HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO
Appeal No. 62-09

ORDER GRANTING APPELLANT'S MOTION FOR JOINDER OF CAREER SERVICE AUTHORITY

IN THE MATTER OF THE APPEAL OF:

RONNIE SANDERS, Appellant,

vs.

DENVER PARKS AND RECREATION, and the City and County of Denver, a municipal corporation, Agency.

The Appellant filed a motion, on January 6, 2010, to join the Career Service Authority as a party to the above-captioned appeal. The Denver Department of Parks and Recreation filed its objection on January 11, 2010. Having considered the pleadings, the file, and pertinent authority, I now find and order as follows.

The issues in this case are whether the Appellant's layoff from the Agency was effected as an unlawful retaliation, and whether his layoff was arbitrary, capricious or contrary to rule or law.[1] The Appellant's other claims were previously dismissed.

The Agency correctly points out that the Career Service Rules (CSR) which govern this appeal hearing, do not address joinder; however, under **CSR 19-30 A,** hearing officers are given broad power to "perform the functions necessary to implement and maintain a fair and efficient process for appeals." It is undisputed that, as a result of a reorganization, the Appellant's position in Parks and Recreation was eliminated, and another, similar, if not identical, position was created in the CSA. It is also undisputed that the reorganization could not have occurred without CSA approval. It appears, therefore, that complete relief could not be given in the absence of CSA participation, if the Appellant's appeal were successful. Under **§ 19-55,** hearing officer's decision after hearing "shall contain findings on each issue "necessary to resolve the appeal..."

In addition to the above, the CSA would likely be represented by the same attorney, and claims and rebuttals for the two agencies would likely be the same, thus no unfair prejudice or inefficiency would result by joinder of the CSA. See Board of County Commissioners of County of San Miguel v Roberts, 159 P.3d 800, (Colo. App. 2006).

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[1] In a direct appeal of a layoff, the appellant has the burden to prove, by preponderant evidence, that the Agency's acts were arbitrary, capricious, or contrary to rule or law. In re Romberger, CSA 89-04, 6 (3/2/05), *citing* Velasquez v. Dept. of Higher Education, 93 P.2d 540 (Colo. App. 2003).

For these reasons the Appellant's motion to join the Career Service Authority is **GRANTED**. This appeal shall be recaptioned as:

IN THE MATTER OF THE APPEAL OF:

RONNIE SANDERS, Appellant,

vs.

DENVER PARKS AND RECREATION; THE CAREER SERVICE AUTHORITY; and the City and County of Denver, a municipal corporation, Agency

DONE January 13, 2010.

Bruce A. Plotkin
Career Service Hearing Officer

I certify that, on January 13, 2010, I delivered a correct copy of this Order to the following in the manner indicated:

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