

Amended Annual Report of State Personnel Board to the Governor

**Pursuant to State Employee Protection Act, § 24-50.5-107, C.R.S.
July 1, 2012, through June 30, 2013**

FY 11 Case¹

Richard Mignogna v. Department of Regulatory Agencies, Division of Registrations, 2011G040 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On December 20, 2010, Complainant filed a petition for hearing regarding a final grievance decision, alleging that the decision violated his federal or state constitutional rights, and a Whistleblower Complaint, alleging that DORA engaged in a pattern of retaliation against him consisting of a corrective action, a violation of Complainant’s First Amendment rights to freedom of speech, and prevention of the release of documents that are in the public interest, in violation of the Whistleblower Act.
- On March 7, 2011, Complainant filed a second petition for hearing regarding a final grievance decision on a second corrective action, but no whistleblower claims.
- The matter was set for preliminary review and the parties filed information sheets. The Board reviewed the recommendation of the ALJ and voted not to grant a hearing at its August 16, 2011 meeting.
- Complainant appealed the denial of a hearing to the Court of Appeals.
- Mandate; Order Affirmed was issued by the Court on December 24, 2012.

FY 12 Cases²

Richard Mignogna v. Department of Regulatory Agencies, Public Utilities Commission, 2012B061 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On January 9, 2012, Complainant filed an appeal of his termination and a Whistleblower Complaint, alleging retaliation in violation of the Whistleblower Act. In his Whistleblower Complaint, he stated the termination was the “culmination of a series of corrective actions initiated by Director Dean to placate complaints by Public Service of Colorado against Dr. Mignogna,” a Professional Engineer III and Senior Authority on Renewable Energy for the PUC. In addition, the retaliation was also the result of Complainant’s filing of Case 2011G040(C), currently on appeal to the Colorado Court of Appeals, Case No. 11CA2117.
- The matter was referred to Respondent for a response to the Whistleblower Complaint.
- Following receipt of Respondent’s response to the Whistleblower Complaint, the case was set for hearing on September 12-14, 2012.
- The parties reached a settlement; the case was dismissed on November 1, 2012.

¹ This matter remained open or was resolved during FY 13.

² These matters remained open or were resolved during FY 13.

Dena Pisciotte v. Department of Revenue, 2012B126 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On June 8, 2012, Complainant filed an appeal of her termination and a Whistleblower Complaint, alleging retaliation in violation of the Whistleblower Act because she disclosed her concerns to management that her supervisor was under the influence of drugs and she told her division director that the division director was in violation of the agency’s Statement of Understanding and an Executive Order. In addition, she alleged discrimination based on gender, disability, national origin, organizational membership, political affiliation, religion and breastfeeding.
- The matter was referred to the Colorado Civil Rights Division (CCRD) for investigation of the discrimination allegations and to Respondent for a response to the Whistleblower Complaint.
- On August 3, 2012, Respondent filed its response to the Whistleblower Complaint.
- The parties reached a settlement; the case was dismissed on November 13, 2012.

Arthur Robinson v. University of Colorado Denver, Information Technology Services, 2012B131 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On June 22, 2012, Complainant filed an appeal of his disciplinary termination and a Whistleblower Complaint, alleging retaliation in violation of the Whistleblower Act because of his disclosure to the Board that the University asked a co-worker to report concerns about Complainant to them and for alleging discrimination based on age, national origin and race.
- On June 28, 2012, the matter was referred to CCRD for investigation of the discrimination allegations and to Respondent for a response to the Whistleblower Complaint.
- A hearing was held and an Initial Decision of the Administrative Law Judge was issued upholding the disciplinary termination of Complainant.
- Following a Board Order affirming the Initial Decision, Complainant filed an appeal at the Court of Appeals, which is currently pending.

Kathy Otten v. Department of Labor and Employment, Workforce Development Programs, 2012G052 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On January 12, 2012, Complainant filed a petition for hearing and Whistleblower Complaint alleging retaliation by being passed over for reallocation because she voiced her opposition to actions her supervisors had taken with regard to grant money, in violation of the Whistleblower Act.
- The matter was referred to Respondent for a response to the Whistleblower allegations.
- Following receipt of Respondent’s response, the matter was set for preliminary review on March 7, 2012, and the parties filed information sheets.
- On June 6, 2012, the ALJ issued a preliminary recommendation recommending that a hearing be granted.
- On June 21, 2012, the Board issued its order adopting the preliminary recommendation and granting Complainant’s petition for hearing.

- The matter was set for hearing on September 19, 2012; however, on July 13 and August 1, 2012, Complainant requested an administrative stay of the matter until a possible conflict in representation could be resolved.
- The matter was stayed through August 8, 2012.
- The parties reached a settlement; the case was dismissed on January 8, 2013.

Franklin Ortega v. Community Colleges in Colorado, Pueblo Community College, 2012S010 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On November 17, 2011, Complainant filed a petition for Director’s review challenging the abolishment of a part-time police position, a Whistleblower Complaint regarding his failure to be hired after he made disclosures to Human Resources in violation of the Whistleblower Act, and an allegation of discrimination based on national origin.
- The matter was referred to Respondent for a response to the Whistleblower Complaint and to CCRD for investigation of the discrimination allegations.
- Following receipt of a No Probable Cause Opinion from CCRD and the response to the Whistleblower Complaint from Respondent, the matter was set for preliminary review and the parties filed information sheets.
- The case was scheduled to be reviewed at the September 18, 2012 Board meeting.
- On September 20, 2012, the Board issued the Order of the State Personnel Board Denying Petition for Hearing.

Kate Kelly v. Department of Transportation, 2012S027 – no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On April 27, 2012, Complainant filed a petition for Director’s review challenging the failure of the agency to hire her for a land surveyor position, a Whistleblower Complaint alleging retaliation for her filing complaints and grievances as disclosures to management violation of the Whistleblower Act, and an allegation of discrimination based on harassment.
- The matter was referred to Respondent for a response to the Whistleblower Complaint and to CCRD for investigation of the discrimination allegations.
- Following receipt of the response to the Whistleblower Complaint from Respondent, the ALJ issued a memorandum that the Board would not proceed until an opinion had been rendered by CCRD.
- After CCRD issued its No Probable Cause Opinion, the matter was set for Preliminary Review; however, absent an information sheet from Complainant, the case was dismissed on November 13, 2012.

FY 13 Cases

Sean Clouse v. Department of Corrections, Limon Correctional Facility, 2013B018 - no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On August 21, 2012, Complainant filed an appeal of his termination and alleged unspecific Whistleblower retaliation.

- After Complainant failed to respond to a September 4, 2012 Request for Additional information regarding the Whistleblower Complaint, the ALJ dismissed the Whistleblower Claim on October 5, 2012.

Isis Rich v. Department of Revenue, Division of Motor Vehicles, Driver's License Section, 2013B049 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On October 10, 2012, Complainant filed an appeal of her termination and alleged retaliation for disclosures she had made about harassment, in violation of the Whistleblower Act.
- On December 3, 2012, Respondent filed its response to the Whistleblower Complaint.
- Per the Initial Decision, dated June 27, 2013, the ALJ found that by the time that Complainant closed her case-in-chief, she had presented no evidence regarding any protected disclosures of information that she had made, had offered no evidence that she had alerted her supervisor or other appropriate person of the information to be disclosed, and had not offered any evidence to support a causality argument. The ALJ concluded that a directed verdict on the Whistleblower Act claim was appropriate under such circumstances, granted Respondent's motion for directed verdict, and dismissed the Whistleblower Act claim.

Jodie Kammerzell v. Department of Human Services, Division of Developmental Disabilities, 2013B050 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On October 12, 2012, Complainant filed an appeal of her forced resignation and alleged retaliation for disclosures she had made concerning violence in the workplace, in violation of the Whistleblower Act.
- On December 7, 2012, Respondent filed its response to the Whistleblower Complaint.
- The parties reached a settlement; the case was dismissed by order dated February 28, 2013.

Edward Clark v. Department of Public Safety, Colorado State Patrol, 2013B101 – *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On February 22, 2013, Complainant filed an appeal of his disciplinary demotion and alleged retaliation for disclosures he had made concerning a co-worker's traffic stops, in violation of the Whistleblower Act.
- On April 18, 2013, Respondent filed its response to the Whistleblower Complaint.
- This matter is set for hearing on August 15, 2013.

Jon Butterbaugh v. Department of Human Services, Regional Center Operations, Wheat Ridge Regional Center, 2013B140 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On June 17, 2013, Complainant filed an appeal of his "deemed to have resigned" separation from employment, alleging retaliation for disclosures he had made about a hostile work environment, in violation of the Whistleblower Act.
- On July 5, 2013, Complainant filed a response to a request for additional information concerning his Whistleblower Complaint.

Jennifer Reno v. Department of Human Services, Division of Regional Center Operations, Pueblo Regional Center, 2013B142 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On June 21, 2013, Complainant filed an appeal of her disciplinary demotion and reduction in pay, alleging retaliation for disclosures she had made regarding reallocation of a position and false accusations on her performance evaluation, in violation of the Whistleblower Act.
- On July 5, 2013, Complainant filed a response to a request for additional information concerning her Whistleblower Complaint.
- On July 11, 2013, the matter was referred to Respondent for a response to the Whistleblower Complaint.

Sarah Muckerman v. University of Colorado Denver, School of Medicine, 2013G010 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On July 24, 2012, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for unspecified disclosures she made, in violation of the Whistleblower Act.
- The parties reached a settlement; the case was dismissed by order dated August 27, 2012.

Lee Mason v. Department of Transportation, Audit Division, 2013G012 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On June 27, 2012, Complainant filed a petition for hearing regarding a final grievance decision, alleging retaliation for disclosures she had made about agency audits, in violation of the Whistleblower Act.
- On September 12, 2012, Respondent filed its response to the Whistleblower Complaint.
- On December 5, 2012, the ALJ issued a Preliminary Recommendation.
- On December 20, 2012, the Board issued its Order Denying Petition for Hearing.

Renee Ryan v. Department of Human Services, Colorado Mental Health Institute at Fort Logan, 2013G025 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S. (Initial Decision has not been issued)*

- On July 24, 2012, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made regarding patient care, in violation of the Whistleblower Act.
- On November 2, 2012, Respondent filed its response to the Whistleblower Complaint.
- On February 6, 2013, the ALJ issued a Preliminary Recommendation.
- On February 20, 2013, the Board issued its Order Granting Petition for Hearing.
- On June 28 and July 12, 2013, the ALJ conducted hearings in this matter.

Floyetta Peaker v. Department of Human Services, Colorado State Veterans Nursing Home at Fitzsimons, 2013G036 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On October 26, 2012, Complainant filed a petition for hearing regarding a final grievance decision, alleging retaliation for disclosures she had made about suspected sexual abuse of a patient, in violation of the Whistleblower Act.
- On January 7, 2013, Respondent filed its response to the Whistleblower Complaint.
- On March 18, 2013, the ALJ issued a Preliminary Recommendation.
- On April 16, 2013, the Board issued its Order Denying Petition for Hearing.

Maurice Carter v. Department of Transportation, 2013G037 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On October 29, 2012, Complainant filed a petition for hearing regarding a final grievance decision, alleging retaliation for disclosures he had made about hostile work environment, in violation of the Whistleblower Act.
- On December 5, 2012, Respondent filed its response to the Whistleblower Complaint.
- On April 2, 2013, the ALJ issued a Preliminary Recommendation.
- On April 16, 2013, the Board issued its Order Denying Petition for Hearing.

Charlie Hyland v. Department of Revenue, 2013G039 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On November 7, 2012, Complainant filed a petition for hearing regarding his termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures he had made about unethical practices, in violation of the Whistleblower Act.
- The parties reached a settlement; the case was dismissed by order dated February 22, 2013.

Rita Rittenmeyer v. Department of Transportation, 2013G041 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On November 13, 2012, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made regarding violence in the workplace, in violation of the Whistleblower Act.
- On January 4, 2013, Respondent filed its response to the Whistleblower Complaint.
- On March 28, 2013, the ALJ issued a Preliminary Recommendation.
- On April 16, 2013, the Board issued its Order Denying Petition for Hearing.

Mary Ellen McClung v. Department of Labor and Employment, 2013G050 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On December 14, 2012, Complainant filed a petition for hearing regarding her unsatisfactory performance evaluations in a final grievance decision alleging discrimination based on age and a Whistleblower Complaint alleging retaliation for disclosures she had made regarding her supervisor's misuse of performance ratings, in violation of the Whistleblower Act.
- On January 9, 2013, the ALJ referred the petition to the Colorado Civil Rights Division (CCRD) for investigation.

- As of January 24, 2013, the petition is pending an investigation of Complainant's discriminatory issues with CCRD. Upon completion of the CCRD investigation, this matter will proceed through the Board's discretionary hearing process.
- On February 25, 2013, Respondent filed its response to the Whistleblower Complaint.

Teresa Pelkey v. Department of Labor and Employment, Division of Worker's Compensation, 2013G056 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On January 22, 2013, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made about managers' conduct, in violation of the Whistleblower Act.
- On March 25, 2013, Respondent filed its response to the Whistleblower Complaint.
- After Complainant failed to timely file her information sheet, Respondent filed a motion to dismiss on May 24, 2013.
- The ALJ granted the motion to dismiss by order dated June 5, 2013.

Clarence Roberts v. University of Northern Colorado, Housing Services, 2013G063 – *this case has not gone to hearing on a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On February 19, 2013, Complainant filed a petition for hearing regarding a final grievance decision, alleging retaliation for disclosures he had made about harassment, in violation of the Whistleblower Act.
- On April 8, 2013, the matter was deferred pending the agency response to the grievance.

Jon Butterbaugh v. Department of Human Services, Regional Center Operations, Wheat Ridge Regional Center, 2013G070 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On March 18, 2013, Complainant filed an appeal of a grievance decision, alleging retaliation for disclosures he had made about a hostile work environment, in violation of the Whistleblower Act.
- On April 26, 2013, Respondent filed its response to the Whistleblower Complaint.
- The parties timely filed information sheets.
- This matter is scheduled to be reviewed at the August 20, 2013 Board meeting.

Karen McGrane v. Department of Human Services, Colorado State Veterans Nursing Home at Fitzsimons, 2013G076 – *this case has not yet gone to hearing on a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On April 1, 2013, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made about intimidation, in violation of the Whistleblower Act.
- On May 24, 2013, Respondent filed its response to the Whistleblower Complaint.
- This matter is scheduled to be reviewed at the September 17, 2013 Board meeting.

Candy Frank v. Department of Labor and Employment, Division of Employment and Training, 2013G078 - no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On April 11, 2013, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made about a compliance violation, in violation of the Whistleblower Act.
- On May 30, 2013, Respondent filed its response to the Whistleblower Complaint.
- The parties reached a settlement and the case was dismissed by order dated July 3, 2013.

Kimberly Hardesty v. Department of Human Services, Division of Youth Corrections, Zebulon Pike Youth Services Center, 2013G080 - this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On April 15, 2013, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made about sexual harassment and discrimination, in violation of the Whistleblower Act.
- On June 13, 2013, Respondent filed its response to the Whistleblower Complaint.
- This matter is scheduled to be reviewed at the September 17, 2013 Board meeting.

Patricia Aragon v. Department of Revenue, Title and Registration Sections, 2013G084 - this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On April 25, 2013, Complainant filed a petition for hearing regarding her performance evaluation and a Whistleblower Complaint alleging retaliation for disclosures she had made about an incident report, in violation of the Whistleblower Act.
- In response to a request for clarification, Complainant filed a Whistleblower Complaint on June 18, 2013.
- On June 26, 2013, the matter was referred to Respondent for a response to the Whistleblower Complaint.
- This matter is not yet scheduled for preliminary review.

Paula Pallister v. Department of Human Services, Division of Child Welfare, 2013G087 - this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.

- On May 7, 2013, Complainant filed a petition for hearing regarding her termination for unsatisfactory performance during the probationary period and a Whistleblower Complaint alleging retaliation for disclosures she had made about theft of time, in violation of the Whistleblower Act.
- On July 5, 2013, Respondent filed its response to the Whistleblower Complaint.
- This matter is scheduled to be reviewed at the October 15, 2013 Board meeting.

Randy Kennedy v. Department of Public Safety, 2013G096 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On June 7, 2013, Complainant filed a petition for hearing regarding a final grievance decision, alleging retaliation for disclosures made about harassment, in violation of the Whistleblower Act.
- On June 25, 2013, the matter was referred to Respondent for a response to the Whistleblower Complainant.
- This matter is not yet scheduled for preliminary review.

Cheryl Miller v. Department of Personnel and Administration, Division of Finance and Procurement, State Purchasing Office, 2013G099 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On June 28, 2013, Complainant filed a petition for hearing regarding her performance evaluation and a Whistleblower Complaint alleging retaliation for disclosures she had made, including the conduct of personal business on state time, in violation of the Whistleblower Act.
- On July 3, 2013, the matter was referred to Respondent for a response to the Whistleblower Complainant.
- This matter is not yet scheduled for preliminary review.

Alvin Sais v. Department of Corrections, 2013S002 - *this case has not yet gone to hearing regarding a finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On July 20, 2012, Complainant filed a petition for hearing regarding his non-selection for a position and a Whistleblower Complaint alleging retaliation for disclosures he had made about abuse of authority, in violation of the Whistleblower Act.
- On July 31, 2012, Respondent's Motion to Dismiss was granted by the ALJ.
- Following an appeal, the Board issued an order on January 16, 2013, upholding the dismissal order.

Jeromy Goodson v. University of Colorado Boulder, Police Department, 2013S006 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.*

- On August 7, 2012, Complainant filed a petition for hearing regarding his non-selection for a promotion and a Whistleblower Complaint alleging retaliation for disclosures he had made about sexism in the workplace, in violation of the Whistleblower Act.
- On September 24, 2012, Respondent filed its response to the Whistleblower Complaint.
- On February 6, 2013, the ALJ issued a Preliminary Recommendation.
- On February 20, 2013, the Board issued its Order Granting Petition for Hearing.
- The parties reached a settlement; the case was dismissed by order dated June 18, 2013.