

ORDER OF THE STATE PERSONNEL BOARD

ANDRE SMITH,

Complainant,

vs.

REGENTS OF THE UNIVERSITY OF COLORADO AT DENVER, AURARIA
HIGHER EDUCATION CENTER,

Respondent.

The State Personnel Board (the "Board") met in public session on Tuesday, July 15, 2003. During this public session, the Board considered the record on appeal, including but not limited to:

1. Amended Initial Decision of the Administrative Law Judge
2. Complainant's Opening Brief
3. Respondent's Answer Brief
4. Complainant's Reply Brief

After a discussion of burden of proof, the Board voted to remand the matter to the Administrative Law Judge for rehearing on the basis that the burden of proof should not be shifted from one party to the other in the Initial Decision, after a ruling at hearing that the first party bore the burden of proof.

This order represents the affirmative vote of the following Board members: Ms. Garcia, Ms. Salkind, Mr. Zakhem, and Ms. Lottner. Ms. Siderius abstained from voting.

Dated this _____ day of
July, 2003.

Joyce Lottner
Board Chair
State Personnel Board
1120 Lincoln Street, Suite 1420
Denver, Colorado 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 24-4-106(11), C.R.S. (2002), as provided in Section 24-50-125.4(3), C.R.S. (2002).

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, Colorado 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on the _____ day of July, 2003, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Mark A. Schwane, Esq.
Colorado Federation of Public Employees
1580 Logan Street, Suite 310
Denver, Colorado 80203

And in the interagency mail, addressed as follows:

Hollyce Farrell
Assistant Attorney General
Employment Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203
