

REPRESENTING YOURSELF AT THE STATE PERSONNEL BOARD HEARING

1. You (“Complainant” or “Applicant”) **must** read all Board orders and notices and abide by them.
2. The state agency (“Respondent”) is represented by an Assistant Attorney General (“AAG”). You **must** send copies of anything you file with the Board to the AAG assigned to your case. The AAG’s name and address are on the Certificate of Service on all Board orders, usually on the last page of the document. You should also contact the AAG assigned to the case to discuss matters such as extensions of time, continuances of the hearing date, and settlement options.
3. **Board Rules.** You **must** follow the Board Rules as they apply to your case. Rules, especially in Chapter 8, contain important deadlines and procedural guidelines. This document, “Representing Yourself at the State Personnel Board Hearing,” is not a substitute for the Board Rules. If you do not follow the Board Rules, you may be sanctioned, including having your appeal dismissed. The rules are available in your agency’s HR office and on the web by clicking on **Board Rules**, at the top of any of the Board’s web pages, including the homepage (<http://www.colorado.gov/spb>); then click on **Rules and Procedures** (effective 7/1/05 or later). A copy of the rules may also be found at: <http://www.colorado.gov/cs/Satellite/DPA-SPB/SPB/1213608768055>.
4. **Discovery.** Within 15 days of receipt of the notice of the appeal or the granting of a hearing, each party, Complainant and Respondent, must disclose information that is relevant to the party’s claims and defenses. This can be done by sending to the other party by mail, a copy of all documents, information, data compilations and tangible items, in your control. Either party may also make a written request for documents and/or information from the other party. You may request any document or information necessary for your case, although the opposing party may object. Once your case is set for hearing, you have just **15 days** from the Notice of Hearing and Prehearing Order to send your written request for discovery to the opposing party. The opposing party has 20 days after receiving your request to respond. The opposing party may also send you written requests for discovery, and you **must** respond within 20 days. If you need more than 15 days to prepare your request for discovery, or more than 20 days to respond to the opposing party’s requests, you **must** file a motion asking the Administrative Law Judge (ALJ) for an extension of time before the deadline expires. See Board Rule 8-58.
5. **Ex Parte Contact.** You may not discuss your case with, or directly send an email to, the ALJ assigned to your case without the other party (Respondent) being present either by phone or in person. *Ex parte* contact is not permitted because it is one-sided and does not allow the other party to explain its position.
6. **Motions.** If a party files a motion, the opposing party has 10 days to file a response with the Board. If a party fails to respond to a motion, the ALJ may grant the motion. See Board Rule 8-57.
7. **Notice of Hearing and Prehearing Order.** The Notice of Hearing and Prehearing Order sets the deadline for filing your Prehearing Statement, in which you identify the witnesses and their expected testimony and the exhibits you plan to present as evidence at hearing. Read and follow this document closely because it also contains other critical information. Pay close attention to or calendar the deadline for submittal of your Prehearing Statement, which is essential to presenting your case.
8. **Settlement.** Any settlement discussions or mediation of your case does not put your case on hold. All deadlines remain in full force and effect during settlement discussions. Settlement facilitators are available at no cost to the parties. You should be contacted by your assigned settlement facilitator within a few weeks of receiving your letter about the settlement process. If you are not contacted within a few weeks, you should call your settlement facilitator at the Board (303-866-3300).
9. **Subpoenas.** A subpoena is a Board order that requires a person to appear as a witness at a Board hearing. You **must** obtain subpoenas from the Board by completing the following procedure. See Board Rule 8-64.

Write a letter to the Board Program Assistant requesting subpoenas. It is important to request subpoenas as early as possible. The letter **must** include your name and case number; and the names of persons and addresses, if available, of those persons you wish to subpoena; and the day on which you wish them to testify. Once the subpoenas are prepared, Board staff will inform you by telephone that your subpoenas are ready for you to pick up, usually after one or two business days. After you pick up the subpoenas, you **must** have a person not involved in your case, such as a process server, serve each subpoena on each witness, personally. Be sure to obtain the return of service form (swearing that the subpoena was served) and bring it to the hearing with you. If the witness does not appear, you can then prove you served the subpoena. You **must** have your subpoenas served at least 48 hours prior to the hearing date and time (not including weekends or holidays).

10. **Witnesses.** At hearing, you have the right to call any witnesses you think you need to prove your case (subject to objection by the opposing party). You may be able to make arrangements with the AAG to have agency employees appear as witnesses without subpoenas, but the AAG is not required to make witnesses available. If you cannot make such arrangements, you will need to serve subpoenas on witnesses you wish to call when presenting your case.