

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2012B128

ORDER OF THE STATE PERSONNEL BOARD

JOANNE BROWN,
Complainant,

vs.

DEPARTMENT OF HUMAN SERVICES, COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO,
Respondent.

This matter is before the Colorado State Personnel Board ("Board") in public sessions held on February 18 and 24, 2014. During these public sessions, the Board considered the record on appeal, including:

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

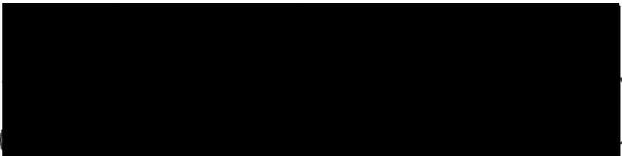
Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the findings of fact in the Initial Decision of the Administrative Law Judge are **ADOPTED**.

IT IS FURTHER ORDERED that the Administrative Law Judge's Conclusion of Law 1, "Respondent's action was not arbitrary, capricious or contrary to rule or law," is **REVERSED** based on the following substantial evidence in the record: (1) none of the statements of duties in Complainant's PDQ include the physical control of others; (2) police officers are always present for physical intervention; (3) Complainant did not constitute a direct threat; (4) CTI/CPR are not essential functions of Complainant's position; and (5) Complainant is able to perform the essential functions of her position.

IT IS ALSO ORDERED that Complainant is to be reinstated to her position, she is awarded back pay and benefits, and this matter is remanded to the Administrative Law Judge for a determination of the amount of back pay and benefits to be awarded. Attorney fees and costs are denied.

Dated this 24th day
Of February, 2014.


Garth Lucero, Board Chair
State Personnel Board
1525 Sherman Street, 4th Floor
Denver, CO 80203

CERTIFICATE OF MAILING

This is to certify that on the 28th day of February, 2014, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** as follows:

Mark Schwane Esq.

[Redacted]

Heather Smith A.A.G.

[Redacted]

[Redacted]

Andrea C. Woods