

State of Colorado



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MEETING MINUTES

January 17, 2023

The State Personnel Board met on January 17, 2023. The Board held its meeting via webinar using Zoom. Members of the public attended the meeting. In advance of the meeting, the Board posted information about the agenda and the webinar on its website.

The meeting was called to order at 9:01 a.m. Board Members Kimberley Dempster, Robert Lee, David Ruchman, Euell Thomas, and Sarah Wager were present for the roll call. Jenna Anderson, Esq. (Board Counsel) and Rick Dindinger (Board Director) were also present via webinar.

I. REPORT OF THE DEPARTMENT OF PERSONNEL & ADMINISTRATION (DPA) AND REPORT OF THE DIVISION OF HUMAN RESOURCES (DHR).

There was no report scheduled this month.

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

There were no Initial Decisions or other final orders for review on appeal by the parties.

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

A. Jeffrey Witt v. Department Human Services, SPB 2023G021.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Ruchman moved to adopt the recommendation and deny a hearing. Lee seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager.

B. Julia Montoya v. University of Colorado Boulder, SPB 2023G009.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Lee moved to adopt the recommendation and deny a hearing. Ruchman seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager.

C. Tina Ramos v. Department of Transportation, SPB 2022G008(c).

Prior to the Board's discussion, Dindinger informed the Board that due to a scrivener's error, some of the dates in the Administrative Law Judge's Preliminary Recommendation should be modified from 2022 to 2021. Specifically, on page 3 at paragraphs 10, 15, and 16; on page 5 at paragraphs 34 and 37; on page 6 at paragraph 40; and on page 26, the first sentence of the second full paragraph. Dindinger thanked Chair Wager for catching this error. Anderson expressed that the modification from 2022 to 2021 does not change the substance of the ALJ's recommendation or of the Board's analysis.

Following discussion of the Administrative Law Judge's Preliminary Recommendation, the Board acted as follows: Thomas moved to (a) adopt the Recommendation but modified from "2022" to "2021" on page 3 at paragraphs 10, 15, and 16; on page 5 at paragraphs 34 and 37; on page 6 at paragraph 40; and on page 26, the first sentence of the second full paragraph; and (b) grant a hearing on the CADA claims related to the Corrective Action and the claim of a hostile work environment. Ruchman seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager.

IV. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES FOR POTENTIAL REVIEW UNDER C.R.S. § 24-4-105(14)(a)(II).

A. Charles Nocera v. Department of Regulatory Agencies, SPB 2022S021.

The Board did not take any action.

V. REVIEW OF MINUTES FROM THE DECEMBER 13, 2022, PUBLIC MEETING OF THE STATE PERSONNEL BOARD.

Lee moved to approve the minutes as submitted. Ruchman seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager.

VI. ADMINISTRATIVE MATTERS & COMMENTS.

A. ADMINISTRATIVE MATTERS.

- Anderson reported that the Court of Appeals reversed the Board in Manning v. DOC, State Personnel Board No. 2021B004, Court of Appeals No. 21CA1157. The Court of Appeals has not issued a mandate; one of the parties has filed a petition for rehearing and modification with the Court of Appeals.

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

- In advance of the meeting, the Board did not receive any requests to make a general comment publicly.

VII. RULEMAKING HEARING.

Following a report by Dindinger, the Board considered whether to initiate rulemaking related to Board Rule 1-2. Ruchman moved to initiate the rulemaking process. Thomas seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager.

VIII. EXECUTIVE SESSION.

At 9:52 a.m., Wager moved to enter an executive session for the purpose of receiving legal advice pursuant to C.R.S. § 24-6-402(3) regarding C.R.S. § 24-50-1110.

Dempster seconded the motion. The motion carried on the affirmative vote of the following Board members: Dempster, Lee, Ruchman, Thomas, and Wager. The Board entered into executive session at 9:54 a.m. The executive session ended at 10:23 a.m.

The Board returned to public session and Wager reported that the Board did not take any action during the executive session.

The Board meeting adjourned by consensus at 10:25 a.m.

SIGNED THIS 21st DAY OF FEBRUARY, 2023.

Sarah Wager, Chair

David Ruchman, Vice Chair

Kimberley Dempster, Board Member

F. Robert Lee, Board Member

Euell Thomas, Board Member