

PUBLIC MEETING MINUTES FOR CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD ARIZONA DEPARTMENT OF CORRECTIONS



March 6, 2025



DRAFT

A public meeting of the Corrections Officer Retirement Plan Local Board for the Arizona Department of Corrections Rehabilitation and Reentry (ADCRR) was convened **Thursday, March 6, 2025, at 10:00 a.m.** at the **Arizona Department of Corrections, 1831 West Jefferson, Phoenix, Arizona, 85007**, in the Training Room, on the 2nd floor.

The Board may discuss/vote on items at any time, the Board may enter into Executive Session pursuant to A.R.S. § 38-431.03 (A) (2) to obtain legal advice and pursuant to A.R.S. § 38-431.03 (A) (3) to discuss details of a confidential nature.

Present at the meeting were the following individuals:

Randall Lowe, Chairman	Michael McCarville, Board Member
Judy Frigo, Board Member (Conferenced in)	Brian Bernal, Board Member
Kyle Cummings, Assistant Attorney General	Sandra Moreno, Board Secretary, Retirement Specialist
Karen Ray, Board Secretary, Retirement Specialist	
Guests	

I. CALL TO ORDER – CORP Local Board Meeting was called to order by Chairman Randall Lowe at 10:00 a.m.

ROLL CALL TAKEN

1. The individuals listed in the above table were present.

II. APPROVAL OF MINUTES

1. Approval of Public Meeting Minutes for February 6, 2025.

MOTION 03-06-01	
Motion:	To approve the Public Meeting Minutes for February 6, 2025.
Moved by:	Judy Frigo
Seconded by:	Brian Bernal
Discussion:	
In Favor:	Frigo – aye, - McCarville – aye, - Bernal - aye, Lowe – aye
Motion:	Passed

III. REQUEST TO REMAIN IN ASRS/CORP:

The following applications have been filed and are presented for Local Board consideration:

Chairman Lowe stated Request Number five will be addressed separately from the rest. He proceeded to read all five of the requests on the agenda.

1. **Michael Hernandez** is requesting to remain in ASRS; he has 5.662 years of service. He accepted a CORP position as a Correctional Education Program Teacher, effective March 17, 2025.
2. **Justin Benjamin** is requesting to remain in ASRS; he has 7.411 years of service. He accepted a CORP position as a Correctional Administrator II, effective March 15, 2025.
3. **Alfonso Fimbres, Jr.** is requesting to remain in CORP; he has 13 years of service. He was transferred from a CORP position within ADCRR to an ASRS position within ADCRR as an Administrative Services Officer III, effective February 1, 2025.
4. **Kennedy Riley** is requesting to remain in ASRS; she has 6.494 years of service. She accepted a CORP position as a Deputy Assistant Director, effective March 3, 2025.
5. **Jill Rebecca Fitzgerald** - review, discussion, and possible action on Ms. Fitzgerald's November 2024 application to remain in CORP and the Local CORP Board's December 2024 approval of that application, in light of PSPRS' communications asserting that Ms. Fitzgerald is ineligible for such an approval. Such possible action by the Local CORP Board includes reversing the Board's approval of the application or taking no further action on the approval.

Chairman Lowe then stated that Request Number five will be handled separately, as it is a review of a previous decision.

MOTION 03-06-02	
Motion:	Approval of requests by Michael Hernandez to remain in ASRS, Justin Benjamin to remain in ASRS, Alfonso Fimbres, Jr. to remain in CORP and Kennedy Riley to remain in ASRS.
Moved by:	Judy Frigo
Seconded by:	Brian Bernal
Discussion:	
In Favor:	For Michael Hernandez: Frigo - aye, - Bernal – aye, - McCarville – aye, - Lowe - aye. For Justin Benjamin: Frigo - aye, - Bernal - aye, - McCarville - aye, - Lowe - aye. For Alfonso Fimbres, Jr.: Frigo - aye, - Bernal – aye, - McCarville – aye, - Lowe - aye. For Kennedy Riley: Frigo - aye, - Bernal - aye, - Lowe - aye, and McCarville recused himself.
Motion:	Passed

Chairman Lowe explained that for Number five, Jill Fitzgerald, the Board has to review and discuss possible action they may need to take on the Board's decision from the December 2024 approval of Ms. Fitzgerald's November 2024 application.

Chairman Lowe further explained that: the issue is that when the Board voted in December 2024, the information they had at hand was that Ms. Fitzgerald was in a CORP position, going into an ASRS position, and the Board voted and approved to designate that position as CORP. However, what the Board found out is that, the CORP position she was in was not a Department of Corrections CORP position, it was in Pinal County.

Chairman Lowe further explained that the Board approved a position that they did not have the authority to approve based on State statute of Ms. Fitzgerald not being currently employed by DOC. Chairman Lowe further stated that the Board has two options: say that a mistake was made and that the Board has new information which says the Board needs to change their position, or the Board can stick to their original decision, send the decision on, and maybe have someone override the Board or place the Board in a legal battle over a decision the Board did not have the authority to make.

Board Member Frigo asked what retirement system Ms. Fitzgerald would be in if the Board reversed its decision.

Chairman Lowe stated that if the Board reverses their decision, Ms. Fitzgerald would go into ASRS, which is what the position is designated as. Chairman Lowe further stated that whatever CORP time with Pinal County she had, it would be up to her on how she wants to deal with that.

Board Member Frigo stated, "okay."

Chairman Lowe stated that it won't remove any pension it has, it'll just put Ms. Fitzgerald in the correct pension for the position based on her current status when she accepted the position with the department.

Board Member Frigo stated she was ready to make a motion.

MOTION 03-06-03	
Motion:	Board Member Frigo motioned, for Jill Fitzgerald, "for us to reverse our decision that we made in December 2024 to approve her to stay in a CORP position based on new knowledge that her current CORP position at the time was with the County which makes her ineligible for our State CORP Department of Corrections retirement system. The motion is to reverse that and stay in an ASRS position."
Moved by:	Judy Frigo
Seconded by:	Board Member McCarville seconded the motion that Board Member Frigo just presented for Jill Fitzgerald to stay in ASRS position.
Discussion:	Chairman Lowe stated that "before we vote on this just to clarify the motion that we are getting ready to vote on is to reverse our decision and deny the waiver which will keep her in ASRS."

In Favor:	Frigo - aye, - Bernal – aye, - McCarville – aye, - Lowe - aye
Motion:	Passed - Chairman Lowe stated that the Board has voted to overturn the decision from the 2024 Board Meeting and deny the waiver for Ms. Fitzgerald and she will remain in ASRS.

IV. DISABILITY RETIREMENT

1. **Edgar Ruiz Anguiano:** New application for Accidental Disability Pension.

Chairman Lowe stated he had some concerns reading through this. Chairman Lowe further stated that his concern is that “the paperwork that the doctor submitted with it specifically states that surgery was recommended by a doctor to repair the injury and the staff member has declined the surgery, but based on the doctor’s recommendations the surgery would potentially allow the staff member to return to work in the full capacity. So my concern is if we approve it, we’re approving someone who hasn’t followed the medical advice of a doctor to be able to return to full capacity. We would be approving him a pension based on a medical condition that actually can be fixed and return them back to work.”

AAG Cummings stated that it’s his understanding that this is a new application so Mr. Ruiz Anguiano actually hasn’t gone through the independent medical exam yet.

Chairman Lowe stated that he was just going through the paperwork Mr. Ruiz Anguiano submitted.

Chairman Lowe further stated that the Board is “still going to have to go that route,” and that something for the Board to keep an eye on is that Mr. Ruiz Anguiano “did have the option to take medical treatment that would potentially return him to work.”

Board Member Frigo stated that she was “inclined to make a motion to send him for an independent medical exam, keeping all of that information in mind. That’s when I think we will come to our attorney, and maybe this is a question versus a comment: if we went through the independent medical exam and the doctor says, ‘well since the patient has declined a possible remedy that makes him he can’t work anymore.’” Board Member Frigo further stated, “I would say not to pass him on to an IME, but because I don’t have a legal background I was inclined when I read over the paperwork to say send him for an IME and see if the Independent Medical Examiner catches that. To me, this is a dilemma.”

Chairman Lowe asked whether the Board sends all of the medical documentation when they send someone to an IME.

Board Secretary Moreno replied, “yes.”

Chairman Lowe stated “then I would be good with sending them with because they’re going to have the same information we have to be able to go from there. And they may come up with a different opinion than what the original doctor came up with. I mean at this point in time it wouldn’t hurt to send them for the independent medical evaluation because we may get different information or we may get the same information and then just when the time comes and we have that information go from there.”

Board Member Frigo stated that this is a conundrum to her “because that opens up Pandora’s box. If we’ve got a potential person declining medical advice, boy, I have no comment after that because I’m inclined to say he could get the Accidental Disability when in fact he could remedy it.”

AAG Cummings stated based on the statutes there are certain requirements to meet before a person is eligible to be approved for the Accidental Disability pension. AAG Cummings further stated that, once an independent medical exam is done, the Board looks at the IME conducted by the doctor the Board designated, and any findings or decisions the Board makes, by law, is based on what that doctor says.

AAG Cummings further stated that if this matter went to IME and then the report came back, then it would be a matter of the Board going through the checkboxes and seeing if this qualifies as an Accidental Disability. AAG Cummings further stated that it would be up to the Board at that point looking at the IME report to see if by law it’s a total and permanent disability that prevents an employee from performing a reasonable range of duties within the employee’s department.

Board Member Frigo made a motion not to put forward Mr. Ruiz Anguiano’s application for Accidental Disability, based on the initial reports submitted that state he has refused a possible medical surgery that could correct this issue.

Board Member McCarville, seconded the motion.

Chairman Lowe stated that “so on discussion on this one, I think we’re all kind of torn here because we do have information that we normally wouldn’t have at this level in the review.”

Board Member Frigo stated that it was submitted in the paperwork.

Chairman Lowe stated that Mr. Ruiz Anguiano “voluntarily submitted his own independent medical evaluation paperwork from a provider.”

AAG Cummings stated that he recommends sending Mr. Ruiz Anguiano to the independent medical exam because the statutes indicate that the ultimate decision is made by the Board and it needs to be based on the independent medical exam conducted by the doctor that the Board designated, which in this case would be the doctor conducting this IME.

Chairman Lowe stated that “we have a legal responsibility to allow him that IME at our level,” and that once they have the IME “then we can compare the IME from our IME versus the doctor that he used to be able to see if they do present any conflicting information or the same information and then we would be able to make a decision there. But to deny sending them to the IME, I think we would break our statutory obligations to not only the pension system but to our members.”

Board Member Frigo stated “okay, somebody else can make a motion.”

Chairman Lowe stated that the Board will vote on the current motion since they have it on the table, with the current motion being to not send Mr. Ruiz Anguiano for an IME. Chairman Lowe further stated that after the current motion, they can do a second motion if need be.

MOTION 03-06-04	
Motion:	Board Member Frigo made a motion not to put forward Mr. Ruiz Anguiano’s application for Accidental Disability, based on the initial reports submitted that state he has refused a possible medical surgery that could correct this issue.
Moved by:	Judy Frigo
Seconded by:	Michael McCarville
Discussion:	Chairman Lowe stated that he’s voting “against,” because he feels that the Board will end up having to send him for an IME.
In Favor:	Frigo - aye, -Bernal -aye, McCarville – aye, - Lowe – nay
Motion:	Passed

Board Secretary Moreno asked whether the final vote was to send Mr. Ruiz Anguiano for an IME.

Chairman Lowe stated no, that was a 3 to 1 vote to not send him for an IME.

Board Secretary Moreno acknowledged it was a vote to not send him for an IME.

Chairman Lowe stated that “we may end up seeing it again later, but based on the information we had at hand, it was 3 to 1 to not send him forward based on the medical documentation that says that there was a medical treatment available that would have allowed him to return to work that he voluntarily denied.”

VI. GENERAL DISCUSSION:

1. Next Board Meeting will be on Thursday, April 3, 2025.

Chairman Lowe asked if anyone had a conflict with this meeting date, and Board Member McCarville stated he will not be attending. Chairman Lowe announced this will be Board Member McCarville’s final meeting and that the Board will be waiting for Director Thornell to appoint a new Director-appointed position. Board Members Frigo and Bernal stated they will be in attendance for next month’s meeting.

VII. CALL TO PUBLIC

No public comment. Chairman Lowe adjourned the meeting at 10:19 A.M.

Transcribed on **March 7, 2025**

Karen Ray, Board Secretary, Retirement Specialist