

State of Colorado



Jared Polis
Governor

Michelle Palmquist
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

AGENDA PUBLIC BOARD MEETING NOVEMBER 19, 2019

A public meeting of the Colorado State Personnel Board will be held on Tuesday, November 19, 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 November 14, 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]

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. Grace Uki Novotny v. Department of Corrections, SPB 2020G005

Complainant alleges that Respondent's decision to place her on paid administrative leave was motivated by retaliation for making disclosures protected by the State Employee Protection Act, § 24-50.5-101(1), C.R.S. (Whistleblower Act). Complainant seeks protection as a whistleblower, resumption of her former chief investigator duties, and reimbursement of costs and attorney fees.

Respondent argues that Complainant has failed to establish a *prima facie* case of

whistleblower retaliation. As relief, Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On October 31, 2019, the Senior ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

B. John Farnes v. Colorado State University, Housing and Dining Services, SPB 2019G084

On June 28, 2019, Complainant filed a petition to review Respondent's final grievance response to Complainant's grievance protesting Respondent's issuance of a corrective action. Complainant asserted a violation of the grievance process and a whistleblower complaint. This petition was set for preliminary review. As relief, Complainant seeks to have the corrective action removed from his personnel file.

Respondent argues Complainant's whistleblower complaint is untimely and Complainant has not demonstrated grounds for a hearing. As relief, the Respondent requests that the Board dismiss Complainant's appeal with prejudice.

On October 31, 2019, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

C. Oludare Pipeola v. Department of Human Services, Office of Children, Youth & Families, Division of Youth Services, Mount View Youth Services Center, SPB 2020G002

Complainant petitions for a discretionary hearing to review Respondent's termination of Complainant's probationary employment. Complainant alleges that he was discriminated against based on his race and national origin. As relief, Complainant seeks reinstatement, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, removal of termination from his personnel file, and any other legal or equitable relief to which he is entitled.

Respondent argues that Complainant has failed to establish grounds that merit a hearing. Respondent asserts that Complainant was terminated for unsatisfactory performance; specifically, his inability to pass required skills training. Respondent denies that it discriminated against Complainant, and requests that the Board deny Complainant's petition for a hearing and dismiss Complainant's petition with prejudice.

On November 4, 2019, the Senior ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

D. Travis Tyndall v. Department of Public Safety, Colorado State Patrol, SPB 2020G021

Complainant argues that Respondent's imposition of a corrective action was "inappropriate," "inconsistent and fundamentally unfair." Complainant seeks reversal and removal of the corrective action from his personnel file.

Respondent argues that Complainant has failed to establish any issues meriting a hearing. As relief, Respondent requests that Complainant's petition for hearing

be denied and dismissed with prejudice.

On November 4, 2019, the Senior ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

- E. Paulino Chol v. Department of Human Services, Office of Children, Youth & Families, Division of Youth Services, Mount View Youth Services Center, SPB 2020G004

Complainant filed a petition for hearing with the Board, alleging that Respondent's decision to terminate his employment during his probationary period was the result of discrimination based on his race and national origin, in violation of the Colorado Anti-Discrimination Act. As relief, Complainant seeks reinstatement, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, removal of the termination from his personnel file, and any other legal or equitable relief to which he is entitled.

Respondent argues 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 November 6, 2019, the ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

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 OCTOBER 15, 2019 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

B. OTHER BOARD BUSINESS

C. 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

ADJOURN

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

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

December 17, 2019

January 21, 2020

February 18, 2020

March 17, 2020

April 21, 2020

May 19, 2020

June 16, 2020

July 21, 2020

August 18, 2020

September 15, 2020

October 20, 2020

November 17, 2020