

# State of Colorado

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**John W. Hickenlooper**  
*Governor*

**Neil Peck**  
*Board Chair*

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

**State Personnel Board**  
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Meeting Minutes  
May 17, 2016

The State Personnel Board met in public session on Tuesday, May 17, 2016, at the Colorado State Personnel Board, 1525 Sherman Street, First Floor Conference Room 103, Denver, Colorado 80203.

The meeting was called to order at 9:00 a.m. Board Members Vonda Hall, Nora Kelly and Michelle Palmquist were present in person. Teresa Salerno participated via teleconference. Neil Peck was not in attendance.

Dana Shea-Reid, Board Director and Eric Maxfield, serving as Board Counsel, were present in person.

## **I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR], DPA**

Kim Burgess, State Chief Human Resources Officer, provided an overview of some bigger projects that don't, otherwise, affect the Board including the conclusion of the benefits open enrollment period, the continuing process to deconsolidate the General Professional (GP) series of job descriptions and the reissue of a Request for Proposal (RFP) for a new HRIS.

Ms. Burgess noted that the performance management cycle for this fiscal year has concluded, and an "uptick" in dispute resolutions regarding employee evaluations is anticipated as they have seen in past performance cycles.

## **II. PENDING MATTERS AT THE COURT OF APPEALS**

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

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

- A. Peter C. Martinez v. Department of Personnel and Administration and Department of Revenue, State Personnel Board case number 2016G053.

Ms. Palmquist moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Ms. Kelly seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Ms. Palmquist and Ms. Salerno.

- B. Barry M. Johnson v. University of Northern Colorado, State Personnel Board case number 2016S014.

Ms. Hall moved to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing on the Complainant's claim of age discrimination. Ms. Kelly seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly and Ms. Palmquist. Ms. Salerno voted in opposition.

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

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

On August 31, 2015, Administrative Law Judge Pamela Sanchez entered the Initial Decision of the Administrative Law Judge in this matter ("Initial Decision"). The Initial Decision upheld Respondent's decision not to allow Complainant to submit an application for the position of Tax Examiner II after the application period had closed. The Initial Decision concluded that Respondent's decision did not violate the Colorado Anti-Discrimination Act ("Conclusion of Law 1") and was not arbitrary or capricious or contrary to rule or law ("Conclusion of Law 2"). The Initial Decision also concluded that the parties should each bear their own attorney fees and costs ("Conclusion of Law 3"). Complainant appealed the Initial Decision to the State Personnel Board ("Board").A

After consideration of the record on appeal during meetings of the Board, the Board entered an order dated March 16, 2016. The Board Order adopted the Findings of Fact in the Initial Decision but reversed ALJ Sanchez's Conclusions of Law 1 and 2. The Board Order did not reverse ALJ Sanchez's Conclusion of Law No. 3. The Board Order states: "IT IS FURTHER ORDERED that the matter shall be remanded to the Administrative Law Judge for purposes of determining the appropriate remedy. This ALJ ordered the parties to brief the issue on remand. On April 22, 2016, both parties filed briefs addressing the issue on remand.

On April 27, 2016, the Administrative Law Judge issued an Order Regarding Remedy.

The Board took no formal action.

## **VI. REVIEW OF THE MINUTES FROM THE APRIL 19, 2016 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

Ms. Palmquist moved to approve the minutes as submitted. Ms. Kelly seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Hall, Ms. Kelly, Ms. Palmquist and Ms. Salerno.

## **VII. ACKNOWLEDGMENTS**

### **DECISIONS OF THE STATE PERSONNEL BOARD AT ITS APRIL 19, 2015 PUBLIC MEETING:**

A. James Jimerson v. Department of Corrections, Buena Vista Correctional Facility, State Personnel Board case number 2015B003.

The Board voted to deny Complainant's motion for stay of the appeals process. In a second action, the Board voted to deny Respondent's motion for an award of attorney's fees and costs.

B. Carol J. Kromer v. Department of Corrections, Colorado Board of Parole, State Personnel Board case number 2016G054.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

C. Seth Downs v. Department of Labor and Employment, Unemployment Insurance Division, State Personnel Board case number 2016G040(C).

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing.

D. William D. Nauroth v. University of Northern Colorado, Information Management and Technology, State Personnel Board case number 2016G050(C).

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

E. Jamie Thornton v. Department of Public Health & Environment, Office of Legal and Regulatory Compliance, State Personnel Board case number 2016G056.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing.

F. Carol Cordova v. Department of Human Services, Office of Community Access & Independence, Wheat Ridge Regional Center, State Personnel Board case number 2016B089. (March 14, 2016)

The Board took no further action on the Initial Decision of the Administrative Law Judge.

## **VIII. ADMINISTRATIVE MATTERS & COMMENTS**

### **A. ADMINISTRATIVE MATTERS**

- Cases on appeal to the Board and to Appellate Court.

No appeals activity to update.

**B. OTHER BOARD BUSINESS**

**Director's Report:**

Director Shea-Reid reported that the vacancy announcement for the end of term Board member position was made on May 5, 2016 with an all-employee email notice, a notice to stakeholders and an announcement posted on the State Personnel Board web site. She noted that petitions are available on the Board's web site as well as at the Board's offices. Nominating petitions are due on June 17, 2016. After certification of the names of petitioners, an election will be conducted unless there is only one nominee resulting in an uncontested election. Current Board member and Vice Chair, Vonda Hall is seeking a second elected term.

Director Shea-Reid updated the Board on the recruitment process for an Administrative Assistant position which is target to fill in the first part of June.

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

There were no comments.

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

**X. EXECUTIVE SESSION**

**XI. BOARD DELIBERATION**

The Board meeting ended by consensus at 9:27 a.m.

**DATED THIS 21st DAY OF JUNE, 2016.**

SIGNATURES

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Vonda Hall, Vice Chair

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Nora Kelly, Member

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Michelle Palmquist, Member

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Teresa Salerno, Member

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