

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2011B063

ORDER OF THE STATE PERSONNEL BOARD

ARTHUR ROBINSON,
Complainant,

vs.

UNIVERSITY OF COLORADO DENVER,
Respondent.

This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on February 21, 2012. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge;
2. Complainant's Opening Brief;
3. CU Denver's Opening Brief (Cross-Appeal);
4. Motion for an Extension of Time to File CU Denver's Answer Brief and Motion to Strike;
5. Complainant's Answer Brief and Response to the University's Motions for Extension and Strike;
6. CU Denver's Answer Brief;
7. Respondent's Exhibit 5 (the October 11, 2010 Letter of Instruction issued to Complainant).

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the Motion to Strike is denied.

IT IS FURTHER ORDERED that the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge are **REVERSED** as follows: Finding of Fact #29 is reversed as to the ALJ's finding that the October 11, 2010 Letter of Instruction was a corrective action because Finding of Fact #29 is contrary to the weight of evidence; the Letter of Instruction does not comply with Board Rule 6-11 in that it does not contain a statement advising the employee of the right to grieve or the right to attach a written explanation. Further, the Letter of Instruction was not placed in the employee's official personnel file. The Board finds that the Letter of Instruction does not contain all of the usual components of a Corrective Action and hereby reverses the ALJ's finding that the Letter of Instruction contained all the usual components of a Corrective Action.

Conclusion of Law #2 is reversed and stricken as to all language after the phrase, "Respondent's action was not arbitrary, capricious, or contrary to rule or law" (striking "except as it pertains to Respondent's imposition of discipline for an action which had already been handled through corrective action"), based on a reasonable basis in the record that the Letter of

Instruction was not a corrective action. In addition, the second sentence in the final Order is stricken to eliminate the sentence, "Respondent is to remove the reference to the imposition of discipline on the basis of Complainant's derogatory comments concerning his ITS supervisors." All other findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge are **ADOPTED** and made an order of the Board.

Dated this 28th day
Of February, 2012.



Rich Djokic, Board Chair
State Personnel Board
633 17th Street, Suite 1320
Denver, CO 80202-3604

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by the 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., as provided in Section 24-50-125.4(3), C.R.S.

In the event the decision is appealed, pursuant to Section 24-4-106(11)(b), C.R.S., the party filing the appeal with the Court of Appeals must serve the State Personnel Board with a copy of the Notice of Appeal at: 633 17th Street, Suite 1320, Denver, Colorado 80202-3604. In addition to serving the State Personnel Board with a copy of the Notice of Appeal, the party filing the appeal with the Court of Appeals must name the State Personnel Board as a party (appellee) to the appeal. Section 24-4-106(11)(d), C.

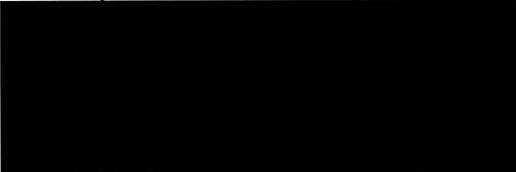
CERTIFICATE OF MAILING

This is to certify that on the 28th day of February, 2012, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** as follows:

Arthur Robinson



Christopher J. Puckett



Andrea C. Woods