read, "All information relating to an ~~individual's~~ applicant or appellant's criminal history is confidential and shall not be disseminated or disclosed except as required by law."

Mr. Waite made a motion that the Board approve the proposed Notice of Final Exempt Rulemaking, with the changes discussed at the meeting included, and Ms. Pipersburgh seconded. The motion passed, 3-0.

Mr. Seavers said he would file the rules that afternoon.

B. Adoption of policy for conducting expedited reviews

Mr. Seavers asked whether the Board wanted to adopt formally a policy of conducting expedited reviews in the way that he and the Board had tried in the past week. This policy would require the Board staff to send the investigator's summary of a case, with a recommendation for Board action, to the Board members by electronic mail on the Monday before the Board met for expedited reviews. The Board members would indicate to the Board staff by Wednesday morning whether there were any files they wished to see or recommendations they wanted changed. By Wednesday afternoon, the Board staff would deliver photocopies of cases that Board members had requested. These files would include the investigator's summary, good cause exception application, personal statement, police report (if applicable), letters of reference, and any other materials the appellant submitted in support of a good cause exception. If Board members wanted more information, they could request it from the Board staff. Files requested by the Board would appear in the section of the expedited review agenda entitled "Cases for Discussion."

Mr. Waite asked to receive the investigator's summaries earlier. He wanted the Board to receive the electronically sent summaries no later than Friday morning. The Board members would contact the Board staff by Wednesday morning about any changes, and the Board staff would deliver files to the members by Thursday morning.

Mr. Waite made a motion that the Board adopt a policy of conducting expedited reviews in the manner described above, and Ms. Pipersburgh seconded. The motion passed, 3-0.

Mr. LeHew asked for a motion to enter into executive session in order to discuss legal advice from the Board's attorney as provided for in Arizona Revised Statutes 38-431.03(A)(3). Mr. Waite moved that the Board enter into executive session, and Ms. Pipersburgh seconded. The Board entered into executive session at 10:22 a.m. The Board emerged from executive session at 10:36 a.m.

ADJOURNMENT

Mr. Waite made a motion to adjourn the meeting, and Ms. Pipersburgh seconded. The motion passed, 3-0. Mr. LeHew adjourned the meeting at 10:37 a.m.

Minutes approved on _____, 2003

Dennis Seavers, Executive Director