

State of Colorado



Jared Polis
Governor

Sarah Wager
Board Chair

Rick Dindinger
Board Director

State Personnel Board
1525 Sherman Street, 4th Floor
Denver, Colorado 80203
Phone (303) 866-3300
Fax (303) 866-5038

July 13, 2022

The Honorable Jared Polis
Governor of the State of Colorado
136 State Capitol Building
Denver, Colorado 80203

RE: Annual Whistleblower Report


Dear Governor Polis:

Attached is the State Personnel Board's Whistleblower Report for Fiscal Year 2021-2022. This Report is provided pursuant to C.R.S. § 24-50.5-107, a section of the State Employee Protection Act (commonly referred to as the Whistleblower Act).

This Report contains a summary of the actions taken by the State Personnel Board during this past fiscal year relating to claims under the Whistleblower Act. The Board found one violation of the Whistleblower Act during Fiscal Year 2021-2022. That finding is currently on appeal at the Colorado Court of Appeals. To the Board's knowledge, no appointing authority or supervisor received disciplinary action pursuant to C.R.S. § 24-50.5-104(4) during Fiscal Year 2021-2022.

If you have any questions, please do not hesitate to contact me at 303-866-5776 or rick.dindinger@state.co.us.

Sincerely,



Rick Dindinger
Board Director

cc: State Personnel Board Members
Kara Veitch, Chief Legal Counsel to the Governor
Tony Gherardini, State Personnel Director
Lynne Steketee, Statewide Chief Human Resources Officer
Colorado State Publications Library

ANNUAL WHISTLEBLOWER REPORT TO THE GOVERNOR

TO: The Honorable Jared Polis, Governor

FROM: The State Personnel Board
Rick Dindinger, Director

PERIOD: July 1, 2021, through June 30, 2022

INTRODUCTION

The State Personnel Board provides this report pursuant to C.R.S. § 24-50.5-107 of the State Employee Protection Act (commonly referred to the "Whistleblower Act," sometimes referred to as "SEPA"). The statute provides: "The state personnel board shall report annually to the governor concerning the complaints filed, hearings held, and actions taken pursuant to this article." This report encompasses whistleblower complaints pending with the Board on July 1, 2021, and whistleblower complaints filed with the Board from July 1, 2021, through June 30, 2022. Unless necessary to indicate the posture of a pending matter, this report does not cover Board orders unrelated to the whistleblower complaints such as discovery orders or procedural orders. The Board is not aware of whether any appointing authority or supervisor received disciplinary action pursuant to C.R.S. § 24-50.5-104(4) during Fiscal Year 2021-2022.

SUMMARY CHART¹

	FY 2021-22	FY 2020-21
Number of whistleblower complaints filed with the Board.	20	24
Complaints subject to a mandatory Board hearing. ²	7	4
Complaints subject to Board's review process and possible hearing.	11	20
Complaints dismissed voluntarily.	8	25
Complaints dismissed by Board following review process.	3	3
Complaints dismissed by Board for procedural reasons. ³	10	8
Evidentiary hearings of whistleblower complaints.	1	4
Board decisions finding a whistleblower violation.	1	1

¹ Unshaded rows tally filings during the fiscal year. Shaded rows tally outcomes during the fiscal year.

² The State Personnel Board uses different letters in its case numbering to indicate the type of appeal. "B" in the case numbering indicates matters where the employee has a mandatory right to a Board hearing, such as a loss of pay. "G" indicates an appeal of a grievance decision or other decision that does not impact base pay, status, or tenure. "S" indicates an appeal of a selection decision. Both G and S appeals are subject to the Board's review process and may be set for an evidentiary hearing. A "(c)" in the case numbering indicates that separate appeals have been consolidated into a single matter.

³ Reasons include lack of jurisdiction, untimeliness, abandonment, and other procedural reasons.

CASES PENDING FROM FY 20-21
(July 1, 2020-June 30, 2021)

Gu Kim v. Department of Public Safety, 2021B031 - *This case went to an evidentiary hearing on the whistleblower complaint.*

- October 19, 2020. Complainant appealed a termination. Complainant asserted Respondent retaliated for complaining about bias and retaliation.
- December 7, 2020. Respondent filed its response to the whistleblower complaint.
- May 3-4, 2021. Evidentiary hearing.
- July 6, 2021. ALJ issued an Initial Decision affirming the termination and denying a violation of the Whistleblower Act.

Kathleen McCain v. Department of Human Services, 2021B053 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- April 16, 2021. Complainant appealed a resignation. Complainant asserted Respondent retaliated for complaining about a co-workers conduct.
- June 4, 2021. Respondent filed its response to the whistleblower complaint.
- July 16, 2021. Respondent filed an unopposed motion to dismiss representing that it had resolved the issue raised in the complaint.
- July 20, 2021. ALJ dismissed the case.

Karen Mullen v. Department of Corrections, 2021G025 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 10, 2020. Complainant appealed a termination. Complainant asserted Respondent retaliated for complaining about alleged harassment.
- November 30, 2020. Respondent filed its response to the whistleblower complaint.
- February 2, 2021. Complainant filed a Charge of Discrimination with the CCRD.
- March 7, 2022. CCRD issued no probable cause determination.
- April 26, 2022. Following a review pursuant to Board Rule 8-25, ALJ issued a Preliminary Recommendation to deny the petition for hearing.
- May 17, 2022. The State Personnel Board issued an order adopting the ALJ's recommendation and dismissing the case.

Grace Novotny v. Department of Corrections, 2021G039 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- January 7, 2021. Complainant appealed a mid-year performance evaluation and other alleged adverse actions. Complainant asserted Respondent retaliated for complaining about misconduct by management.
- February 26, 2021. Respondent filed its response to the whistleblower complaint.
- June 14, 2021. Following a review, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- July 20, 2021. The State Personnel Board issued an order adopting the ALJ's recommendation.

- November 2, 2021. The parties reached a settlement agreement and Complainant filed a motion to dismiss
- November 2, 2021. ALJ dismissed the case.

Marcus Maes v. Department of Transportation, 2021G043(c) - *This case went to an evidentiary hearing on the whistleblower complaint.*

- February 12, 2021. Complainant appealed a reversion during trail service. Complainant asserted Respondent retaliated for participating in an investigation of co-workers.
- April 12, 2021. Respondent filed its response to the whistleblower complaint.
- July 2, 2021. Following a review, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- July 20, 2021. The State Personnel Board issued an order adopting the ALJ's recommendation.
- October 13-15, 2021. Evidentiary hearing.
- November 29, 2021. ALJ issued an Initial Decision finding a violation of the Whistleblower Act and reversing the reversion.
- April 19, 2022. Following an appeal to the Board of the ALJ's Initial Decision, the Board affirmed the Initial Decision.
- June 7, 2022. Respondent filed a Notice of Appeal with the Colorado Court of Appeals.

Tyler Humphreys v. Department of Human Services, 2021G046 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- March 16, 2021. Complainant appealed the termination of his probationary employment. Complainant asserted Respondent retaliated for disclosing alleged bullying and disregard for patients' mental health concerns.
- May 3, 2021. Respondent filed its response to the whistleblower complaint.
- July 13, 2021. ALJ dismissed the case for procedural issues.

David Licano v. Department of Corrections, 2021G054 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- May 13, 2021. Complainant appealed a performance evaluation. Complainant asserted Respondent retaliated for complaining about discrimination, about alleged expired training in violation of agency policy, and about alleged failure to test new employees for medical conditions.
- July 9, 2021. Respondent filed its response to the whistleblower complaint.
- January 19, 2022. ALJ dismissed the case for procedural issues.

Jami Ware v. Department of Corrections, 2021G055 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- June 7, 2021. Complainant appealed a Rule 6-10 meeting. Complainant asserted that the Rule 6-10 meeting was retaliatory for objecting to a layoff.
- September 20, 2021. Respondent filed its response to the whistleblower complaint.
- December 21, 2021. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- December 28, 2021. ALJ dismissed the case.

Riad Safadi v. University of Colorado Denver, 2021G058 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- June 10, 2021. Complainant appealed an evaluation that contained negative comments. Complainant asserted Respondent retaliated for complaining about an allegedly improper hiring decision, lack of accountability, and mismanagement.
- October 6, 2021. The parties reached a settlement agreement and Complainant filed a motion to dismiss.
- October 6, 2021. ALJ dismissed the case.

Gwendolyn Londenberg v. Department of Corrections, 2021G060 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- June 17, 2021. Complainant appealed a Confirming Memorandum. Complainant asserted Respondent retaliated for complaining about an alleged improper placing of an offender in restraints.
- August 6, 2021. Respondent filed its response to the whistleblower complaint.
- September 21, 2021. ALJ dismissed the case for abandonment.

Salette Thompson v. Department of Human Services, 2021G062 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- June 24, 2021. Complainant appealed a Notice of Rule 6-10 meeting. Complainant asserted Respondent retaliated for participating in two investigations of sexual abuse and for complaining about improper treatment of a patient.
- August 12, 2021. Respondent filed its response to the whistleblower complaint.
- November 1, 2021. Following a review pursuant to Board Rule 8-25, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- November 16, 2021. The State Personnel Board issued an order adopting the Preliminary Recommendation.
- April 22, 2022. The parties reached a settlement agreement and Complainant filed a motion to dismiss.
- April 25, 2022. ALJ dismissed the case.

Erin Starzyk v. Department of Public Health & Environment, 2021S012 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 30, 2020. Complainant appealed a non-selection. Complainant asserted Respondent retaliated for complaining that the case investigation and outreach team was falsifying gender information in the client database.
- November 30, 2020. Respondent filed its response to the whistleblower complaint.
- February 23, 2021. Following a review, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- March 16, 2021. The State Personnel Board issued an order rejecting the ALJ's recommendation and denying a hearing.
- April 20, 2021. Complainant filed a Notice of Appeal with the Colorado Court of Appeals.

CASES FILED IN FY 21-22
(July 1, 2021-June 30, 2022)

Eli Renteria v. Unknown Department, 2022B009 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- August 12, 2021. Complainant appealed a disciplinary action but did not specify the nature of such discipline. Complainant checked the box on the Consolidated Appeal Form to indicate a whistleblower complaint but did not specify any alleged disclosure or retaliation.
- September 7, 2021. ALJ dismissed the case for procedural issues.

Riad Safadi v. University of Colorado Denver, 2022B010 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- August 12, 2021. Complainant appealed an alleged forced resignation. Complainant asserted Respondent retaliated for complaining about an alleged improper relationship between a supervisor and a subordinate, and about mismanagement.
- October 6, 2021. The parties reached a settlement agreement and Complainant filed a motion to dismiss.
- October 6, 2021. ALJ dismissed the case.

Richard Reinhardt v. Department of Human Services, 2022B053 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- December 22, 2021. Complainant appealed a reduction in pay of ten percent for six months. Complainant asserted Respondent retaliated for protected disclosures about alleged substandard nursing levels.
- February 14, 2022. Respondent filed its response to the whistleblower complaint.
- May 10, 2022. ALJ set matter for an evidentiary hearing on August 29-31, 2022.

Matthew Chacon v. Adams State University, 2022B064 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- March 9, 2022. Complainant appealed an anticipated disciplinary action. Complainant asserted Respondent retaliated for reporting alleged crimes.
- April 5, 2022. Complainant requested to "recall" his appeal.
- April 7, 2022. ALJ dismissed the case.

Matthew Chacon v. Adams State University, 2022B074 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- April 18, 2022. Complainant appealed an administrative discharge. Complainant asserted Respondent retaliated for reporting a crime ring that involves human and drug trafficking.
- June 10, 2022. Respondent filed its response to the whistleblower complaint.
- June 10, 2022. ALJ set matter for an evidentiary hearing on August 22-23, 2022.

Matthew Herrera v. Department of Corrections, 2022B088 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 27, 2022. Complainant appealed a termination. Complainant asserted Respondent retaliated for raising issues with internet connectivity and lack of staffing that impacted his ability to complete his job duties in a timely and efficient manner.

Jessica Sanchez Moore v. Department of Public Health & Environment, 2022B089 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 30, 2022. Complainant appealed a termination. Complainant asserted Respondent retaliated for raising numerous concerns, including inequities, fiscal irresponsibility, endangering the health of the public and employees, and other alleged violations.

Jaesun Brown v. Department of Military & Veterans Affairs, 2022G002 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- July 22, 2021. Complainant appealed the termination of his probationary employment. Complainant asserted Respondent retaliated for disclosing an alleged violation of Federal Aviation Administration regulations.
- August 3, 2021. Complainant filed a Charge of Discrimination with the CCRD.
- August 7, 2021. Respondent filed its response to the whistleblower complaint.

Christine Mendias v. Department of Human Services, 2022G003 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- July 23, 2021. Complainant appealed a Corrective Action. Complainant asserted Respondent retaliated for disclosing alleged patient abuse.
- September 23, 2021. Respondent filed its response to the whistleblower complaint.
- November 30, 2021. Following a review pursuant to Board Rule 8-25, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- December 14, 2021. The State Personnel Board issued an order rejecting the ALJ's recommendation and denying a hearing.

JoElla Fawkes v. Department of Labor and Employment, 2022G018 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- November 11, 2021. Complainant appealed a corrective action. Complainant asserted Respondent retaliated for disclosing information about potential unemployment benefits fraud.
- December 15, 2021. ALJ dismissed the case for procedural issues.

Dennis Mattoon v. Department of Human Services, 2022G028 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- December 21, 2021. Complainant appealed the separation of his probationary employment. Complainant asserted Respondent retaliated for disclosing alleged time fraud, patient abuse, mismanagement, fraud, safety violations, and other alleged improper activities.

- January 14, 2022. Complainant filed a Charge of Discrimination with the CCRD.
- February 7, 2022. Respondent filed its response to the whistleblower complaint.

Jessica Ferguson v. Department of Corrections, 2022G031 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- January 3, 2022. Complainant appealed an alleged forced resignation of probationary employment. Complainant asserted Respondent retaliated for disclosing alleged racial slurs, sexual harassment, and other issues.
- April 8, 2022. ALJ dismissed the case for procedural issues.

Christopher O'Brien v. Department of Public Safety, 2022G035 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- January 21, 2022. Complainant appealed a corrective action. Complainant asserted Respondent retaliated for disclosing alleged incidents of physical intimidation, violations of FLSA, dishonesty, and numerous instances of inappropriate off duty contact.
- March 5, 2022. Respondent filed its response to the whistleblower complaint.
- April 13, 2022. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- April 13, 2022. ALJ dismissed the case.

Phuong Nguyen v. Department of Public Safety, 2022G037 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- February 10, 2022. Complainant appealed a corrective action. Complainant asserted Respondent retaliated for disclosing alleged micro-aggressions, false accusations, threats, and lack of diversity.
- April 25, 2022. Respondent filed its response to the whistleblower complaint.
- June 21, 2022. ALJ dismissed the case for abandonment.

Casey Miller v. Department of Corrections, 2022G041 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- February 23, 2022. Complainant appealed a corrective action. Complainant asserted Respondent retaliated for disclosing alleged sexual harassment and alleged improper meetings with certain offenders.
- April 11, 2022. Respondent filed its response to the whistleblower complaint.
- June 1, 2022. ALJ dismissed the case for procedural issues.

Amanda Kirkendall v. Department of Human Services, 2022G048 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- March 8, 2022. Complainant appealed termination of probationary employment. Complainant asserted Respondent retaliated for disclosing alleged failure by staff to follow policies and procedures.
- March 22, 2022. ALJ dismissed the case for procedural issues.

Ann Marie Stein v. Department of Health Care Policy & Financing, 2022G055 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- April 18, 2022. Complainant appealed the termination of her probationary employment. Complainant asserted Respondent retaliated for advocating for pay equity for another employee.
- June 6, 2022. Respondent filed its response to the whistleblower complaint.

Denise Tarantino v. Department of Corrections, 2022G056 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- May 6, 2022. Complainant appealed being placed on administrative leave and being investigated. Complainant asserted Respondent retaliated for reporting information relating to the cause of an emergency event.
- June 24, 2022. Respondent filed its response to the whistleblower complaint.

Genelle Hyde v. Department of Human Services, 2022S022 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- January 10, 2022. Complainant appealed a non-selection. Complainant checked the box on the Consolidated Appeal Form to indicate a whistleblower complaint but the nature of her alleged disclosures is not clear.
- March 3, 2022. ALJ dismissed the case for procedural issues.

Carol Jobe v. Department of Public Safety, 2022S035 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 13, 2022. Complainant appealed rescission of an employment offer. Complainant checked the box on the Consolidated Appeal Form to indicate a whistleblower complaint but did not specify any alleged disclosure or retaliation.