

State of Colorado



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State Personnel Board
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AGENDA PUBLIC BOARD MEETING OCTOBER 15, 2019

A public meeting of the Colorado State Personnel Board will be held on Tuesday, October 15, 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 October 10, 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]

Report not scheduled at this time.

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. Dustin Chalker v. Department of Public Health & Environment, Air Pollution Control Division, SPB 2018S064

Complainant applied for an Environmental Protection Specialist Intern (EPSI) position. Respondent cancelled recruitment for the EPSI position. Complainant alleges that Respondent's cancellation of the EPSI position was motivated by discrimination and retaliation. Complainant seeks back pay and benefits, placement in a similar position in a different work unit, or front pay.

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

On September 12, 2019, the Senior ALJ issued a Preliminary Recommendation to grant Complainant's petition for hearing.

B. Tana Rosenberg v. Department of Regulatory Agencies, Division of Insurance, SPB 2019G072

Complainant, a probationary employee, alleges that she was subjected to discrimination based on her gender, national origin/ancestry, religion/creed and perceived disability, as well as retaliation for engaging in activities protected by the Colorado Anti-Discrimination Act (CADA). Complainant seeks reinstatement with back pay and benefits, removal of the April 29, 2019 resignation form and its prohibition of reapplication from her personnel file, an award of attorney fees, and any other relief deemed appropriate.

Respondent argues that Complainant resigned in lieu of a disciplinary termination, and therefore has waived her right to appeal pursuant to Board Rule 7-4. Respondent also argues that Complainant has failed to establish a *prima facie* case of discrimination. As relief, Respondent requests that Complainant's petition for hearing be denied and dismissed with prejudice.

On September 25, 2019, the Senior ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

C. Linda Stanley v. Department of Revenue, Hearing Division, SPB 2019G053.

Complainant, a certified Hearing Officer II, filed a petition for a hearing with the Board arguing that Respondent's decision to give her a corrective action violated the State Employee Protection Act, § 24-50.5-101, *et seq.*, C.R.S. (Whistleblower Act or Act), which provides that "no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information." § 24-50.5-103(1), C.R.S. She also contends that Respondent violated the grievance process and retaliated against her for the exercise of her First Amendment rights under the United States Constitution. As relief, Complainant seeks a rescission of the corrective action and removal of all documents relating to, or referencing, the corrective action from her personnel file, as well as her reasonable attorney fees, and the imposition of a disciplinary action on the appropriate appointing authority as required by the Whistleblower Act.

Respondent contends that Complainant has failed to establish the existence of issues that merit an evidentiary hearing. As relief, Respondent requests that the Board deny Complainant's petition for a hearing and dismiss this matter with prejudice.

On October 2, 2019, the ALJ issued a Preliminary Recommendation to deny Complainant's petition for hearing.

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

There are no Initial Decisions or other Final Orders of the ALJ's for review.

V. REVIEW OF THE MINUTES FROM THE SEPTEMBER 17, 2019 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VI. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

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

B. OTHER BOARD BUSINESS

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

VII. PROPOSED LEGISLATION AND/OR RULEMAKING

VIII. EXECUTIVE SESSION

ADJOURN

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

**Colorado State Personnel Board
1525 Sherman Street, 1st Floor Conference Room 104
Denver, CO 80203**

November 19, 2019

December 17, 2019

January 21, 2020

February 18, 2020

March 17, 2020

April 21, 2020

May 19, 2020

June 16, 2020

July 21, 2020

August 18, 2020

September 15, 2020