

State Personnel Board, State of Colorado

Case Number 99 B 064

ORDER OF THE STATE PERSONNEL BOARD

DENNIS BRYAN,

Complainant,

v.

DEPARTMENT OF HIGHER EDUCATION, AURARIA HIGHER EDUCATION
CENTER,

Respondent.

The State Personnel Board (the "Board") met in public session on January 18, 2000. During this public session, the Board considered the record on appeal, including but not limited to: the Initial Decision of the Administrative Law Judge, Respondent's Opening Brief, Complainant's Response Brief and Cross-Appeal with Respect to the Issue of Attorney Fees, and Motion for Leave to File Reply Brief and Answer Brief to Cross Appeal and Reply Brief and Answer Brief to Cross Appeal.

1. After motion and proper second, the Board voted unanimously to exclude from the record, and consideration, Respondent's Motion for Clarification of the Record and Complainant's Response in Opposition to Respondent's Motion for Clarification of the Record. Said motion and response was filed out of time.
2. The Board reviewed Respondent's Reply Brief and Answer Brief to Cross Appeal, having deemed the pleading filed timely as a result of the previous extensions of time granted for filing of the Complainant's Response Brief and Cross-Appeal with Respect to Issue of Attorney Fees.

The following order is entered:

- I. The Board adopts the findings of fact and conclusions of law 1, 2, and 3 of the Initial Decision of the Administrative Law Judge.

This order represents the affirmative vote of the following Board members: Joy Hoffman, Melanie Daly, Genola McCartee, and Lee Duran.

- II. The Board reverses conclusion of law 4, and awards attorney fees and costs, pursuant to CRS 24-50-125.5 (1999) to Complainant. The Board determined that such an award was necessary as a result of Respondent's bad faith and malicious acts involved in this personnel action.

This order represents the affirmative vote of the following Board members: Joy Hoffman, Melanie Daly, and Genola McCartee. Lee Duran voted in opposition.

Dated this ____ day of January, 2000.	
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Joy Hoffman

Board Chair

State Personnel Board

1120 Lincoln Street, Suite 1420

Denver, CO 80203

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4106(11), C.R.S. (1999), as provided in Section 24-50-125.4(3), C.R.S. (1999).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on the _____ day of _____, 2000, I placed true copies of the foregoing ORDER OF THE STATE PERSONNEL BOARD, in the United States mail, postage prepaid, addressed as follows:

John Mosby, Esq.

730 17th Street, Suite 750

Denver, CO 80202

And in the interagency mail, addressed as follows:

Toni Jo Gray

Assistant Attorney General

1525 Sherman Street, 5th Floor

Denver, CO 80203