

CAREER SERVICE BOARD, CITY AND COUNTY OF DENVER, STATE OF
COLORADO

Appeal Nos. 64-07, 61-07, 62-07, 67-07

FINDINGS AND ORDER

IN THE MATTER OF THE CONSOLIDATED APPEALS OF:

AUDRA MESTAS, PATRICIA SALAZAR, LAURA FUENTES, KAREN SIERRA,

Appellants/Respondents,

vs.

DEPARTMENT OF PARKS AND RECREATIONS, and the City and County of
Denver, a municipal corporation,

Agency/Petitioner.

This matter is before the Career Service Board on the Agency's Request for a Stay of the Hearing Officer's Decision, dated May 30, 2008, which reinstated Appellants Mestas, Salazar and Fuentes to their former positions, and modified Appellant Sierra's suspension to a written reprimand. The Board has reviewed the Agency's motion and affidavit and **DENIES** the requested stay on the following grounds.

Pursuant to Career Service Rule (CSR) 19-66 B., the Board may stay a hearing officer's decision if the requesting party demonstrates that irreparable harm, injury or loss would occur if the stay is not granted. The Agency argues that absent a stay it will be required to reimburse Appellants for back pay and benefits which it would be unlikely to recover if it prevails on appeal. Various city agencies have advanced this argument and the Board has repeatedly found that it is not a showing of irreparable harm for purposes of CSR 19-66 B.

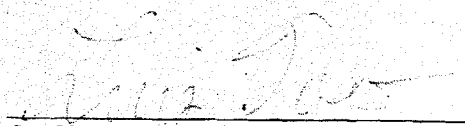
Additionally the Agency argues, as to Appellants Mestas, Salazar and Fuentes, that their positions have been eliminated due to the city-wide consolidation of payroll and human resources functions, and reinstatement would require the Agency to create new positions and pay Appellants, even though their previous duties are currently being performed in another department. The Board finds that the elimination of an employee's position following a dismissal is not a showing of irreparable harm for purposes of staying a reinstatement order. Such an argument, if presented as a policy consideration on the merits of the appeal, would virtually eliminate an employee's right of appeal and render the dismissal non-reviewable.

ORDER

IT IS THEREFORE ORDERED that the Agency's Request for Stay is **DENIED**.

SO ORDERED by the Board on June 19, 2008 and documented this
day of June, 2008.

BY THE BOARD:



Co-Chair Luis Toro

Board Members Concurring:


Tom Bonner
Nita Henry
Kit Williams

Board Member Felicity O'Herron dissents from the Board's decision.

CERTIFICATE OF DELIVERY

I certify that I delivered a copy of the foregoing **FINDINGS AND ORDER** on
June 30, 2008, in the manner indicated below, to the following:

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