

State of Colorado



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State Personnel Board
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AGENDA PUBLIC BOARD MEETING January 15, 2019

A public meeting of the Colorado State Personnel Board will be held on Tuesday, January 15, 2019 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 January 10, 2019.

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]

Agenda item pending until further notice.

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 for review.

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

A. Derek Armentrout v. Department of Corrections, Division of Adult Parole & Community Corrections, State Personnel Board case number 2019S018.

Complainant applied unsuccessfully to promote to the position of Community Parole Supervisor. He petitions the Board for a hearing of his non-selection. Complainant asserts the selection decision was arbitrary and capricious. Complainant also asserts that the selection decision was retaliatory. As relief, Complainant requests immediate promotion, back pay and PERA contributions, and an award of attorney fees.

Respondent denies Complainant's allegations and requests the Board to reject Complainant's petition for hearing and dismiss the matter.

On December 17, 2018, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be denied and that the petition be referred to the State Personnel Director for further review as may be appropriate.

- B. Linda Torres v. Colorado State University at Pueblo, State Personnel Board case number 2018S039(c).

Complainant, an unsuccessful applicant for five administrative assistant positions at Colorado State University-Pueblo, filed two petitions for a hearing with the Board, arguing that Respondent did not select her for any of these positions because of retaliation and discrimination on the basis of disability, ancestry, and age. These petitions were subsequent consolidated. As relief, the Complainant requests five years of back pay plus benefits for an Administrative Assistant II position.

Respondent argues that this matter should not be set for hearing because Complainant has failed to establish a *prima facie* case of retaliation and discrimination on the basis of disability, ancestry and age. As relief, Respondent requests that the Board deny Complainant's request for a hearing and dismiss this matter.

On January 2, 2019, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be denied and that the petition be referred to the State Personnel Director for further review

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

- A. Michelle Muller v. Department of Corrections, Colorado Board of Parole, State Personnel Board case number 2018B012.

Complainant appeals her disciplinary termination alleging that Respondent's decision to terminate her employment was arbitrary, capricious and contrary to rule or law. Complainant also alleges that Respondent violated the Colorado State Employee Protection Act and retaliated against her in violation of the Colorado Anti-Discrimination Act.

On December 31, 2018, the ALJ issued an Initial Decision affirming Respondent's disciplinary action and dismissing Complainant's appeal with prejudice.

V. REVIEW OF THE MINUTES FROM THE DECEMBER 18, 2018 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VI. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS DECEMBER 18, 2018 PUBLIC MEETING:

- A. Diane Ricci v. Department of Military & Veterans Affairs, Division of Veterans

Affairs, State Personnel Board case number 2019B019.

The Board voted to adopt the findings of fact and conclusions of law in the ALJ's Order of Dismissal and made an Order of the Board.

- B. Bridget O'Dell v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2019G014.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing

- C. Fayokemi Omolara Akinbode v. Department of Corrections, Corrections Training Academy, State Personnel Board case number 2019G006.

The Board voted to adopt the Preliminary Recommendation of the ALJ and grant the petition for hearing on claims that the termination was arbitrary, capricious, or contrary to rule or law and on her discrimination claims and to deny a hearing on Complainant's claims of retaliation and defamation.

- D. Michael Wayne Morrison v. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2019S012.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing and referred the matter to the State Personnel Director for a Director's review.

- E. Cleveland v. Department of Revenue, State Personnel Board case number 2018B079.

No formal action taken.

VII. 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

VIII. PROPOSED LEGISLATION AND/OR RULEMAKING

IX. EXECUTIVE SESSION

ADJOURN:

2019 REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.

January 15, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
February 19, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
March 19, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
April 16, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
May 21, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
June 18, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
July 16, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
August 20, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
September 17, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
October 15, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
November 19, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203
December 17, 2019	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 104 Denver, CO 80203