

# State of Colorado



Jared Polis  
*Governor*

Nora Kelly  
*Board Chair*

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*Board Director*

State Personnel Board  
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## AGENDA PUBLIC BOARD MEETING March 16, 2021

A public meeting of the Colorado State Personnel Board will be held via webinar on Tuesday, March 16, 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 March 11, 2021 at 303-866-3300 or via email at [dpa\\_state.personnelboard@state.co.us](mailto: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. INTRODUCTION OF THE STATE PERSONNEL BOARD ADMINISTRATIVE LAW JUDGES

### 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. Erin Starzyk v. Department of Public Health and Environment, SPB 2021S012.

Complainant filed a petition for review of Respondent's non-selection of Complainant for the Sexually Transmitted Infections/Human Immunodeficiency Virus & Viral Hepatitis Branch Chief Position. Complainant alleges Respondent retaliated against her in violation of the Whistleblower Act. As relief, Complainant requests to proceed in the interview process for the position and to be granted a hearing on this matter.

Respondent argues Complainant failed to establish grounds that merit a hearing pursuant to Board Rule 8-45(G). Respondent further argues Complainant failed to establish a *prima facie* case of whistleblower retaliation. As relief, Respondent requests that the Board deny Complainant's request for a hearing, dismiss Complainant's petition for hearing with prejudice, and refer Complainant's petition to the State Personnel Director for a Director's review.

On February 23, 2021, the ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

B. Lisa Dolce v. Department of Human Services, Colorado Mental Health Institute at Pueblo, SPB 2021S024.

Complainant petitions for a discretionary hearing to review Respondent's decision not to advance her application for an available promotion to the next step in the selection process. Complainant alleges that Respondent's decision was the result of gender and age discrimination in violation of the Colorado Anti-Discrimination Act (CADA), § 24-34-401, *et seq.*, C.R.S.

Respondent argues that Complainant failed to establish grounds that merit a hearing. Respondent denies Complainant's discrimination claims, and requests that the Board deny Complainant's petition for hearing and dismiss it with prejudice.

On February 24, 2021, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing and to refer to the State Personnel Director for review of Complainant's claims concerning Respondent's selection and comparative analysis process.

C. Rachel Maxfield v. Department of Public Safety, Colorado State Patrol, SPB 2021S018.

Complainant filed a petition for review of Respondent's non-selection of Complainant for a State Patrol Cadet. Complainant alleges Respondent discriminated against her on the basis of disability in violation of CADA. As relief, Complainant requests a final offer of employment from Respondent.

Respondent argues Complainant failed to establish grounds that merit a hearing. As relief, Respondent requests the Board deny Complainant's petition for hearing and dismiss with prejudice.

On February 26, 2021, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing and to refer to the State Personnel Director for review of Respondent's selection process.

**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. Ann Greco v. University of Colorado Boulder, College of Engineering & Applied Science, SPB 2020B062(c).

On **February 19, 2021**, the Administrative Law Judge issued the Initial Decision. The ALJ affirmed Respondent's actions and dismissed the matter from the Board

with prejudice. The ALJ referred Complainant's claims to the State Personnel Director for review of matters within the State Personnel Director's jurisdiction.

- B. Noel Hidalgo v. Department of Human Services, Colorado Mental Health Institute at Pueblo, SPB 2021B022.

On **March 1, 2021**, the Administrative Law Judge issued the Initial Decision. The ALJ reversed Respondent's disciplinary termination.

**V. REVIEW OF THE MINUTES FROM THE FEBRUARY 16, 2021 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VI. ADMINISTRATIVE MATTERS & COMMENTS**

A. ADMINISTRATIVE MATTERS

- Order Affirmed, Akinbode v. Department of Corrections, SPB 2020G024, Court of Appeals Number 2020CA0449.
- Mandate (appeal dismissed), Ulrich v. Department of Human Services, SPB 2020G071, Court of Appeals Number 2020CA1629

B. OTHER BOARD BUSINESS

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

**VII. PROPOSED LEGISLATION AND/OR RULEMAKING**

- A. Board vote to set a rulemaking hearing regarding Chapter 9 (Fair Employment Practices) for May 18, 2021 at 9:00 a.m. and file the notice with the Secretary of State.

- a. The May 18, 2021 Board meeting will start at 8:00 a.m. The Board will conduct its regular business between 8:00 a.m. and 9:00 a.m.

**VIII. EXECUTIVE SESSION**

**IX. JOINT RULEMAKING HEARING REGARDING CHAPTER 6 (PERFORMANCE)**

Discussion of proposed changes to Chapter 6 (Performance) with the Statewide Chief Human Resources Officer; Board deliberation regarding proposed changes to the State Personnel Board Rules in Chapter 6; 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  
1<sup>st</sup> Floor Conference Room 104  
Denver, CO 80203**

**April 20, 2021**

**May 18, 2021**

**8:00 am**

**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**

**March 15, 2022**