

NOTICE OF RECUSAL

IN THE MATTER OF THE APPEAL OF:

DANIELLE BROWN, Appellant,

vs.

CAREER SERVICE AUTHORITY (now known as Office of Human Resources),
and the City and County of Denver, a municipal corporation, Agency.

On January 17, 2013, a Notice and Order issued which invited the parties to submit responses to whether I should be recused/disqualified¹ from hearing the above-captioned matter. The parties submitted timely responses. Having considered pertinent authority and the parties' responses, I enter the following findings and order.

1. I am a judge as defined by, and subject to, the Colorado Code of Judicial Conduct. [Colo. Code of Jud. Conduct, "Application"].
2. On January 17, 2013, I disclosed information I deemed pertinent to a potential recusal.
3. The Appellant's motion for recusal did not cite any specific reasons supporting her motion.
4. The Agency waived disqualification and asked that I hear this appeal.
5. The standards for recusal include Colo. Code of Jud. Conduct, Rule 2.11, Disqualification, under Canon 2, which states

A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned...

6. Even where a motion to recuse/disqualify fails to state specific facts sufficient to convince a reasonable person that the assigned judge could not be impartial under the Colorado Code of Judicial Conduct, the judge is obligated to

¹ The terms disqualification and recusal are interchangeable. [Comment #1, Canon 2].

determine whether his or her impartiality might reasonably be questioned. [Comment #2, CCJC Rule 2.11].

In consideration of these findings and standards, and despite the arguments of counsel for the Agency to the contrary, I find, based on my prior disclosure, that my impartiality might reasonably be questioned in deciding this appeal.² Consequently, I recuse from hearing this case and from taking any further action therein.

In view of Judge McNaughton's recusal from this same case, an outside judicial officer will be appointed to hear this case at no cost to the parties. Judges Plotkin and McNaughton will not participate in the selection of such outside judicial officer. The stay of proceedings in this case, entered on January 17, 2013, continues until the selection of an outside hearing officer.

DONE February 5, 2013.



Bruce A. Plotkin
Career Service Hearing Officer

² This conclusion is based only on the particular circumstances I outlined in my prior notice, and should not be interpreted as applying generally to cases where a party or witness has a friendship with a hearing officer. See, e.g. *People ex rel. A.G.*, 264 P.3d 615 (Colo. App. 2010), rev'd on other grounds, 262 P.3d 646 (Colo. 2011).