Colorado State Personnel Board Process

Appointing Authority Decision

Timely Employee Appeal (10 days)
(mandatory hearing process)

Timely Employee Petition (10 days)
(discretionary hearing process)

Information Sheets submitted

Preliminary Recommendation Issued

Standard: Board Rule 8-50(G) and C.R.S. § 24-50-123: Complainant has the burden of demonstrating that there is an evidentiary and legal basis that would support a finding that decision was contrary to rule or law, and that the relief requested is "within the Board's statutory authority."

Board Sets Hearing

Board Orders Hearing or Dismissal

Discovery Process
Pre-Hearing Statements Filed

Commencement of Hearing
(within 90 days from date of appeal; no more than 120 days with good cause)

Burden of Proof – State APA: "Proponent of an order shall have the burden of proof" C.R.S. § 24-4-105(7).
In discipline cases, agency has burden – Dept. of Inst. v. Kinchen, 886 P.2d 700 (Colo. 1994); in other appeals, employee has burden.

Initial Decision Issued—45 days from closure of the record

Standard: whether the action of the appointing authority is "arbitrary, capricious, or contrary to rule or law." C.R.S. § 24-50-103(6).
See also Lawley v. Dept. of Higher Ed., 36 P.3d 1239 (Colo. 2001)(defining arbitrary and capricious governmental action)

For attorney fees: personnel action or appeal was "instituted frivolously, in bad faith, maliciously, or as a means of harassment or was otherwise groundless." C.R.S. § 24-50-125.5(1).

Notice of Appeal (Exceptions) filed

Designation of Record Briefs filed by parties

SPB Final Agency Order

No Notice of Appeal filed
(and, no Board vote to review)

Initial Decision adopted as SPB Final Agency Order *(End of Process)*

Standard: Findings of evidentiary fact are not to be set aside unless "contrary to the weight of the evidence" C.R.S. § 24-4-105(15)(b).

Appeal as of Right – Colorado Court of Appeals – C.A.R. 3

Standard: SPB findings of ultimate fact may be reversed on appeal only if unsupported by any competent evidence or based on an incorrect legal conclusion applied to the underlying facts. *Barrett v. Univ. of Colo.*, 851 P.2d 258 (Colo.App. 1993).

Petition for Writ of Certiorari to the Colorado Supreme Court – C.A.R. 50