

**HEARINGS OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 70-05

ORDER

IN THE MATTER OF THE APPEAL OF:

REBECCA M. ARELLANO,
Appellant,

vs.

DENVER CITY ATTORNEY'S OFFICE, DEPARTMENT OF LAW,
Agency, and the City and County of Denver, a municipal corporation.

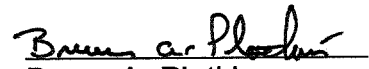
This matter comes for review of the Agency's Motion to Dismiss, filed July 14, 2005. The Appellant did not respond. Based upon the Agency's Motion, review of this case, and pertinent authority, the Hearings Officer finds and rules as follows.

The Agency basis its Motion upon jurisdictional grounds. It argues since the Appellant first filed this case as a grievance, she is required strictly to follow Career Service Rule 19-10 d). The Agency alleges the Appellant did not comport with that rule because she has not cited a "legitimate rule violation." The Agency cites In re Sapp-Jones, CSA 97-99 as authoritative. The Hearings Officer respectfully disagrees.

At least since 2002, the Hearings Officers have declined to follow Sapp-Jones. "In written reprimand cases, to the extent that prior cases required Appellant to bear the burden to prove the written reprimand was arbitrary and capricious because they were grievance appeals, the Hearings Officer declines to follow that reasoning, and requires Agency to prove it had just cause to discipline Appellant." In re Douglas, CSA 317-01, 10-11 (interlocutory order 3/22/02).

In addition, the Appellant cited CSR 16 in her appeal and in her pre-hearing statement. Whether the Agency complied with the purpose of rule 16 is a legitimate inquiry in the appeal of a written reprimand. For these reasons, the Hearings Officer DENIES the Agency's Motion.

DONE this 4th day of August, 2005.


Bruce A. Plotkin
Hearings Officer
Career Service Board