

State of Colorado



Jared Polis
Governor

Nora Kelly
Board Chair

Rick Dindinger
Board Director

State Personnel Board
1525 Sherman Street, 4th Floor
Denver, Colorado 80203
Phone (303) 866-3300
Fax (303) 866-5038

AGENDA PUBLIC BOARD MEETING January 19, 2021

A public meeting of the Colorado State Personnel Board will be held via webinar on Tuesday, January 19, 2021 at 8:00 a.m. A joint rulemaking hearing with the Statewide Chief Human Resources Officer will be held 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 January 14, 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. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

There are no Initial Decisions or other final orders on appeal for review.

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

- A. Therese Pae v. Department of Human Services, Office of Early Childhood, Preschool Development B-5 Grant, SPB 2021G002.

Complainant filed a petition for hearing with the Board arguing that several actions in May and June 2020 were retaliatory for Complainant's disclosures concerning her job classification and base salary. Complainant alleges that Respondent's actions violated the Colorado State Employee Protection Act (Whistleblower Act). As relief, Complainant requests: (1) a finding that

Respondent retaliated against Complainant in violation of the Whistleblower Act; (2) removal of Complainant's job performance evaluation for the review period of April 1, 2019 through March 21, 2020 from her personnel file; (3) an order from the Board that Complainant's job performance evaluation rating of 1.6 and her Performance Improvement Plan (PIP) be removed from her personnel file; (4) an order removing any documentation relating to time tracking and daily check-in; (5) a transfer out of the Office of Early Childhood; (6) back pay; and (7) attorney's fees.

Respondent asserts that Complainant has not demonstrated issues that merit a hearing. As relief, Respondent requests that the Board deny Complainant's petition for hearing and dismiss Complainant's appeal with prejudice.

On December 14, 2020, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

B. Kari L. Rosenbaum v. Department of Corrections, SPB 2020G087(c).

Complainant seeks review of a claim of sex discrimination resulting in the termination of her probationary employment. Complainant requests reinstatement to her position as a Culinary Arts Teacher at the Limon Correctional Facility and back pay.

Respondent Department of Corrections 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 December 30, 2020, the ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

C. Shannon Anglund v. Department of Human Services, Office of Behavioral Health, SPB 2020G046.

On December 27, 2019, Complainant filed a petition for review of Respondent's December 20, 2019 Step II Grievance Decision. Complainant initiated the grievance process following receipt of a Corrective Action and resolution of an internal discrimination investigation. In the grievance, Complainant alleged a hostile work environment and discriminatory pay issue. Complainant further alleged Respondent discriminated and retaliated against her on the basis of gender in violation of CADA. In her information sheet, Complainant alleges Respondent's Step II Grievance Decision was arbitrary, capricious and contrary to rule or law. As relief, Complainant requests an order from the Board finding harassment or a hostile work environment, that she not work within a particular unit, removal of any corrective action or negative information from her personnel file, that the grievance be granted in full, a pay increase of 10%, attorneys' fees and costs, and an acknowledgment that Respondent mishandled this matter.

Respondent argues this matter should not be set for hearing due to Complainant's failure to establish grounds that merit a hearing. Respondent requests that the Board deny Complainant's petition for hearing and dismiss this matter with prejudice.

On January 5, 2021, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing and refer the matter to the State Personnel Director.

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. Ayman Salloum v. Department of Transportation, SPB 2019G031(c).

On **December 21, 2020**, the Senior Administrative Law Judge issued the Initial Decision. The ALJ affirmed Respondent's non-selection of Complainant for an Environmental Program Manager position. The ALJ dismissed the matter from the Board with prejudice.

V. REVIEW OF THE MINUTES FROM THE DECEMBER 15, 2020 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.
- Stiles v. Department of Corrections, Supreme Court No. 2020 CO 90, SPB 2016B034. Judgment Reversed issued by Colorado Supreme Court on December 21, 2020.

B. OTHER BOARD BUSINESS

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

VII. PROPOSED LEGISLATION AND/OR RULEMAKING

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

a. Board vote to set a joint rulemaking hearing regarding Chapter 6 for March 16, 2021 at 9:00 a.m. and file the notice with the Secretary of State.

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

IX. 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**

February 16, 2021

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