



University of Colorado

Boulder | Colorado Springs | Denver | Anschutz Medical Campus

UNIVERSITY COUNSEL

June 17, 2022

Colorado State Personnel Board
1525 Sherman Street
4th Floor
Denver, CO 80203

RE: Comment About Proposed Change to Board Rule 1-19

Dear Director Dindinger:

The University of Colorado Boulder submits the following comment regarding the proposed rule change to Board Rule 1-19.

This comment is joined by: the University of Colorado System; the University of Colorado Denver; the University of Colorado Colorado Springs; the State Office of Risk Management; the Colorado Department of Labor and Employment; the Colorado Department of Local Affairs; all colleges within the Colorado Community College System; and the Colorado Department of Law.

The University is concerned that the language of proposed Rule 1-19 is overbroad and could create unintended consequences regarding entering into permissible releases and waiver of rights with classified employees. Specifically, the language “Employees may not waive their rights to file a claim before the State Personnel Board regarding. . . (1) disciplinary actions; (2) [a]ctions that adversely affect an employee’s pay, status or tenure; and (3) [c]laims under the State Employee Protection Act (a/k/a Whistleblower Act). . .” as written, could prevent the University from offering classified employees who are subject to a number of different employment actions a severance agreement and release of claims—even if such a resolution was in the best interest of both the employee and the University. This language could impact the University’s ability to offer such waivers and releases in cases involving disciplinary actions, adverse employment actions impacting pay, status, and tenure, and perhaps even such actions like voluntary resignations.

Pursuant to Board Rule 8-57, “[p]arties are encouraged to resolve disputes at the *lowest level* and as informally as possible. Parties may settle at any time.” (Emphasis added). In various situations, before a classified employee files an appeal with the State Personnel Board, the University has had success resolving disputes with classified employees who have been the subject of disciplinary actions and actions that adversely affect their pay, status, and tenure by offering classified employees a severance payment in exchange for the employee’s waiver of certain claims. Proposed Board Rule 1-19 could abolish the University’s ability to negotiate such agreements with classified employees. This would do a disservice to both the employee and the University and seems to conflict with Board Rule 8-57.

Office of University Counsel • Boulder Campus

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The University respectfully requests the Board consider the broad application that this proposed rule change would have on the University and any state entity wishing to mutually resolve claims with a classified employee. The University respectfully requests that the Board consider narrowing the scope of the rule such that state entities continue to have the leeway to negotiate mutually beneficial agreements with classified employees.

Sincerely,

A handwritten signature in blue ink that reads "Katie Gleeson". The signature is written in a cursive style with a large initial "K" and a long, sweeping underline.

Katie Gleeson
Senior Assistant Counsel, University of Colorado Boulder
University of Colorado, Office of University Counsel