

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

MEETING MINUTES

August 18, 2020

The State Personnel Board met on August 18, 2020. Due to the COVID-19 pandemic, the Board held its meeting via a Zoom webinar.

The meeting was called to order at 9:00 a.m. Board Members Patricia Bangert, Nora Kelly, Karen Niparko, Sarah Wager, and Roxane White were present via webinar. Rick Dindinger, Board Director, and Assistant Attorney General Amy Lopez, Board Counsel, were also present via webinar.

Members of the public also attended the meeting via webinar. In advance of the meeting: (a) the Board posted information about the webinar on its website; and (b) the Board emailed the webinar information to parties, attorneys, members of the State's human resources community, and other stakeholders.

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

Kara Veitch, Executive Director of DPA, provided an overview of DPA and its goals, and reported on the Governor's Employer of Choice Initiative, the Colorado Partnership for Quality Jobs and Services Act, and the Equity, Diversity & Inclusion program.

II. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE BOARD.

There were no Initial Decisions or other final orders on appeal to the Board this month.

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

A. Bennie Tims v. Department of Regulatory Agencies, SPB 2020S034.

Ms. Lopez exited the meeting because of a conflict. Assistant Attorney General Charles Kooyman, Esq., joined the meeting to serve as counsel.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Wager moved to adopt the recommendation, deny Complainant's petition for hearing, and refer the matter to the State Personnel Director for review. Ms. Niparko seconded the motion. The

motion carried on the affirmative vote of the following Board members: Ms. Bangart, Ms. Niparko, Ms. Wager, and Ms. White. Ms. Kelly voted in opposition.

Following the vote, Mr. Kooyman exited the meeting and Ms. Lopez rejoined.

B. Laura Bufmack v. Department of Corrections, SPB 2020G073.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Bangert moved to adopt the recommendation and deny Complainant's petition for hearing. Ms. White seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Bangart, Ms. Kelly, Ms. Niparko, Ms. Wager, and Ms. White.

C. Brian Flores v. Department of Human Services, SPB 2020G075.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Niparko moved to adopt the recommendation, deny Complainant's petition for hearing, and refer the matter to the State Personnel Director for review. Ms. Wager seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Bangart, Ms. Kelly, Ms. Niparko, Ms. Wager, and Ms. White.

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

A. Christian Barahona v. Department of Human Services, SPB 2020B052.

Ms. Bangert moved to defer any review of the Initial Decision under C.R.S. § 24-4-105(14)(a)(II) until its meeting on September 15, 2020. Ms. Niparko seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Bangart, Ms. Kelly, Ms. Niparko, Ms. Wager, and Ms. White.

V. REVIEW OF MINUTES FROM THE JULY 21, 2020, PUBLIC MEETING OF THE STATE PERSONNEL BOARD.

Ms. White moved to approve the minutes as submitted. Ms. Wager seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Bangert, Ms. Kelly, Ms. Niparko, Ms. Wager, and Ms. White.

VI. ADMINISTRATIVE MATTERS & COMMENTS.

A. ADMINISTRATIVE MATTERS.

- Board Counsel Lopez updated the Board on Muller v. Department of Corrections (SPB No. 2018B012; Court of Appeals No. 2019CA1045). The Court of Appeals held an oral argument on August 12, 2020.
- Board Counsel Lopez updated the Board on Department of Corrections v. Stiles (SPB No. 2016B034; Supreme Court No. 2019SC107). The Supreme Court scheduled an oral argument for September 23, 2020.

- Board Counsel Lopez reported that the parties have appealed McCauley v. Department of Revenue (SPB No. 2014B061) to the Court of Appeals.
- Director Dindinger discussed the interrelationship between the State Personnel Board and the Department of Personnel and Administration.
- Director Dindinger informed the Board that he submitted the annual whistleblower report to the governor as required by statute.
- Director Dindinger reminded everyone that the annual training pursuant to C.R.S. § 24-3.7-102 will be on September 15, 2020, and that the September meeting will start at 8:00 a.m.
- Director Dindinger informed the Board about a new web page, under Appeals tab, with tips for parties and attorneys regarding Remote Hearings.
- Director Dindinger congratulated Judge Keith Shandalow and Judge Keely McCabe on five years of state service.

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

- The Board did not receive any written comments for the Board's consideration or requests to share a general public comment verbally.

VII. PROPOSED LEGISLATION OR RULEMAKING.

There was no proposed legislation or rulemaking at the meeting.

VIII. EXECUTIVE SESSION.

The Board did not enter into executive session.

The Board meeting adjourned by consensus at 10:43 a.m.

SIGNED THIS 15th DAY OF SEPTEMBER, 2020.

Nora Kelly, Chair

Sarah Wager, Vice Chair

Patricia Bangert, Board Member

Karen Niparko, Board Member

Roxane White, Board Member