

# State of Colorado



**John W. Hickenlooper**  
*Governor*

**Sally Yerger**  
*Board Chair*

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

**State Personnel Board**  
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Meeting Minutes  
October 21, 2014

## PERMANENT RULEMAKING

At 9:00 A.M., the State Personnel Board conducted a rulemaking hearing pursuant to Article XII, sections 13 and 14 of the Colorado Constitution, the State Personnel System Act at section 24-50-101, *et seq.*, of the Colorado Revised Statutes and section 24-4-103 of the Colorado Revised Statutes.

Sally Yerger, Chair of the State Personnel Board, introduced the other Board members and staff members who were present as follows:

Neil Peck, Vice Chair  
Teresa Salerno, Board Member  
Vonda Hall, Board Member  
Michelle Palmquist, Board Member

Dana Shea-Reid, Director of the Board  
Jane Sprague, Legal Assistant  
Andrea Faley, Assistant Attorney General

Administrative notice was taken of the following written documentation and comments (marked as numbered exhibits) which were received in the Board's office with regard to the rulemaking hearing and the matters associated with the proposed rules and procedures. On October 20, 2014, the Exhibits were numbered in their final form as follows:

<b>NO.</b>	<b>Type</b>	<b>Author/Group</b>	<b>Speaker</b>
<b>1</b>	Notice of Rulemaking, September 15, 2014	State Personnel Board	
<b>2</b>	Proposed Statement of Basis and Purpose	State Personnel Board	
<b>3</b>	Proposed Redlined Rules	State Personnel Board	

These documents, and any others submitted prior to the conclusion of the hearing, in conjunction with the oral comments provided, were reviewed and considered prior to the Board rendering a decision on the adoption of the proposed rules.

All those in attendance recorded their name, complete address, and any affiliation or agency for which they may be speaking on a roster. The rulemaking hearing was recorded.

Dana Shea-Reid provided the staff overview of the proposed changes to the rules, followed by a period of public testimony. There was no public testimony and the comment portion of the rulemaking hearing was therefore closed.

Ms. Yerger announced that the rules and procedures would be filed at the Office of the Secretary of State with a request for an Attorney General opinion on the constitutionality and legality of the rules. On or before the 20<sup>th</sup> day following the adoption of the rules, the rules will be filed with the Office of the Secretary of State for publication in the Code of Colorado Regulations. On or before the 20<sup>th</sup> day following the adoption of the rules, they will be filed with the Legislative Legal Services as required by law. The rules are to become effective on January 1, 2015.

The Board discussed and reviewed the proposed rules and deliberated on the changes. The Board made the following amendments to the proposed language:

- For Board Rule 1-26, the last sentence beginning with “Each department“ was revised to read, “Each department head is responsible for updating the statement and submitting any modifications or revisions of the HRIP to the Board or Director commensurate with such changes.”
- For Board Rule 6-10, in the last sentence of the first paragraph, the language was changed from “3 to 5 business days” to “up to 5 business days.”
- For Board Rule 6-10, in both A and B, the phrase “by electronic mail” was changed to “by last known electronic mail address.”

Ms. Yerger then stated she would entertain a motion to amend Board Rules and the accompanying statement of basis and purpose, as follows:

- (1) Board Rules, Chapter 1, “Organization, Responsibilities, Ethics, and Definitions,” providing clarification as to Board elections (Board Rule 1-2) and the Human Resource Innovation Program (Board Rule 1-26);
- (2) Board Rules, Chapter 4, “Employment and Status,” including a rule concerning trial service (Board Rule 4-42);
- (3) Board Rules, Chapter 6, “Performance,” including the pre-disciplinary meeting (Board Rules 6-10 and 6-14);

- (4) Board Rules, Chapter 8, "Dispute Resolution," including discrimination claims (Board Rule 8-28), the notice of appeal (Board Rules 8-38 and 8-39), information sheets (Board Rule 8-45), consolidation of cases (Board Rule 8-47), and filing (Board Rule 8-51); and
- (5) Board Rules, Chapter 9, "Fair Employment Practices," including relief in discrimination cases (Board Rule 9-6); and
- (6) The statement of basis and purpose.

The motion included the following findings by the Board:

- the record of the rulemaking proceeding demonstrates the need for the rules;
- the proper statutory authority exists for the rules;
- to the extent practicable, the rules are clearly and simply stated so that their meaning will be understood by any party required to comply with the rules;
- the rules do not conflict with other provisions of the law; and
- the duplication or overlapping of the rules are explained by the Board unless none exists.

Mr. Peck moved to adopt the following proposed rules, and amendments made related thereto, and the accompanying statement of basis and purpose:

- to amend Board Rules 1-2, 1-26, 4-42, 6-10, 6-14, 8-28, 8-38, 8-39, 8-45, 8-47, 8-51, and 9-6.

The specific authority of the State Personnel Board to promulgate these rules is found at Article XII, sections 13 and 14 of the Colorado Constitution; the State Personnel System Act, section 24-50-101, *et seq.*, C.R.S.; and section 24-4-103, 105 and 106, C.R.S.; *Spahn v. State Department of Personnel*, 615 P.2d 66 (1980) and *CAPE v. Lamm*, 677 P.2d 1350 (Colo. 1984).

The purpose for adopting and revising these rules is:

- (a) clarification or updating of Board rules for stakeholders, including the general public, and
- (b) amendment of language for consistency with state statute.

The Board finds, as required by section 24-4-103(4)(b), C.R.S., that the record of the rulemaking proceedings demonstrates the need for the rules; the proper statutory authority exists for the rules; to the extent practicable, the rules are clearly and simply stated; the rules do not conflict with other provisions of law; and any duplication or overlapping was explained.

Ms Yerger seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Palmquist, Mr. Peck, Ms. Salerno, and Ms. Yerger. The public hearing was then concluded.

**DATED THIS 18<sup>TH</sup> DAY OF NOVEMBER, 2014.**

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Sally Yerger, Board Chair

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Neil Peck, Vice Chair

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Teresa Salerno, Member

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Vonda Hall, Member

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Michelle Palmquist, Member