

# State of Colorado



**John W. Hickenlooper**  
*Governor*

**Neil Peck**  
*Board Chair*

**Dana Shea-Reid**  
*Board Director*

**State Personnel Board**  
1525 Sherman Street, 4<sup>th</sup> Floor  
Denver, Colorado 80203  
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## **AGENDA PUBLIC BOARD MEETING October 18, 2016**

**A public meeting of the Colorado State Personnel Board will be held on Tuesday, October 18, 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 October 14, 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**

There are no pending matters before the Board this month.

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

There are no Initial Decisions or Other Final Orders before the Board this month.

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

- A. Jonathan Handy v. Department of Agriculture, State Personnel Board case number 2016G092.

Complainant is a certified employee of the Department of Agriculture. He seeks review of a whistleblower complaint and a grievance appeal. Complainant seeks rescission of any and all disciplinary and/or corrective actions related to this appeal, removal of any and all documents from his personnel file related to this

appeal, and attorney's fees.

Respondent asserts that Complainant has failed to establish the existence of a valid dispute that merits a hearing. As relief, Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On September 15, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be denied.

B. Carol J. Kromer v. Department of Corrections, Colorado Board of Parole, State Personnel Board case number 2016G089.

Complainant is an Administrative Assistant III with the Department of Corrections. Complainant petitions the Board to review her grievance. As grounds, Complainant alleges that Respondent discriminated against her because of her age. Complainant's Information Sheet requests the following relief: (a) removal of a confirming memorandum; (b) removal of a Corrective Action; (c) a change in her job evaluation to an overall 3 or higher rating; and (d) attorney's fees. Complainant's Corrected Reply Information Sheet also requests "an investigation by Respondent's Inspector General."

Respondent argues that Complainant's requests for relief are either moot or have been previously adjudicated by this Board. Respondent also argues that Complainant has not suffered an adverse action. As relief, Respondent requests that this Board deny Complainant's petition for hearing and dismiss Complainant's appeal with prejudice. Respondent also moves for an award of attorney fees.

On September 21, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be denied.

C. Tammy Chapman v. Department of Revenue, Tax Auditing and Compliance, State Personnel Board case number 2016G094.

Complainant was a probationary employee at the Department of Revenue. She worked as a Revenue Agent II from July 2, 2015, until her termination on May 19, 2016. Complainant asks the Board to review whether she was terminated in retaliation for participating in the dispute resolution process and for certain whistleblowing activities. Complainant's Information Sheet requests reinstatement, back pay and benefits, reimbursement for legal fees, and other remedies.

Respondent claims that it terminated Complainant's employment for legitimate performance issues. Respondent also argues that Complainant's disclosures do not fall within the protections of the Whistleblower Act. Respondent requests that this Board deny Complainant's petition for hearing.

On October 5, 2016, the Administrative Law Judge issued a Preliminary Recommendation that the petition for hearing be granted.

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

There are no Initial Decisions or Final Orders of the ALJ's before the Board this month.

**VI. REVIEW OF THE MINUTES FROM THE SEPTEMBER 20, 2016 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VII. ACKNOWLEDGMENTS**

**DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS SEPTEMBER 20, 2016 PUBLIC MEETING:**

- A. Kathy Starling v. Department of Revenue, Tax Audit and Compliance Division, State Personnel Board case number 2014G013.

The Board vacated the ALJ's Modified Order regarding the retroactive and temporary pay adjustment and amended the Order; directing Respondent to allow the Complainant a reasonable opportunity to apply and compete for the Tax Examiner II vacancy. An award of Complainant's attorney's fees and costs will be approved 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)
- C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

**IX. PROPOSED LEGISLATION AND/OR RULEMAKING**

**X. EXECUTIVE SESSION**

- Updated guidance for Board members from Board counsel on legal and ethical issues.

**ADJOURN:**

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

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