

State of Colorado



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State Personnel Board
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AGENDA PUBLIC BOARD MEETING February 16, 2021

A public meeting of the Colorado State Personnel Board will be held via webinar on Tuesday, February 16, 2021 at 8:00 a.m. The Board will continue its joint rulemaking hearing with the Statewide Chief Human Resources Officer regarding Chapter 8 via webinar at 9:00 a.m. The State Personnel Board will provide a Zoom link to allow the public access to both the Board meeting and the joint rulemaking hearing.

If you wish to attend the meeting via webinar, please notify the Board by February 11, 2021 at 303-866-3300 or via email at dpa_state.personnelboard@state.co.us.

CALL TO ORDER

- Attendance.
- Disclosure of any potential conflicts of interest with regard to present Board business and notice of recusal, if applicable.

I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR]

Report not scheduled at this time.

II. MATTER ON REMAND FROM COLORADO SUPREME COURT

A. Mathew Stiles v. Department of Corrections, Denver Reception & Diagnostic Center, SPB 2016B034.

On June 17, 2016, the Administrative Law Judge modified Respondent's action and rescinded the termination.

On December 21, 2020, the Supreme Court reversed the Board and remanded with instructions to return the case to the ALJ to make additional findings regarding whether Complainant's termination was arbitrary, capricious, or contrary to rule or law.

On January 13, 2021, the Supreme Court issued a Mandate to review the judgment.

On January 21, 2021, the Court of Appeals issued a Mandate reversing the State Personnel Board and remanding the case with instructions.

III. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

A. Debra Oplinger v. Department of Labor & Employment, SPB 2021S009.

Complainant seeks a review of her claim that Respondent's decision not to offer her a position as an Accounting Technician IV was discriminatory on the basis of age. As relief, Complainant requests a transfer to another state agency.

Respondent Colorado Department of Labor and Employment asserts that Complainant has failed to establish the existence of a valid dispute that merits a hearing. As relief, Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On January 26, 2021, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing and to refer the petition to the Director of Personnel.

IV. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES FOR POTENTIAL REVIEW UNDER § 24-4-105(14)(a)(II), C.R.S.

A. Desmond Manning v. Department of Corrections, SPB 2021B004.

On **January 19, 2021**, the Senior Administrative Law Judge issued the Initial Decision. The ALJ reversed Respondent's disciplinary termination.

B. Dean Pace v. Department of Human Services, Colorado Mental Health Institute at Pueblo, Admissions/Restoration Program, SPB 2019B023(c).

On **January 25, 2021**, the Administrative Law Judge issued the Initial Decision. The ALJ affirmed Respondent's decision and refers claims relating to FMLA to the State Personnel Director for review.

V. REVIEW OF THE MINUTES FROM THE JANUARY 19, 2021 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VI. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Status of Cases on Appeal to the Board and Appellate Courts.

B. OTHER BOARD BUSINESS

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

VII. PROPOSED LEGISLATION AND/OR RULEMAKING

A. A joint rulemaking hearing with the Statewide Chief Human Resources Officer regarding Chapter 6 (Performance) is scheduled for March 16, 2021 at 9:00 a.m.

B. A Board rulemaking hearing regarding Chapter 9 (Fair Employment Practices) is tentatively scheduled for May 18, 2021 at 9:00 a.m.

VIII. EXECUTIVE SESSION

For the purpose of receiving legal advice pursuant to C.R.S. Sec. 24-6-402(3), regarding Stiles v. Department of Corrections, Supreme Court No. 2020 CO 90, SPB 2016B034.

IX. CONTINUED JOINT RULEMAKING HEARING REGARDING CHAPTER 8 (RESOLUTION OF APPEALS AND DISPUTES)

Discussion of proposed changes to Chapter 8 (Resolution of Appeals and Disputes) with the Statewide Chief Human Resources Officer; Board deliberation regarding proposed changes to the State Personnel Board Rules in Chapter 8; adoption of initially proposed changes; adoption of proposed changes as amended; and rejection of any proposed changes.

ADJOURN

REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.

**Colorado State Personnel Board
1525 Sherman Street
1st Floor Conference Room 104
Denver, CO 80203**

March 16, 2021

*** 8:00 am**

April 20, 2021

May 18, 2021

June 15, 2021

July 20, 2021

August 17, 2021

September 21, 2021

October 19, 2021

November 16, 2021

December 21, 2021

January 18, 2022

February 21, 2022