

PA 2/10.10/2001
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STATE OF COLORADO

STATE PERSONNEL BOARD

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Bill Owens
Governor

State Employee Protection Act Annual Report of State Personnel Board July 1, 2000, through June 30, 2001

Report to the Governor
pursuant to section 24-50.5-107, C.R.S.

FY 00 Cases¹

<u>Case No.</u>	<u>Description</u>	<u>Status</u>
2000B013	Valerie K. Little v. Dept. of Higher Education, Community College of Aurora	<ul style="list-style-type: none">Complainant alleged a violation of the State Employee Protection Act. After she failed to respond persuasively to an order to show cause as to the foundation of her allegation, the matter was dismissed by order of the Administrative Law Judge on 8/25/00.
2000G070	Kevin Harvey v. Dept. of Human Services	<ul style="list-style-type: none">Complainant filed a petition for hearing on 1/10/00, claiming a violation of the State Employee Protection Act and alleging that the corrective action he received was retaliatory.The Preliminary Recommendation of the Administrative Law Judge recommended that a hearing be denied. However, the Board rejected that recommendation and granted a hearing by order dated 11/21/00.The hearing on the matter is currently set to reconvene on 6/18 & 6/19/01.

¹ These matters remained open at the end of FY 00 and/or reached resolution before the Board in FY 01.

FY 01 Cases

<u>Case No.</u>	<u>Description</u>	<u>Status</u>
2001B003	Christopher Bogush v. University of Colorado at Denver	<ul style="list-style-type: none"> On 6/29/00, Complainant filed a notice of appeal, making a claim under the State Employee Protection Act. However, it was determined that his allegations did not constitute a disclosure of information pursuant to §§24-50.5-102(2) and 104, C.R.S. The parties reached a settlement, and the matter was dismissed by order of the Administrative Law Judge dated 10/16/00.
2001B009	David Raymond Green v. Centennial Correctional Facility	<ul style="list-style-type: none"> In his notice of appeal, Complainant alleged that he was terminated in retaliation for disclosing information, as well as for testifying in a legal proceeding, making a claim under the State Employee Protection Act. The Initial Decision of the Administrative Law Judge, dated 5/29/01, concluded that Respondent agency's action was arbitrary, capricious, or contrary to rule or law, and rescinded that action.
2001B039	Earl Fibish v. Dept. of Human Services, Division of Operations & Accounting	<ul style="list-style-type: none"> Complainant filed a notice of appeal on 9/25/00, alleging that he was terminated for making comments about the anti-male and anti-white male bias he allegedly experienced during employee orientation and claiming racial and sexual discrimination, as well as a violation of the State Employee Protection Act. The Department of Personnel's investigative report, dated 2/9/01, indicated that Complainant's complaints did not fall within the intent of the whistleblower statute. The Preliminary Recommendation of the ALJ of 5/17/01 was that no hearing should be granted and that termination was appropriate. The Board is scheduled to review the Preliminary Recommendation on 6/19/01.

2001B077	Michael McKim v. Dept. of Human Services, Colorado Mental Health Institute at Pueblo	<ul style="list-style-type: none"> • Complainant's notice of appeal, dated 2/6/01, indicated that there was reasonable communication to his supervisor of a retaliation claim and reasonable communication to his appointing authority or member of legislature, pursuant to the requirements of the State Employee Protection Act. • On 4/30/01, Complainant clarified that he was not asserting a whistleblower claim. • The matter is currently set for hearing on 6/14/01.
2001B113	Jeffrey Johnson v. Dept. of Human Services, Wheat Ridge Regional Center	<ul style="list-style-type: none"> • On 5/7/01, Complainant and seven others filed a notice of appeal of their improper suspension and layoff, alleging a violation of the State Employee Protection Act. • On 6/11/01, Respondent agency filed a response to the whistleblower allegations. • On 6/14/01, the matter was referred to the office of the Director of the Department of Personnel for investigation.
2001B114	Jesse Medina v. Dept. of Corrections, Fremont Correctional Facility	<ul style="list-style-type: none"> • Complainant filed a notice of appeal on 5/4/01, alleging mismanagement of agency, a violation of the State Employee Protection Act. • On 5/17/01, Complainant was ordered to file a written whistleblower complaint no later than 5/29/01, to which he has not responded.
2001B128	Lynn C. Pompetti v. Dept. of Corrections, Clinical Operations	<ul style="list-style-type: none"> • On 8/28/00, Complainant filed a notice of appeal, alleging a violation of the State Employee Protection Act. However, the document she attached to her notice to substantiate her claim did not explain the nature of the violation. • After Complainant failed to persuasively show cause why her allegation should not be dismissed, the matter was dismissed on 10/3/00 by Order of Dismissal for Lack of Jurisdiction.
2001G003	H. James Dulan v. Dept. of Higher	<ul style="list-style-type: none"> • Complainant's petition for hearing of 7/11/00 alleged that agency action was taken against him in retaliation for

	Education, Colorado Student Loan Program	<p>information he provided to senior management, in violation of the State Employee Protection Act.</p> <ul style="list-style-type: none"> On 5/30/01, the Administrative Law Judge filed a notice of intent to dismiss the grievance, absent any action on the part of the case in several months.
2001G004	Rhonda Moreno v. Dept. of Corrections, Sterling Correctional Facility	<ul style="list-style-type: none"> On 7/12/00, Complainant filed a petition for hearing, alleging a violation of the State Employee Protection Act. After an investigation by the Department of Personnel and a finding of no probable cause, the matter was set for Preliminary Review. The Administrative Law Judge dismissed the case, granting Respondent's motion to dismiss, on 12/14/00.
2001G006	Marla Casias v. Dept. of Corrections, Pueblo Minimum Centers	<ul style="list-style-type: none"> On 7/18/00, Complainant filed a notice of appeal, citing the State Employee Protection Act, but providing no explanation. The matter was dismissed by order of the Administrative Law Judge as untimely on 7/24/00.
2001G027	David R. Wynne v. Dept. of Human Services	<ul style="list-style-type: none"> Complainant's 9/21/00 notice of appeal included a disclosure of information related to unsafe work environment, a violation of the State Employee Protection Act. The agency filed a response to the claim, and the matter was dismissed on 4/26/01.
2001G059	Ronald C. Calhoun v. Dept. of Transportation	<ul style="list-style-type: none"> On 12/7/00, Complainant filed a notice of appeal, claiming he was terminated for divulging information regarding upper level managers who are smoking in the workplace, a violation of the State Employee Protection Act. His whistleblower complaint alleged abuse of authority and reasonable communication to supervisor of his retaliation claim. Complainant's whistleblower complaint was dismissed on 4/4/01 because he did not contest an agency motion to dismiss. The matter is currently set for hearing on 8/8/01.

2001G062	Royal J. Foreman v. Dept. of Transportation	<ul style="list-style-type: none"> Complainant's 12/15/00 petition for hearing contained claims of abuse of authority or discretion and mismanagement of agency, violations of the State Employee Protection Act. Complainant's whistleblower complaint was dismissed on 4/3/01 because Complainant did not contest Respondent's motion to dismiss. Complainant's petition for hearing was dismissed on 5/22/01 because Complainant failed to file an information sheet and a response to Respondent's Motion to Deem Petition for Hearing Abandoned.
2001G081	Michael Taylor v. Dept. of Personnel, GSS, Division of Central Services	<ul style="list-style-type: none"> Complainant filed a petition for hearing on 3/12/01 in which he claimed abuse of authority, mismanagement of agency, and the reporting of his supervisor for having outstanding debts to the state, violations of the State Employee Protection Act. Separate documentation supporting Complainant's allegation of retaliation as a result of exercising rights under the Whistleblower Act was filed 4/6/01. On 5/17/01, the matter was referred to the office of the Director of the Personnel Department for investigation.
2001G091	Edson Mallo v. Dept. of Higher Education, Regents of the University of Colorado, University of Colorado Health Sciences Center	<ul style="list-style-type: none"> On 4/13/01, Complainant filed a petition for hearing, alleging an abuse of authority, a violation of the State Employee Protection Act. Complainant withdrew his petition after engaging in mediation. The Administrative Law Judge issued a Dismissal Order on 5/16/01.
2001G108	John P. DeLeo v. Dept. of Revenue, Motor Vehicle Business Group, Driver Services	<ul style="list-style-type: none"> On 6/9/01, Complainant filed a petition for hearing, alleging violations of the State Employee Protection Act, including abuse of authority, mismanagement of agency, and safety violations to state risk management office. The matter has been referred to the agency for a response to the Whistleblower claim.

Whistleblower Cases 2001

