

State of Colorado



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State Personnel Board
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AGENDA PUBLIC BOARD MEETING MARCH 17, 2020

A public meeting of the Colorado State Personnel Board will be held on Tuesday, March 17, 2020 at 1525 Sherman Street, 1st Floor Conference Room 104, Denver, Colorado 80203. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by March 12, 2020.

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 on appeal or other final orders of the ALJ's for review.

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

- A. Lola A. West v. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Pueblo, SPB 2020G032

When Complainant was promoted to a Chaplain II position, she was offered and accepted a base salary that was lower than the compensation paid to her male predecessor as Chaplain II. Complainant claims that Respondent is discriminating against her based on her sex. As relief, Complainant seeks a discretionary hearing through this preliminary review process.

Respondent argues that Complainant failed to establish grounds that merit a hearing. Respondent requests that Complainant's petition for hearing be denied.

On February 28, 2020, the ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

B. Bill Matlock v. Department of Transportation, SPB 2020S013

Complainant appeals his non-selection for a position for which he applied. Complainant contends that Respondent Colorado Department of Transportation (CDOT) discriminated against him on the basis of his national origin/ancestry and race. As relief, Complainant requests that Respondent stop all alleged discrimination and retaliation immediately, allow him to operate equipment with certified training, and provide him the opportunity to be promoted.

Respondent asserts that Complainant has failed to establish the existence of issues that merit an evidentiary hearing. As relief, Respondent requests that the Board deny Complainant's petition for a hearing and dismiss this matter with prejudice.

On March 2, 2020, the ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing on Complainant's claims of national origin/ancestry and race discrimination in violation of the Colorado Anti-Discrimination Act.

C. Angel Medina v. Department of Corrections, SPB 2018G051(c)

Complainant has filed nine petitions for hearing, which the ALJ consolidated for this preliminary review. Complainant alleges that Respondent has retaliated against him for making disclosures protected under the State Employee Protection (Whistleblower) Act, § 24-50.5-101, *et seq.*, C.R.S.; discriminated against him on the basis of national origin and race, and retaliated against him for pursuing discrimination complaints. Complainant requests a hearing on these issues.

Respondent argues that Complainant has failed to establish a *prima facie* case of discrimination or retaliation. As relief, Respondent requests that Complainant's petitions for hearing be denied and dismissed with prejudice.

On March 2, 2020, the ALJ issued a Preliminary Recommendation to grant Complainant's whistleblower claims in Petition No. 2 (Rule 6-10 notice), Petition No. 4 (corrective action) and Petition No. 7 (non-selection).

The ALJ recommends that a hearing on Complainant's other whistleblower claim in Petition No. 2 (2017 – 2018 Performance Evaluation), the CADA discrimination and retaliation claims raised in Petition Nos. 2 and 4, and all claims raised in Complainant's Petition Nos. 1, 3, 5, 6 and 10 be denied and dismissed with prejudice.

The ALJ further recommends that a hearing on Complainant's Petition No. 8 be denied and dismissed from the Board and referred to the State Personnel Director for review of Respondent's performance evaluation process and Complainant's allegations concerning Respondent's violations of the Fair Labor Standards Act (FLSA).

IV. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

There are no Initial Decisions or other Final Orders of the ALJ's for review.

V. REVIEW OF THE MINUTES FROM THE FEBRUARY 18, 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

C. OTHER BOARD BUSINESS

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

VII. PROPOSED LEGISLATION AND/OR RULEMAKING

None scheduled at this time.

VIII. EXECUTIVE SESSION

Executive session for the purpose of receiving legal advice on a specific legal question pursuant to § 24-6-402(3)(a)(II), C.R.S., specifically the procedures relating to voting on petitions to grant discretionary hearings.

ADJOURN

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

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

April 21, 2020

May 19, 2020

June 16, 2020

July 21, 2020

August 18, 2020

September 15, 2020

October 20, 2020

November 17, 2020

December 15, 2020

January 19, 2021

February 16, 2021

March 16, 2021