

State of Colorado



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State Personnel Board
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AGENDA PUBLIC BOARD MEETING August 16, 2016

A public meeting of the Colorado State Personnel Board will be held on Tuesday, August 16, 2016 1525 Sherman Street, 1st Floor Conference Room 103, Denver, Colorado 80203. The public meeting will commence at **9:00 a.m.**

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by August 12, 2016.

CALL TO ORDER

- Attendance.
- Disclosure of any potential conflicts of interest with regard to present Board business and notice of recusal, if applicable.

I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR]

II. PENDING MATTERS

III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

There are no cases on appeal to the Board this month.

IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

A. Thomas Reyes v. Department of Corrections, Arkansas Valley Correctional Facility, State Personnel Board case number 2016S021.

Complainant applied for several General Maintenance Supervisor I (Maintenance Supervisor) positions at the Arkansas Valley Correctional Facility (AVCF) with Respondent in 2014 and 2015. Complainant argues that Respondent's repeated

decisions not to select him for these positions was motivated by discrimination on the basis of age and race. As compensation for this discrimination, he seeks payment of ten years missed wages at an annual salary of \$48,000 for a total payout of \$480,000.

Respondent argues that Complainant failed to establish a *prima facie* case of age or race discrimination. Respondent further argues that it has provided legitimate, non-discriminatory reasons for selecting the various candidates based on each candidates' job-related experience, knowledge, skills, abilities and job fit, and that Complainant's subjective and unsupported allegations of discrimination fail to establish any inference of unlawful discrimination or pretext, which Respondent argues are required in order to grant Complainant a hearing. Respondent requests that the Board deny Complainant's petition for hearing, deny his requested relief and dismiss Complainant's appeal with prejudice.

On July 12, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be granted.

B. Mark Jones v. Board of Directors for Auraria Higher Education Center, Auraria Police Department, State Personnel Board case number 2015S013(c).

Complainant, Mark Jones, seeks a hearing to review his non-selection on two separate occasions for a Corporal position with Respondent. Complainant claims that Respondent discriminated against him on the basis of age. Complainant also alleges retaliation and breach of a settlement agreement in a prior Board matter. Complainant seeks appointment to a Corporal position, back pay and back benefits with interest, reimbursement of attorney fees and costs, removal of certain documents from his personnel file, and an order to his appointing authority to send letters to the Denver District Attorney and the Denver City Attorney rescinding the *Brady* letters dated January 26, 2015.

Respondent, the Board of Directors for the Auraria Higher Education Center--Auraria Police Department, argues that its actions were not discriminatory or retaliatory, that the Board lacks jurisdiction, and that Complainant's underhanded conduct in recording people should not be rewarded. Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On July 13, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be granted.

C. Machhendra Thapa v. Department of Military and Veterans Affairs, State Personnel Board case number 2016G077.

Complainant, a probationary employee with the Department of Military and Veterans Affairs ("DMVA"), appeals the termination of his employment. Complainant alleges that DMVA discriminated against him because of his academic qualifications. Complainant also alleges discrimination on the basis of race or color. Complainant also alleges that Respondent subjected him to a hostile work environment. Complainant seeks reinstatement and transfer to the equivalent state position at a different branch or department, as well as "compensation for physical loss and mental torture."

Respondent argues that it terminated Complainant for unsatisfactory performance and that Complainant has failed to meet his burden of showing valid grounds for a full hearing under § 24-50-123(3), C.R.S. and/or Board Rule 8-46. Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On July 14, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be denied.

V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

There were Initial Decisions issued this month.

VI. REVIEW OF THE MINUTES FROM THE JULY 19, 2016 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JUNE 21, 2016 PUBLIC MEETING:

A. Lynn A. Michel v. Department of Transportation, State Personnel Board case number 2015G091(c).

The Board took no formal action on the Initial Decision issued by the Administrative Law Judge.

B. Matthew Mark Stiles v. Department of Corrections, Denver Reception and Diagnostic Center, State Personnel Board case number 2016B034

The Board took no formal action on the Initial Decision issued by the Administrative Law Judge.

VIII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS
• Cases on Appeal to Appellate Courts

B. OTHER BOARD BUSINESS

(Director's Report)

- FY15-16 Appeals to SPB
- Annual Whistleblower report for 2016 to the Governor to be issued.

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

IX. PROPOSED LEGISLATION AND/OR RULEMAKING

X. EXECUTIVE SESSION

ADJOURN:

REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.

January 19, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
February 16, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
March 15, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
April 19, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
May 17, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
June 21, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
July 19, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
August 16, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
September 20, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
October 18, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
November 15, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203
December 20, 2016	Colorado State Personnel Board 1525 Sherman Street, 1st Floor Conference Room 103 Denver, CO 80203