

State of Colorado



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MEETING MINUTES September 15, 2020

The State Personnel Board met on September 15, 2020. Due to the COVID-19 pandemic, the Board held its meeting via a Zoom webinar.

The meeting was called to order at 8:01 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].

There was no report scheduled for this month.

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

A. Gary D. Pacheco v. Department of Corrections, Denver Complex, SPB 2020B057.

Following discussion of the Administrative Law Judge's Order Granting Respondent's Motion for Summary Judgment, the Board acted as follows: Ms. Wager moved to affirm the Order issued by the ALJ. Ms. Niparko 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.

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

A. Sean Patrick v. Department of Corrections, Corrections Training Academy, SPB 2020G082.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Bangert moved to adopt the

recommendation and grant Complainant's petition for hearing. Ms. Kelly 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.

- B. Hauli Ulrich v. Department of Human Services, Office of Behavioral Health, Colorado Mental Health Institute at Pueblo, SPB 2020G071.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Bangert moved to adopt the recommendation and grant Complainant's petition for hearing. Ms. Kelly seconded the motion. Ms. Bangert and Ms. Kelly voted in support of the motion. Ms. Niparko, Ms. Wager and Ms. White voted in opposition. The motion failed.

- C. Michael Dublinski v. University of Colorado Boulder, Parking Services, SPB 2020G083.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ms. Kelly moved to adopt the recommendation and deny Complainant's petition for hearing. Ms. Niparko 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.

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

- A. Christian J. Barahona v. Department of Human Services, Office of Children, Youth & Families, Division of Youth Services, Marvin W. Foote Youth Services Center, SPB 2020B052.

The Board did not take any action.

- B. Kurt Liljekvist v. University of Colorado Colorado Springs, Department of Public Safety, SPB 2019B094

The Board did not take any action.

V. REVIEW OF MINUTES FROM THE AUGUST 18, 2020, PUBLIC MEETING OF THE STATE PERSONNEL BOARD.

Ms. Bangert 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 Department of Corrections v. Stiles (SPB No. 2016B034; Supreme Court No. 2019SC107). Oral argument is scheduled for September 23, 2020.
- Board Counsel Lopez reported that the Court of Appeals affirmed the Board in Muller v. Department of Corrections (SPB No. 2018B012; Court of Appeals No. 19CA1045).

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

- In advance of the meeting, the Board did not receive any written comments for the Board's consideration or any 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.

At 9:22 a.m., Ms. White moved to enter executive session for the following purposes:

- Receiving legal advice and legal training pursuant to C.R.S. Sec. 24-6-402(3), specifically as to Board Member Ethics, Board Member Conflicts of Interest, and the matters set forth in C.R.S. Sec. 24-3.7-102.
- Receiving legal advice pursuant to § 24-6-402(3), C.R.S., regarding a pending court action, specifically McCauley v. Department of Revenue, SPB No. 2014B061; Court of Appeals No. 20CA1244

Ms. Kelly 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. Following the vote, the Board entered into executive session.

The Board re-entered open, public session at 11:55. Vice-Chair Wager announced that Ms. Kelly had left the meeting and announced that during executive session, the Board:

- Received legal advice and legal training regarding Board Member Ethics, Board Member Conflicts of Interest, and the matters set forth in C.R.S. Sec. 24-3.7-102.
- Received legal advice regarding a pending court action, specifically McCauley v. Department of Revenue.

The Board meeting adjourned by consensus at 11:56 a.m.

SIGNED THIS 20th DAY OF OCTOBER, 2020.

Nora Kelly, Chair

Sarah Wager, Vice Chair

Patricia Bangert, Board Member

Karen Niparko, Board Member

Roxane White, Board Member