

# State of Colorado

John W. Hickenlooper  
Governor



## JOINT NOTICE OF RULEMAKING

TO: Secretary of State  
All Departments, Agencies, Institutions and Other Interested Parties

FROM: Kathy Nesbitt, Executive Director/State Personnel Director  
Department of Personnel & Administration

And

Dana Shea-Reid, Director  
State Personnel Board

DATE: March 29, 2013

SUBJECT: **NOTICE OF PUBLIC HEARINGS TO CONSIDER ADOPTION OF PERMANENT RULES**

The State Personnel Director ("Personnel Director") and State Personnel Board ("Board") will hold a joint public hearing on Tuesday, May 7, 2013, to consider adoption of permanent rules in Chapters 5 and 8, related to time off and dispute resolution in the state personnel system. The May 7, 2013, public hearing will commence at 1:30 p.m. at the Department of Transportation, 4201 East Arkansas Avenue, Auditorium, Denver, Colorado 80222. All interested persons are urged to attend this public hearing and to submit written comments to the Personnel Director and the Board for consideration concerning the proposed rules.

The Personnel Director and Board will take comments as follows:

1. In order to facilitate review of written comments by the Personnel Director and Board, all interested parties are **strongly encouraged** to submit their written comments **prior** to the hearing;
2. Written comments submitted prior to the hearing must be submitted to Jane Sprague, State Personnel Board at 633 – 17<sup>th</sup> Street, Suite 1320, Denver, CO 80202-3604 or at [jane.sprague@state.co.us](mailto:jane.sprague@state.co.us) or to Paula Manzanares, Executive Director's Office at 633 -17<sup>th</sup> Street, Suite, 1500 Denver CO 80202 or [paula.manzanares@state.co.us](mailto:paula.manzanares@state.co.us) **5:00 p.m. on May 2, 2013.**
3. All written comments submitted on or before 5:00 p.m. on May 2, 2013, will be posted on the Board's website and linked from the Personnel Director's website to the Board website.

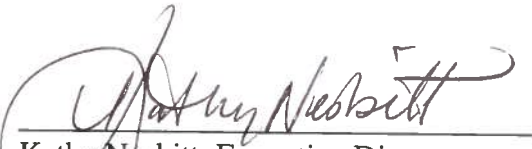
4. Any written comments submitted **after** 5:00 p.m. on May 2, 2013, must be submitted at the rulemaking hearing on May 7, 2013; and b) in hard copy format with an original and fifteen copies.

ORAL COMMENT MAY BE PROVIDED AT THE HEARING.

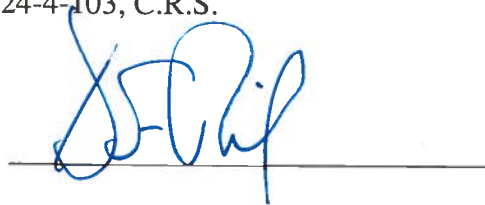
The Board and Personnel Director will consider amendment, repeal and adoption of new permanent rules to Board Rules and Director's Administrative Procedures in Chapters 5 and 8, related to time off and dispute resolution in the state personnel system.

The proposed rules and the proposed statement of basis, specific statutory authority and purpose will be available for review by interested persons on or before close of business April 1, 2013, at the State Personnel Board's offices, 633 17th Street, Suite 1320, Denver, Colorado 80202, or on the State Personnel Board's website, under "Rules and Rulemaking, "at [www.colorado.gov/spb/rules](http://www.colorado.gov/spb/rules). In addition, they are available for review at the Personnel Director's offices, 633 17<sup>th</sup> Street, Suite 1600, Denver, CO 80202, or on the Personnel Director's website at [www.colorado.gov/dpa/](http://www.colorado.gov/dpa/).

The specific authority of the Personnel Director and the Board to promulgate these rules is found at Article XII, sections 13, 14 and 15 of the Colorado Constitution; the State Personnel System Act, section 24-50-101, *et seq.*, C.R.S.; and section 24-4-103, C.R.S.



Kathy Nesbitt, Executive Director,  
State Personnel Director  
Department of Personnel & Administration



Dana Shea-Reid, Director  
State Personnel Board

# State of Colorado



John W. Hickenlooper  
*Governor*

Rich Djokic  
*Board Chair*

Dana Shea-Reid  
*Board Director*

**State Personnel Board**  
633 17<sup>th</sup> Street, Suite 1320  
Denver, Colorado 80202-3604  
Phone (303) 866-3300  
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## PROPOSED STATEMENT OF BASIS AND PURPOSE

The Colorado State Personnel Board's Rules and Director's Administrative Procedures (collectively, "Rules") are found at 4 CCR 801. A joint rulemaking hearing of the State Personnel Board and State Personnel Director was held on Tuesday, May 7, 2013, at the Department of Transportation, 4201 East Arkansas Avenue, Denver, Colorado 80222. The joint rulemaking hearing was held by the respective rulemaking authorities, the State Personnel Board ("Board"), and the State Personnel Director ("Personnel Director") in order to facilitate the submission of public comments on the adoption of a coordinated set of rules for the state personnel system and other necessary changes to the rules and procedures. The Board and the Personnel Director are exercising their respective rulemaking authority as granted under the Colorado Constitution, Art. XII, § 13, 14, and 15, and section 24-50-101, C.R.S., *et seq.*

The Notice of Rulemaking was issued March 29, 2013, for publication by the Secretary of State on April 10, 2013. The proposed rules and the proposed statement of basis and purpose have been available for review at the Board's office and on the Board's website March 29, 2013. The Board and Personnel Director took testimony at the public joint rulemaking hearing on May 7, 2013. The Board also conducted deliberations on the proposed amendments. The rules were accepted through formal public hearing and approved by the Attorney General.

The general purpose of the Board in conducting the rulemaking was to provide for the following:

- (a) clarification for state personnel system stakeholders (including the public);
- (b) to clarify the dispute resolution process, including the elimination of unnecessary language.
- (c) to clarify notice of appeal rights, grievance process, alternative dispute resolution, settlement, arbitration, investigation of retaliation for disclosure of information (whistleblower claims), allegation of discrimination, Board appeal process, scope and contents of Board appeals, discretionary Board hearings, Board appeals, representation, prehearing procedures, post-hearing proceedings, Board review of initial decisions and dismissal orders, the Director's dispute resolution processes, Director's appeals, performance management disputes and Director's review process.

The Board repealed and adopted on a permanent basis rules contained within 4 CCR 801, as follows:

The Board repealed and reenacted:

Chapter 8, Dispute Resolution in its entirety.

The specific authority of the State Personnel Board to promulgate these rules is found at Article XII, sections 13 and 14(3) of the Colorado Constitution; the State Personnel System Act, sections 24-50-103(2), 24-50-104(5)(d), 24-50-104.5(3), 24-50-112.5(4), 24-50-114, 24-50-116, 24-50-117, 24-50-123, 24-50-124(1), 24-50-125, 24-50-125.3, 24-50-125.4(6), , 24-50-125.5, 24-50-126, 24-50-131, 24-50-138, 24-50-142(1), 24-50-145(3), 24-50-512, sections 24-50-101, *et seq.*, C.R.S.; and sections 24-4-103, -105 and -106, C.R.S.; *Spahn v. State Department of Personnel*, 615 P.2d 66 (Colo. App. 1980); and *CAPE v. Lamm*, 677 P.2d 1350 (Colo. 1984).

The permanent rules adopted shall become effective July 1, 2013.

Dated this \_\_\_\_th day of  
May, 2013.

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Rich Djokic, Chair, State Personnel Board