

# **Annual Report of State Personnel Board to the Governor**

**Pursuant to State Employee Protection (Whistleblower) Act,  
§ 24-50.5-107, C.R.S.**

**July 1, 2013, through June 30, 2014**

## **FY 12 Case<sup>1</sup>**

**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 disclosures that the University asked a co-worker to report concerns about Complainant.
- A hearing was held and an Initial Decision of the Administrative Law Judge (ALJ) was issued on January 28, 2013, upholding the disciplinary termination of Complainant and denying the Whistleblower claim.
- Following a May 15, 2013 Director’s Order dismissing Complainant’s appeal of the Initial Decision for failure to file an opening brief, Complainant filed an appeal at the Court of Appeals.
- On May 22, 2014, the Court of Appeals issued its Order Reversed and Case Remanded with Directions, returning the case to the Board for consideration of petitioner’s appeal.
- On July 25, 2014, Mandate issued and the Board will now issue a briefing schedule and Board review pursuant to the remand.

## **FY 13 Cases<sup>2</sup>**

**Edward Clark v. Department of Public Safety, Colorado State Patrol, 2013B101 – *no 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 in violation of the Whistleblower Act for disclosures he had made concerning a co-worker’s traffic stops.
- This matter was set for hearing on August 15, 2013.
- Prior to hearing, the parties reached a settlement and the case was dismissed by Order of the ALJ dated November 26, 2013.

**Jon Butterbaugh v. Department of Human Services, Regional Center Operations, Wheat Ridge Regional Center, 2013B140, 2013G070 – *no finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

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<sup>1</sup> This matter remained open or was resolved during FY 14.

<sup>2</sup> These matters remained open or were resolved during FY 14.

- On March 18, 2013, Complainant filed a petition for hearing regarding a grievance decision, alleging retaliation in violation of the Whistleblower Act for disclosures he had made about a hostile work environment.
- On June 17, 2013, Complainant filed an appeal of his “deemed to have resigned” separation from employment, again alleging retaliation in violation of the Whistleblower Act for disclosures he had made about a hostile work environment.
- Following consolidation of his cases, this matter was set for hearing.
- Because Complainant failed to comply with discovery orders, the matter was dismissed by Order of the ALJ dated December 17, 2013, prior to hearing.

**Jennifer Reno v. Department of Human Services, Division of Regional Center Operations, Pueblo Regional Center, 2013B142 – *finding of a violation of Colorado’s whistleblower statute, § 24-50.5-101, et seq., C.R.S. to be determined (Initial Decision has not been issued)***

- On June 21, 2013, Complainant filed an appeal of her disciplinary demotion and reduction in pay and alleged retaliation in violation of the Whistleblower Act for disclosures she had made regarding reallocation of a position and false accusations on her performance evaluation.
- On July 5, 2013, Complainant filed a response to a request for additional information concerning her Whistleblower Complaint.
- Following Complainant’s appeal of her disciplinary termination and receipt of Respondent’s response to the Whistleblower Complaint, the cases were consolidated and set for hearing.
- Hearing was held on April 22, May 28, and July 9, 2014.

**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.***

- 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 in violation of the Whistleblower Act for disclosures she had made regarding poor patient care.
- On February 6, 2013, the ALJ issued a Preliminary Recommendation that a hearing be granted, which was upheld by the Board on February 20, 2013.
- After a hearing held on June 28 and July 12, 2013, on September 12, 2013, the ALJ issued an Initial Decision affirming the termination, which was adopted by Board at its meeting on February 18, 2014.
- Complainant’s appeal to the Court of Appeals is currently pending.

**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 in violation of the Whistleblower Act for disclosures she had made regarding her supervisor’s misuse of performance ratings.

- 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.
- As of July 2014, the petition is pending CCRD's completion of an investigation.

**Karen McGrane v. Department of Human Services, Colorado State Veterans Nursing Home at Fitzsimons, 2013G076 – *no 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 in violation of the Whistleblower Act for disclosures she had made about intimidation.
- The Preliminary Recommendation of the ALJ to grant the petition for hearing was reviewed at the September 17, 2013 Board meeting and the Board Order Granting Petition for Hearing was issued.
- Prior to hearing, the parties reached a settlement and the case was dismissed by Order of the ALJ dated January 14, 2014.

**Kimberly Hardesty v. Department of Human Services, Division of Youth Corrections, Zebulon Pike Youth Services Center, 2013G080 – *no 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 in violation of the Whistleblower Act for disclosures she had made about sexual harassment and discrimination.
- The Preliminary Recommendation of the ALJ to grant the petition for hearing was reviewed at the September 17, 2013 Board meeting and the Board Order Granting Petition for Hearing was issued.
- Hearing was held on March 27 and 28, 2014.
- Affirming Respondent's termination of Complainant's employment in the Initial Decision of May 12, 2014, the ALJ found that Respondent did not retaliate against Complainant, but rather that Complainant's employment was terminated due to poor performance during her probationary year.

**Patricia Aragon v. Department of Revenue, Title and Registration Sections, 2013G084 – *no 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.
- In response to a request for clarification, on June 18, 2013, Complainant filed a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures she had made about an incident report.
- The Preliminary Recommendation of the ALJ that the petition be denied was issued on November 4, 2013.

- The Board issued its Order Denying Petition for Hearing and Referral to State Personnel Director following its review of the Preliminary Recommendation on November 21, 2013.

**Paula Pallister v. Department of Human Services, Division of Child Welfare, 2013G087 - *no 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 in violation of the Whistleblower Act for disclosures she had made about theft of time.
- The matter was dismissed by Order of the ALJ on September 17, 2013, prior to its scheduled review 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 discrimination and retaliation in violation of the Whistleblower Act for disclosures made about harassment.
- On June 25, 2013, the matter was referred to Respondent for a response to the Whistleblower Complainant and to CCRD for an investigation into the discrimination charges.
- Following a no probable cause opinion by CCRD, the matter was set for preliminary review.
- This matter is scheduled for review at the August 19, 2014 Board meeting.

**Cheryl Miller v. Department of Personnel and Administration, Division of Finance and Procurement, State Purchasing Office, 2013G099 - *no 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 in violation of the Whistleblower Act for disclosures she had made, including a co-worker's conduct of personal business on state time.
- On February 6, 2014, the ALJ issued a Preliminary Recommendation that Complainant's petition for hearing be granted.
- The Board adopted the Preliminary Recommendation and the matter was set for hearing.
- Prior to hearing, the parties reached a settlement and the case was dismissed by Order of the ALJ dated June 30, 2014.

#### FY 14 Cases<sup>3</sup>

**David Xu v. Colorado School of Mines, 2014B008 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

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<sup>3</sup> These matters were opened or resolved during FY 14.

- On July 16, 2013, Complainant filed an appeal of his suspension without pay and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures he had made.
- Following Complainant's filing of a series of grievances and Respondent's filing of a response to the Whistleblower Complaint, the matters were consolidated and set for hearing.
- Prior to hearing, the parties reached a settlement and the case was dismissed by Order of the ALJ dated December 2, 2013.

**Vanessa Simmons v. Department of Public Health and Environment, Laboratory Service Division, 2014B009 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 2, 2013, Complainant filed an appeal of her forced resignation and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures she had made regarding irregularities in procedures done in the laboratory.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for hearing.
- Prior to hearing, the parties reached a settlement and the case was dismissed by Order of the ALJ dated January 29, 2014.

**Jenny Ann Hammerschmidt v. Colorado State University, Center for Environmental Management of Military Lands, 2014B011 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 6, 2013, Complainant filed an appeal of her forced resignation and indicated that she would file a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for unspecified disclosures she had made.
- Despite the Board's requests for Complainant to provide a Whistleblower Complaint, Complainant did not do so.
- Prior to being set for hearing, the parties reached a settlement and the matter was dismissed by Order of the ALJ on October 9, 2013.

**David C. Ross v. Department of Transportation, 2014B014 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 13, 2013, Complainant filed an appeal of his termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for his complaints about DOT's promotion of religion and proselytizing in the workplace.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for hearing.
- Prior to hearing, the parties reached a settlement and the matter was dismissed by Order of the ALJ on February 19, 2014.

**Kevin Jackson v. University of Colorado Denver, School of Medicine, 2014B018 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 28, 2013, Complainant filed an appeal of his termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for providing negative feedback regarding an information technology update.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for hearing.
- Prior to hearing, the parties reached a settlement and the matter was dismissed by Order of the ALJ on December 20, 2013.

**Mark W. Morlock v. Department of Public Safety, Colorado Bureau of Investigation, 2014B022 - no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.**

- On September 20, 2013, Complainant filed an appeal of his forced resignation and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures he had made regarding timesheet fraud.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the Whistleblower Claim was dismissed by Order of the ALJ dated November 20, 2013.

**Elaine Davinroy v. Department of Natural Resources, Colorado Parks & Wildlife, 2014B029 - no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.**

- On October 15, 2013, Complainant filed an appeal of her termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for providing information on age and gender discrimination.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for hearing.
- Prior to hearing, the parties reached a settlement and the matter was dismissed by Order of the ALJ on June 6, 2014.

**Kristina Grubb v. Department of Corrections, LaVista Correctional Facility, 2014B069 - 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 24, 2014, Complainant filed a petition for hearing challenging her "loss of position, days off with holidays, position number" and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for providing information about a co-worker and an investigation of that co-worker.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for preliminary review.
- The matter is scheduled for Board review on September 16, 2014.

**Robert Davis v. Department of Human Services, Division of State Nursing Homes, 2014B070 - no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.**

- On February 28, 2014, Complainant filed an appeal of his termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures of bullying, abuse of authority, and hostile work environment.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for hearing.
- Complainant withdrew his appeal and the matter was dismissed by Order of the ALJ on June 10, 2014.

**Kristi Horst v. Department of Human Services, Division of Youth Corrections, 2014B092 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On April 23, 2014, Complainant filed an appeal of her forced resignation and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures she had made about unethical practices in the clinic and inappropriate delegating of task.
- Through a filing dated May 1, 2014, Complainant withdrew her Whistleblower allegations.

**Bonnie Francis v. Department of Corrections, Buena Vista Correctional Facility, 2014B108 - *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 9, 2014, Complainant filed an appeal of her termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for her disclosure of use of force by a co-worker.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter will be set for hearing.

**Heather Lizotte v. Secretary of State, 2014B112 - *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 16, 2014, Complainant filed an appeal of her demotion and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for filing a workplace violence complaint against the Secretary of State and her disclosure of improper spending of federal grant money.
- The matter is currently under investigation at the Colorado Civil Rights Division.

**David Xu v. Governor's Office of Information Technology, 2014B115 - *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 20, 2014, Complainant filed an appeal of his termination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosures he had made regarding computer equipment.
- Respondent's Motion to Dismiss and Complainant's response are currently pending.

**Valerie Bellamy v. Department of Labor and Employment, Division of Workers' Compensation, 2014B121 - *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 27, 2014, Complainant filed an appeal of her termination alleging discrimination and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for her disclosure that her supervisor badgered, harassed, and berated her about the printer problems.
- On July 10, 2014, the matter was referred to the Colorado Civil Rights Division and the Whistleblower Complaint was sent to Respondent for a response.

**Bryce C. Willson v. Department of Corrections, Sterling Correctional Facility, 2014G001 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On July 1, August 6, and September 17, 2013, Complainant filed petitions for hearing challenging the denial of his grievance in a final grievance decision regarding inmates being let into the staff locker room and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for his disclosures regarding the staff locker room.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for preliminary review.
- On October 23, 2013, the matter was dismissed by Order of the ALJ following Complainant's failure to file an information sheet and Respondent's filing of a motion to dismiss.

**Brandy S. Hinkle v. Department of Public Health and Environment, Disease Control & Environmental Epidemiology Division, 2014G005 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On July 23, 2013, Complainant filed a petition for hearing challenging the termination of her position during the probationary period and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for her disclosures regarding matters of public interest, such as problems with laboratory specimen handling, HIPAA violations, occupational health exposure, and lack of a training plan.
- Prior to the due date for Respondent's response to the Whistleblower Complaint, the parties reached a settlement and the case was dismissed by Order of the ALJ dated September 19, 2013.

**Elaine Danilooff v. Department of Public Health and Environment, 2014G008 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 12, 2013, Complainant filed a petition for hearing challenging a final grievance decision upholding a corrective action and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for complaining about waste and mismanagement in the HIV Surveillance Program.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for preliminary review.
- The ALJ issued a Preliminary Recommendation that a hearing be denied.
- On January 22, 2014, the Board issued its Order Denying Petition for Hearing.



**Theresa Chavez v. Department of Education, Office of Professional Services and Educator Licensure, 2014G011 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 6 and 14, 2013, Complainant filed petitions for hearing challenging the denial of her grievance and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for complaining about the behavior of her supervisor.
- On April 3, 2014, the ALJ issued a Preliminary Recommendation that a hearing be denied with regard to the August 6, 2013 petition for hearing and that the August 14 petition for hearing be remanded to the agency.
- On April 16, 2014, the Board issued its Order denying Complainant's August 6, 2013 petition for hearing and remanding August 14, 2014 petition for hearing to the agency.

**Lawrence Hernandez v. Department of Human Services, Colorado Mental Health Institute at Fort Logan, 2014G014 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On August 16, 2013, Complainant filed a petition for hearing challenging a final grievance decision upholding a corrective action and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for disclosing the hospital's provision of false documentation to a federal program.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for preliminary review.
- Complainant failed to file an information sheet and the matter was dismissed by Order of the ALJ dated January 24, 2014.

**Jose Miscles v. Board of Directors for Auraria Higher Education Center, 2014G019 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On September 4, 2013, Complainant filed a petition for hearing challenging being placed on administrative leave and indicated that he intended to file a Whistleblower Complaint.
- Complainant did not file a Whistleblower Complaint and his case was dismissed by Order of the ALJ dated November 4, 2013.

**Shantell Honest v. Department of Human Services, Division of Youth Corrections, Platte Valley Youth Service Center, 2014G036 - *no finding of a violation of Colorado's whistleblower statute, § 24-50.5-101, et seq., C.R.S.***

- On November 1, 2013, Complainant filed a petition for hearing challenging the termination of her employment during the probationary period and a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for reporting an instance of child abuse.
- Following the Board's receipt of Respondent's response to the Whistleblower Complaint, the matter was set for preliminary review.
- On April 2, 2014, the ALJ issued a Preliminary Recommendation that a hearing be denied, which the Board affirmed at its April 16, 2014 meeting.
- On May 16, 2014, Complainant filed an appeal at the Court of Appeals, which is currently pending.

**Sandra Kelly v. University of Colorado Denver, School of Dental Medicine, 2014G053 - *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 17, 2013, Complainant filed a petition for hearing alleging age discrimination and challenging the termination of her employment during the probationary period. She also filed a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for reporting a hostile work environment and intimidation by her supervisor.
- The matter is currently under investigation at the Colorado Civil Rights Division.

**Richard Reinhardt v. Department of Human Services, Colorado Mental Health Institute at Pueblo, 2014G088 - *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, 2014, Complainant filed a petition for hearing regarding an unresolved grievance.
- On June 26, 2014, in response to a request for additional information, Complainant filed a Whistleblower Complaint alleging retaliation in violation of the Whistleblower Act for reporting patient abuse by senior staff.
- Respondent has not yet filed a response to the Whistleblower Complaint.

**Sheldon Reneau v. Department of Corrections, La Vista Correctional Facility, 2014G099 - *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 15, 2014, Complainant filed a petition for hearing alleging retaliation in violation of the Whistleblower Act for his earlier filing of a case before the Board.
- Respondent has not yet filed a response to the Whistleblower Complaint.

**Luann Morton-Earl v. Department of Corrections, 2014S014, 2014S016 - *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 4, 2014, and May 6, 2014, Complainant filed petitions for hearing claiming that she has been denied employment with the Department of Corrections and alleging in retaliation in violation of the Whistleblower Act for her earlier filing of a case with the Equal Employment Opportunity Commission.
- Respondent has not yet filed a response to the Whistleblower Complaint.