

State of Colorado



Jared Polis
Governor

Sarah Wager
Board Chair

Rick Dindinger
Board Director

State Personnel Board
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July 27, 2023

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

RE: Annual Whistleblower Report

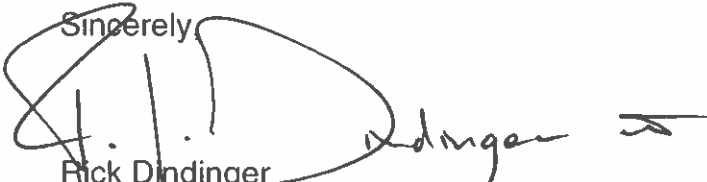
Dear Governor Polis:

Attached is the State Personnel Board's Whistleblower Report for Fiscal Year 2022-2023. 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. 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 2022-2023.

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
Laura Koeneman, 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, 2022, through June 30, 2023

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, 2022, and whistleblower complaints filed with the Board from July 1, 2022, through June 30, 2023. 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 any appointing authority or supervisor receiving disciplinary action pursuant to C.R.S. § 24-50.5-104(4) during Fiscal Year 2022-2023.

SUMMARY CHART¹

	FY 22-23	FY 21-22	FY 20-21
Number of whistleblower complaints filed with the Board.	24	20	24
Complaints subject to a mandatory Board hearing. ²	9	7	4
Complaints subject to Board’s review process and possible hearing.	15	11	20
Complaints dismissed voluntarily.	9	8	25
Complaints dismissed by Board following review process.	1	3	3
Complaints dismissed by Board for procedural reasons. ³	13	10	8
Evidentiary hearings of whistleblower complaints.	0	1	4
Board decisions finding a whistleblower violation.	0	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 letters in its case numbering convention 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)

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 and granting a hearing.
- 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.
- June 8, 2023. Court of Appeals affirmed the Board.

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 allegedly 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.
- July 7, 2022. Court of Appeals affirmed the Board.

CASES PENDING FROM FY 21-22
(July 1, 2021-June 30, 2022)

Richard Reinhardt v. Department of Human Services, 2022B053 - *This case did not go 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.
- October 7, 2022. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- November 30, 2022. ALJ dismissed the case.

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

- April 18, 2022. Complainant appealed an administrative discharge. Complainant asserted Respondent retaliated for reporting an alleged crime ring engaged in human and drug trafficking.
- June 10, 2022. Respondent filed its response to the whistleblower complaint.
- July 20, 2022. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- July 21, 2022. ALJ dismissed the case.

Matthew Herrera v. Department of Corrections, 2022B088 - *This case did not go 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 allegedly impacted job performance.
- August 12, 2022. Respondent filed its response to the whistleblower complaint.
- January 31, 2023. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- January 31, 2023. ALJ dismissed the case.

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

- June 30, 2022. Complainant appealed a termination. Complainant asserted Respondent retaliated for raising numerous concerns, including alleged inequities, fiscal irresponsibility, endangering the health of the public and employees, and other alleged violations.
- August 15, 2022. Respondent filed its response to the whistleblower complaint.
- December 20, 2022. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- December 22, 2022. ALJ dismissed the case.

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

- July 22, 2021. Complainant appealed the termination of a 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.
- September 16, 2022. CCRD issued a No Probable Cause Opinion.
- March 30, 2023. The parties reached a settlement agreement and Complainant filed a motion to dismiss.
- April 5, 2023. ALJ dismissed the case.

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

- December 21, 2021. Complainant appealed the termination of a 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.
- December 7, 2022. CCRD issued a No Probable Cause Opinion.
- May 5, 2023. Following a review, ALJ issued a Preliminary Recommendation to deny the petition for hearing.
- June 20, 2023. The State Personnel Board issued an order adopting the ALJ's recommendation and denying a hearing.

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

- April 18, 2022. Complainant appealed the termination of a 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.
- August 9, 2022. The parties filed a stipulation of voluntary dismissal.
- August 10, 2022. ALJ dismissed the case.

Denise Tarantino v. Department of Corrections, 2022G056 - *This case did not go 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.
- June 27, 2022. ALJ initiated a review pursuant to Board Rule 8-25.
- August 29, 2022. Order consolidating SPB 2022G056 and SPB 2023B009.

Carol Jobe v. Department of Public Safety, 2022S035 - *This case did not go 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.
- July 12, 2022. ALJ dismissed the case for procedural issues.

CASES FILED IN FY 22-23
(July 1, 2022-June 30, 2023)

Denise Tarantino v. Department of Corrections, 2023B009 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- May 6, 2022. Complainant appealed a demotion. Complainant asserted Respondent retaliated for reporting information relating to the cause of an emergency event.
- August 29, 2022. Order consolidating SPB **2023B009** and SPB **2022G056**.
- December 27, 2022. The parties reached a settlement agreement and Complainant filed a motion to dismiss.
- December 28, 2022. ALJ dismissed the case.

Marvin Earle v. Colo. Office of Economic Development & International Trade, 2023B019 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 28, 2022. Complainant appealed a termination. Complainant asserted Respondent retaliated for disclosing an alleged disparity in loan funding for minority businesses.
- October 13, 2022. ALJ dismissed the case for procedural issues.

Christine Mendias v. Department of Human Services, 2023B023 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- October 28, 2022. Complainant appealed a demotion. Complainant asserted Respondent retaliated for reporting information relating to alleged patient mistreatment, abuse, and traumatization, and alleged safety concerns.
- January 3, 2023. Respondent filed its response to the whistleblower complaint.
- April 31, 2023. The parties reached a "settlement agreement in principle" and Complainant moved to vacate the hearing.
- June 8, 2023. The parties failed to finalize a settlement agreement and ALJ reset the evidentiary hearing.

Catherine Hamilton and Titilayo Daramola v. Department of Human Services, 2023B037(c) - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- January 13, 2023. Complainant Hamilton appealed a termination. Hamilton did not assert a whistleblower violation. The Board assigned Hamilton's case as SPB **2023B037**.
- February 8, 2023. Order consolidating SPB **2023B037** and SPB **2023B040**.
- March 9, 2023. Respondent filed its response to Daramola's whistleblower complaint.
- June 21, 2023. The parties reached a settlement in principle and Respondent filed a motion to dismiss.
- June 22, 2023. ALJ stayed case pending settlement negotiations between the parties.

Titilayo Daramola v. Department of Human Services, 2023B040 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- January 18, 2023. Complainant Daramola appealed a termination. Daramola asserted Respondent retaliated for reporting concerns relating to a cardiopulmonary resuscitation policy. The Board assigned Daramola's case as SPB **2023B040**.
- February 8, 2023. Order consolidating SPB **2023B037** and SPB **2023B040**.

Jeremy McMurrey v. Department of Human Services, 2023B046 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- February 28, 2023. Complainant appealed a termination. Complainant asserted Respondent retaliated as a result of disclosures relating to work assignments and promotional opportunities.
- April 20, 2023. Respondent filed its response to the whistleblower complaint.
- May 23, 2023. ALJ dismissed the case for procedural issues.

Pamela Espinoza v. Colorado Community College System, Trinidad State College, 2023B055 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- April 10, 2023. Complainant appealed a termination. Complainant asserted Respondent retaliated as a result of disclosures relating to alleged misuse of grant funds.
- June 14, 2023. ALJ dismissed the case for procedural issues.

Michelle Xavier v. Department of Regulatory Agencies, 2023B057 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- April 14, 2023. Complainant appealed an email that allegedly impacted Complainant's career. Complainant's alleged protected disclosures are not specified or are unclear.
- May 19, 2023. ALJ dismissed the case for procedural issues.

William Hastings v. Department of Corrections, 2023B074 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 12, 2023. Complainant appealed a termination. Complainant asserted Respondent retaliated as a result of participating in a federal lawsuit against Respondent.
- June 13, 2023. ALJ referred matter to the CCRD for investigation and to the Respondent for a response to the whistleblower complaint.

Kathleen Murray v. Department of Corrections, 2023G001 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- July 1, 2022. Complainant appealed a non-selection. Complainant asserted Respondent retaliated for expressing concerns about management decisions during the COVID-19 pandemic.
- September 6, 2022. Respondent filed its response to the whistleblower complaint.
- October 26, 2022. ALJ dismissed the case for procedural issues.

Heather Amador v. Department of Human Services, 2023G004 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- July 11, 2022. Complainant appealed a separation. Complainant asserted Respondent retaliated for complaining about alleged failure to intervene and prevent youth detainees from sexually harassing Complainant and complaining about other workplace issues.
- August 29, 2022. Respondent filed its response to the whistleblower complaint.
- October 6, 2022. ALJ dismissed the case for procedural issues.

Gary Little v. Department of Corrections, 2023G007 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- August 2, 2022. Complainant appealed a corrective action. Complainant asserted Respondent retaliated for claiming discrimination in a prior Board matter.
- September 26, 2022. Respondent filed its response to the whistleblower complaint.
- March 1, 2023. Following a review, ALJ issued a Preliminary Recommendation to grant the petition for hearing.
- March 21, 2023. The State Personnel Board issued an order adopting the ALJ's recommendation and granting a hearing.
- May 1, 2023. ALJ set matter for an evidentiary hearing on July 10-12, 2023

Drew Kartos v. Department of Revenue, 2023G012 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 16, 2022. Complainant appealed a termination. Complainant asserted Respondent retaliated for sharing information about a manager's conduct.
- October 5, 2022. Respondent filed its response to the whistleblower complaint.
- November 29, 2022. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- November 29, 2022. ALJ dismissed the case.

Luis Uribe v. Department of Transportation, 2023G017 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 16, 2022. Complainant appealed the termination of a probationary employment. Complainant's alleged protected disclosures are not specified or are unclear.
- October 11, 2022. ALJ dismissed the case for procedural issues.

Jerome Greene v. University of Colorado Boulder, 2023G029 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- December 19, 2022. Complainant appealed issues related to retirement benefits with PERA. Complainant asserted Respondent engaged in alleged false statements related to Complainant's retirement benefits.
- January 19, 2023. ALJ dismissed the case for procedural issues.
- April 18, 2023. Following briefing by the parties and a discussion during a public meeting, the State Personnel Board affirmed the dismissal.
- May 12, 2023. Finding that Complainant "failed to present any rational argument based on the evidence or the law," the ALJ awarded attorney fees to Respondent.

- May 12, 2023. Complainant requested the Board to review the award of attorney fees.

Rebecca Andrews v. Department of Human Services, 2023G031 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- February 2, 2023. The nature of Complainant's adverse employment action is unknown. Complainant filed a whistleblower complaint relating to alleged failure by an employee to pay child support.
- March 27, 2023. ALJ dismissed the case for procedural issues.

Dede Salone v. Department of Revenue, 2023G036 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- April 3, 2023. Complainant appealed a written memorandum and a Step 2 Grievance Decision. Complainant asserted Respondent retaliated for raising concerns of alleged favoritism, lack of leadership, turnover, and other alleged workplace issues.
- May 18, 2023. Respondent filed its response to the whistleblower complaint.
- May 18, 2023. ALJ initiated a review pursuant to Board Rule 8-25.

Kelley Oyewole-Toney v. Department of Human Services, 2023G056 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 19, 2023. Complainant appealed a termination. Complainant asserted Respondent retaliated for raising concerns of alleged neglect and abuse of residents.
- June 21, 2023. ALJ referred the whistleblower complaint to Respondent for a response.

Gary Little v. Department of Corrections, 2023S019 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- September 20, 2022. Complainant appealed a non-selection. Complainant's alleged protected disclosures are not specified or are unclear from Complainant's initial filing.
- February 8, 2023. ALJ dismissed the case for procedural issues.

Kirsten Viers v. Department of Corrections, 2023S028 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- November 2, 2022. Complainant appealed a non-selection. Complainant's alleged protected disclosures are not specified or are unclear.
- November 7, 2022. ALJ dismissed the whistleblower complaint for procedural issues. Complainant's other claims proceeded forward.

Lori Spangler v. Department of Human Services, 2023S034 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- November 23, 2022. Complainant appealed a non-selection. Complainant asserted Respondent retaliated for raising concerns about the leadership team.
- December 20, 2022. Complainant appealed being passed over for reinstatement and filed a second whistleblower complaint. Complainant asserted Respondent retaliated for

complaining about an alleged failure to be present during state audits and alleged high rates of medication errors.

- December 22, 2022. ALJ consolidated Complainant's two whistleblower complaints.
- January 13, 2023. Respondent filed its response to the first whistleblower complaint.
- February 6, 2023. Respondent filed its response to the second whistleblower complaint.
- February 7, 2023. ALJ initiated a review pursuant to Board Rule 8-25.
- May 31, 2023. The parties reached a settlement agreement and Respondent filed a motion to dismiss.
- June 1, 2023. ALJ dismissed the case.

Gary Little v. Department of Corrections, 2023S043(c) - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- January 12, 2023. Complainant appealed a non-selection. Complainant asserted Respondent retaliated for claiming discrimination in a prior Board matter.
- March 10, 2023. Respondent filed its response to the first whistleblower complaint.
- March 17, 2023. Complainant appealed another non-selection. Complainant asserted Respondent retaliated for claiming discrimination in a prior Board matter.
- March 22, 2023. ALJ consolidated Complainant's two whistleblower complaints.
- May 9, 2023. Respondent filed its response to the second whistleblower complaint.
- May 11, 2023. ALJ initiated a review pursuant to Board Rule 8-25.

Ondrea Lujan v. Department of Human Services, 2023S063 - *This case did not go to an evidentiary hearing on the whistleblower complaint.*

- June 2, 2023. Complainant appealed a non-selection. Complainant's protected disclosure appears to relate to alleged workplace violence.
- June 22, 2023. ALJ dismissed the case for procedural issues.

Ryan Yarrow v. Department of Public Health & Environment, 2023S066 - *This case has not yet gone to an evidentiary hearing on the whistleblower complaint.*

- June 22, 2023. Complainant appealed a non-selection. Complainant's alleged protected disclosures are not specified or are unclear.
- June 22, 2023. ALJ ordered Complainant to complete and file the standard whistleblower complaint form.