

ORDER OF THE STATE PERSONNEL BOARD DENYING PETITION FOR DECLARATORY ORDER

IN THE MATTER OF THE PETITION FOR DECLARATORY ORDER CONCERNING THE CONSTITUTIONALITY OF § 24-50-135, C.R.S. (2011)

PAUL BONI, LEAH BOOKMAN, SKIP MILLER, TOM ORELL, PATRICK ROYBAL, METZA TEMPLETON, and COLORADO WINS,

Petitioners.

This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on November 20, 2012. During this public session, the Board considered the record of this case, including but not limited to:

1. Petition for Declaratory Order;
2. Response to Petition for Declaratory Order;
3. Order of the State Personnel Board and Notice of Briefing Schedule and Board Review (note: Board Meeting Date is incorrectly stated as November 13, 2012);
4. Petitioners' Brief Concerning Jurisdiction;
5. Department of Higher Education's Response Brief;
6. Petitioners' Reply Brief Concerning Jurisdiction;
7. Advisory Memorandum.

Based upon the Board's review and consideration of the Advisory Memorandum, the Board finds there is a sufficient basis to uphold the Advisory Memorandum of the Administrative Law Judge. However, the Board amends Conclusion of Law 3 to specify that Petitioners lack standing for an "as applied" challenge to the statute.

IT IS HEREBY ORDERED that the Advisory Memorandum of the Administrative Law Judge, as amended, is adopted and that the petition for declaratory order is **DENIED**.

Dated this 20th day
Of November, 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.R.S.

CERTIFICATE OF MAILING

This is to certify that on the 21st day of **November, 2012**, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD DENYING PETITION FOR DECLARATORY ORDER** as follows:

Mark Schwane Esq.
Tim Markham, Esq.
Colorado WINS

[REDACTED]

Michelle Brissette Miller F.A.A.G.

[REDACTED]

[REDACTED]

Andrea C. Woods