

# State of Colorado



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Governor

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Board Chair

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**State Personnel Board**  
1525 Sherman Street, 4<sup>th</sup> Floor  
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## **AGENDA PUBLIC BOARD MEETING March 19, 2019**

**A public meeting of the Colorado State Personnel Board will be held on Tuesday, March 19, 2019 at 1525 Sherman Street, 1st Floor Conference Room 104, 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 March 14, 2019.

### **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]**

Agenda item pending until further notice.

### **II. 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 on appeal or other Final Orders of the ALJ's for review.

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

- A. Valerie Bishop v. Department of Human Services, State Veteran's Community Living Center at Fitzsimons, State Personnel Board case number 2019G012(c).

Complainant petitions the Board to grant a discretionary hearing to review a corrective action and a mid-year performance evaluation with negative comments. Complainant asserts that these employment actions violate the State Employee Protection Act. As relief, Complainant requests removal of the corrective action, a fully satisfactory mid-year performance evaluation, an award of attorney fees and costs and compensatory damages for emotional distress.

Respondent denies Complainant's allegations and requests the Board to reject Complainant's petition for hearing and dismiss the matter.

On February 13, 2019, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be granted.

B. Vrlina Nozlic v. Department of Human Services, State Personnel Board case number 2019S039.

Complainant petitions the Board to grant a discretionary hearing to review her allegations that Respondent's removal of Complainant from the selection process for a Program Coordinator position was motivated by discrimination on the basis of age and disability. Complainant seeks an opportunity to participate in the comparative analysis, testing and background check for this position.

Respondent argues that Complainant has failed to establish a *prima facie* case of discrimination. Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On February 26, 2019, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be denied and referred to the State Personnel Director for review of Respondent's selection process.

C. Michael Peterson v. Community Colleges of Colorado, Pikes Peak Community College, State Personnel Board case number 2019G007.

Complainant petitions the Board to grant a discretionary hearing to review two written reprimands which were grieved separately. Complainant asserts that Respondent's final grievance decisions were arbitrary or capricious. Complainant also asserts that Respondent retaliated against him in violation of Whistleblower Act. Complainant disputes the merits of both reprimands and seeks their removal from his personnel file.

Respondent denies Complainant's allegations and argues that the Board may not review of grievance decision to determine whether it is arbitrary or capricious. Respondent also argues that the parties resolved the whistleblower claim during the second grievance process and requests the Board deny Complainant's petition for hearing.

On February 27, 2019, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be denied.

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

There are no Initial Decisions or other Final Orders of the Administrative Law Judges for review.

**V. REVIEW OF THE MINUTES FROM THE FEBRUARY 19, 2019 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VI. ACKNOWLEDGMENTS**

**DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS FEBRUARY 19, 2019 PUBLIC MEETING:**

- A. Flavio Quintana v. Department of Revenue, State Personnel Board case number 2018G090.

The Board voted to adopt the findings of fact of the ALJ but reversed one or more conclusions of law, finding that there is a reasonable basis in law regarding Board Rule 8-41(a) to reverse the ALJ's dismissal of the petition for hearing for lack of Board jurisdiction and reversed the ALJ's decision that Complainant must allege another basis for a discretionary hearing. It was ordered that the matter be remanded to the ALJ for a full discretionary review and preliminary recommendation.

- B. Richard Paar v. Department of Corrections, Sterling Correctional Facility, State Personnel Board case number 2019G027.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing.

- C. Leanna Bernabei v. Department of Corrections, Arkansas Valley Correctional Facility, State Personnel Board case number 2019G019.

The Board voted to adopt the Preliminary Recommendation of the ALJ and grant the petition for hearing.

- D. Jason Soltani v. Department of Human Services, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2019G026.

The Board voted to adopt the Preliminary Recommendation of the ALJ and grant the petition for hearing.

## **VII. ADMINISTRATIVE MATTERS & COMMENTS**

### **A. ADMINISTRATIVE MATTERS**

- Status of Cases on Appeal to the Board and Appellate Courts

### **B. OTHER BOARD BUSINESS**

- Director's Report: E-filing Update

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

## **VIII. PROPOSED LEGISLATION AND/OR RULEMAKING**

## **IX. EXECUTIVE SESSION**

**ADJOURN:**

**2019 REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.**

<b>January 15, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>February 19, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>March 19, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>April 16, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>May 21, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>June 18, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>July 16, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>August 20, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>September 17, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>October 15, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>November 19, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>
<b>December 17, 2019</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 104 Denver, CO 80203</b>