

CHAPTER 182

GOVERNMENT - STATE

HOUSE BILL 05-1339

BY REPRESENTATIVE(S) Marshall, Berens, Butcher, Carroll T., Coleman, and Jahn;
also SENATOR(S) Anderson.

AN ACT**CONCERNING PROCEDURES RELATED TO HEARINGS HELD BY THE STATE PERSONNEL BOARD.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-50-103 (7), Colorado Revised Statutes, is amended to read:

24-50-103. State personnel board. (7) The board may ~~employ~~ AUTHORIZE administrative law judges, who shall be lawyers with at least five years' experience, TO CONDUCT HEARINGS ON ANY MATTER WITHIN THE JURISDICTION OF THE BOARD UPON TERMS AND CONDITIONS DETERMINED BY THE BOARD AND SUBJECT TO THE PROVISIONS OF ARTICLE 4 OF THIS TITLE. THE BOARD shall employ such personnel as may be necessary for the performance of its duties, including an administrator who shall serve as secretary to the board with such duties as the board may assign. Funds for these purposes shall be appropriated by the general assembly.

SECTION 2. 24-50-123 (3), Colorado Revised Statutes, as it will become effective July 1, 2005, is amended to read:

24-50-123. Grievances - review. (3) The decision of the appointing authority shall be final; except that an employee may petition the board for review. The board may grant the petition only when it appears that the decision of the appointing authority violates an employee's rights under the federal or state constitution, part 4 of article 34 of this title, article 50.5 of this title, or the grievance procedures adopted pursuant to subsection (1) of this section. The board shall review and summarily grant or deny a petition within ninety days of receipt of the petition; EXCEPT THAT PETITIONS FILED WITH THE BOARD THAT RESULT IN AN INVESTIGATION PURSUANT TO SECTION 24-50-125.3 OR 24-50.5-104 ARE EXEMPT FROM THE NINETY-DAY REVIEW REQUIREMENT. Any petition granted shall be determined in accordance with section 24-50-125.4.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. 24-50-125 (2), (4), and (5), Colorado Revised Statutes, are amended to read:

24-50-125. Disciplinary proceedings - appeals - hearings - procedure.

(2) Any certified employee disciplined under subsection (1) of this section shall be notified IN WRITING by the appointing authority, by certified letter OR HAND DELIVERY, no later than five days following the effective date of the action, of the action taken, the specific charges giving rise to such action, and the employee's right of appeal to the board. ~~A copy of such notification shall also be sent to the board.~~ THE NOTICE SHALL INCLUDE A STATEMENT SETTING FORTH THE TIME LIMIT FOR FILING AN APPEAL WITH THE BOARD, THE ADDRESS OF THE BOARD, THE REQUIREMENT THAT THE APPEAL BE IN WRITING, AND THE AVAILABILITY OF A STANDARD APPEAL FORM. Upon failure of the appointing authority to ~~so~~ notify the employee IN ACCORDANCE WITH THIS SUBSECTION (2), the employee shall be compensated in full for the five-day period and until proper notification is received.

(4) ~~At such~~ THE hearing ~~which~~ shall be held within ~~forty-five~~ NINETY days of receipt of the employee's ~~petition~~; APPEAL PURSUANT TO THE PROVISIONS OF SECTION 24-50-125.4. The employee shall be entitled to representation of his OR HER own choosing at his OR HER own expense, CONSISTENT WITH THE RULES OF THE COLORADO SUPREME COURT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW. The board shall cause a verbatim record of the proceedings to be taken and shall maintain ~~such~~ THE record. At the conclusion of ~~such~~ THE hearing, but not later than forty-five days after the conclusion of ~~such~~ THE hearing, the board shall make public written findings of fact and conclusions of law affirming, modifying, or reversing the action of the appointing authority, and the appointing authority shall thereupon promptly execute the findings of the board.

(5) In addition, ~~the board shall hold a hearing within forty-five days of the appeal,~~ upon request by the employee or the employee's representative AND WITHIN THE PERIOD PROVIDED IN SECTION 24-50-125.4 (2), THE BOARD SHALL HOLD A HEARING ON AN APPEAL for any certified employee in the state personnel system who protests any action taken ~~which~~ THAT adversely affects the employee's current base pay as defined by board rule, status, or tenure. A probationary employee shall be entitled to all the same rights to a hearing as a certified employee; except that such probationary employee shall not have the right to a hearing to review any disciplinary action taken pursuant to subsection (1) of this section while a probationary employee. This subsection (5) shall not apply to appeals brought pursuant to section 24-50-104.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2005