



Kentucky Personnel Board

News & Updates

The Commonwealth of Kentucky Personnel Board prepares this newsletter for state employees.

From the Desk of...

Mark Sipek, Executive Director

The purpose of this newsletter is to provide information to state employees about the Merit System and specifically about the operations of the Personnel Board. The Board feels that with this newsletter it can fulfill one of its statutory mandates to “promote public understanding of merit principles in government service.”

Since this is our first newsletter it seems appropriate to provide some information about the Board itself. The Board is made up of seven members—five of whom are appointed by the Governor and two who are elected by merit employees. The Board meets once a month. Historically, the Board’s primary function has been to make the final administrative decision with respect to appeals filed by state employees. The Board receives approximately 400 appeals per year.

The Board’s staff consists of six employees who work full time at the Board’s office at 28 Fountain Place in Frankfort. Currently, the Board contracts with ten private attorneys who function as its Hearing Officers. The Board’s Executive Director and General Counsel (staff members) also serve as Hearing Officers.

The Personnel Board is an independent state agency—**separate from the Personnel Cabinet**—although we work closely with the Cabinet in support of the merit system. It is important for all to know that the Board takes its role very seriously as an independent decision maker of disputes between state employees and state agencies. The Board’s primary function is to support the merit system throughout state government. It is not the Board’s role to take the side of the employee or the state agency, but to render impartial decisions based on the law and evidence.



Mark A. Sipek
Executive Director

If you have questions about the merit system or the role of the Personnel Board, I hope this newsletter provides you with a starting point, encourages further research, and leads to a better understanding.

Volume 1, Issue 1

February 2010

Special points of interest:

- *Did you know you do not have to have any attorney to file an appeal?*
- *Did you know evidentiary hearings are open to the public?*
- *Did you know that if you are an eligible classified employee, you may run for a position on the Board? The election will be held in June 2010!*
- *Did you know that you may ask to have your appeal mediated?*

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From the Chair...



Thank you to those of you who voted for me in the 2006 Board election. I am proud to have had the opportunity to serve every employee as your representative, and I am

humbled by having been chosen by my peers on the Board to serve as vice-chair and chair.

Serving on the Board is truly rewarding as we strive to promote and protect the merit principles in state government. I encourage each merit em-

ployee to get involved in the 2010 Board election: become a candidate, learn about the candidates, and exercise your right to vote.

Best wishes for the coming year!





Kentucky Personnel Board

Our Calendar of Events

Did you know you can check the Board's Calendar of Events for upcoming events? At that site, you may check dates, times, and places of Board Meetings, Pre-Hearing Conferences, and Evidentiary Hearings.

The following are some abbreviations used for our Calendar which you need to become familiar with: (1) "PHC" means pre-hearing conference. This is the first step taken after you have filed your appeal; (2) "Telephonic PHC" means your pre-hearing conference will be conducted by telephone. Please ensure to provide the Board with a

current number where we may reach you; and (3) "H. O." means Hearing Officer. If you would like to know what Hearing Officer has been assigned to hear your evidentiary hearing, you may find the last name of your Hearing Officer in the same information block

Check Out Our Calendar of Events on our Website:

<http://personnelboard.ky.gov/>



How to File an Appeal

A state employee can file an appeal with the Personnel Board by completing an appeal form and delivering it to the Board by either (a) mail; (b) facsimile; or (c) hand delivery. Forms can be obtained on our Website: <http://personnelboard.ky.gov/> and in the personnel offices of most state agencies.

Appeals can be filed without legal representation. The appeal form is designed so employees can complete the form without the need for legal assistance. The form has 13

boxes which can be checked for specific actions, as well as one box which can be checked for "other penalization," which allows for more specificity.

The Appellant (**the person filing the appeal**) is asked to provide a short, plain, and concise statement of the facts that relate to the appeal.

The statute of limitations to file appeals differs depending upon who is filing the appeal and the action that is being appealed. Keep in mind that an appeal is

considered filed **when it arrives at the offices of the Personnel Board**. If there is any doubt that time may be running out to file your appeal, it is best to complete the form the best you can and get it to our office immediately. Remember, appeals can be faxed. Our fax number is (502) 564-1693.

Please bear in mind that we can provide information, but **cannot provide legal advice**. If you have questions, you may contact us at (502) 564-7830.

Personnel Board's Annual Report for 2009

This annual report is generated pursuant to KRS 18A.075(6).

The list below enumerates the major activities of the Personnel Board during FY 2009:

1. Hearing appeals pursuant to KRS Chapter 18A of Merit System (classified) employees and unclassified employees, who have been dismissed, demoted, suspended or otherwise penalized.
2. Revision of administrative regulations as needed.
3. Zealous protection of equitable treatment and due process of all state employees, in-

cluding answering various questions from state employees, members of the press and the general public concerning the merit system and its procedures.

4. Participation by hearing officers, Executive Director and General Counsel in intensive hearing officer training conducted by the Office of the Attorney General and other professional organizations as mandated by KRS Chapter 13B, Administrative Hearing Procedures Act.

5. Training state personnel on the activities of the Board and the provisions of KRS Chapter 18A.

6. Conducting investigations of matters relating to KRS 18A.

Full Report Available at personnelbd.ky.gov.





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Frequently Asked Questions

Q: Do I need (or have to have) an attorney represent me?

A: It is your choice to have an attorney represent you; however, the Personnel Board does not require that you retain counsel to pursue your appeal. Whether you are represented by counsel or represent yourself, you will be held to the same standard. In any case, you either must represent yourself or be represented by a licensed attorney.

Q: What is a pre-hearing conference?

A: A pre-hearing conference is the first step in your appeal process. You and your attorney (if you have retained one), the attorney for the Agency, and the Hearing Officer will be present at your pre-hearing conference. The issues in your appeal will be discussed, as well as any other procedural steps. Please be advised that no testimony is taken at a pre-hearing conference; therefore, you do not need to bring any witnesses.

Q: May I attend my pre-hearing conference by telephone?

A: If you cannot personally attend your pre-hearing conference, you may ask the Board to allow you to appear by telephone. It is your responsibility to provide a reliable telephone number where you can be reached.

Q: What other procedural steps may occur between the time of the pre-hearing conference and evidentiary hearing?

A: Agencies will sometimes challenge the Personnel Board's jurisdiction to consider an appeal by filing a Motion to Dismiss. This does not mean your appeal has been dismissed, and you will be given a chance to respond in writing to this motion. A Hearing Officer will then decide if your appeal will proceed. On occasion, an appeal may be referred for mediation, if the parties are agreeable. Should your appeal proceed to mediation that does not mean your appeal has been dismissed at the Board. If mediation is unsuccessful, your appeal will be returned to the Board for further action.

Q: What is an evidentiary hearing?

A: An evidentiary hearing is much like a trial. You may call witnesses to testify on your behalf (including yourself). You may also introduce documents or items into evidence through the testimony of a witness. The Agency may do the same. Please understand that documents may not be considered as actual evidence until they are introduced at the evidentiary hearing through the testimony of a witness. Simply filing an Exhibit List, as required by the Hearing Officer's Interim Order, does not mean those documents may now be considered as evidence. The Hearing Officer assigned to the case will recommend a decision to the full Personnel Board.

Q: May I attend my evidentiary hearing by telephone or have it moved to some place closer to my residence or workstation?

A: No. An evidentiary hearing may not be conducted by telephone. The evidentiary hearing must be held in Frankfort. See Administrative Regulation 101 KAR 1:365, Section 3(7).

Q: If I am dissatisfied with the Hearing Officer's ruling, may I ask the full Board to reconsider the Hearing Officer's ruling?

A: Yes. Be advised the Board considers all recommendations from its Hearing Officers before making a final decision. If you disagree with the Hearing Officer's recommendation, you may file written arguments with the Board **no later than fifteen (15) days from the date the ruling was issued**. This date may be found on the last page of the Findings of Fact, Conclusions of Law, and Recommended Order. Merely having the exceptions post-marked or mailed on the 15th day will not suffice.

Q: If I am still dissatisfied after the full Personnel Board's final ruling, what could I do then?

A: You may file an original action challenging the Board's ruling in the Franklin Circuit Court.

Q: May I argue my case to the Personnel Board in person?

A: Yes. Make sure you request an "Oral Argument" in the same timeframe as specified above for filing Exceptions.

Q: How do I get people to come to testify on my behalf at the evidentiary hearing?

A: You may request a subpoena from the Board. You must complete the subpoena and make as many copies as you need. It is your responsibility to serve the subpoena on the persons you wish to bring to the hearing. It is your responsibility to complete the appropriate portion of the subpoena (reflecting how it was served), and you need to file the original of the subpoena with the Personnel Board. You may keep a copy for your records. Please be aware that if you subpoena someone who is not subpoenaed by the Agency, you may be responsible for travel expenses for that witness.

Q: Do I have to use my leave time to attend the pre-hearing conference or the evidentiary hearing?

A: Yes; however, this leave time may be recoverable depending upon the outcome of the appeal.

Q: If my witnesses are state employees, do they have to use leave time to testify?

A: No; state employees who are properly subpoenaed may claim court leave.



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“The Kentucky Personnel Board is ready to serve you.”



The Personnel Board was established to safeguard the "merit system" for state government employees and to serve as an impartial adjudicator of employee-employer disputes for state government.

Please feel free to call us if you have any questions. The staff of the Personnel Board will do its best to answer your questions, but we cannot give legal advice.

Remember, whether you are an employee, a state agency, or an interested taxpayer, the Kentucky Personnel Board is ready to serve you.



About the Board

The Personnel Board is composed of seven members. Five are appointed by the Governor and two are elected by state merit employees. Each member serves a four-year term, with the terms being staggered.

Betty M. Gibson
 Frankfort, KY
 (Term Expires: January 1, 2010)

Tina Johnson Goodmann*
 Frankfort, KY
 (Term Expires: June 30, 2010)

Larry B. Gillis*
 Lawrenceburg, Kentucky 40342
 (Term Expires: June 30, 2010)

David F. Hutcheson, Jr.
 Paducah, KY
 (Term Expires: January 1, 2011)

Suzanne Cassidy
 Crescent Springs, KY
 (Term Expires: January 1, 2012)

Wayne Douglas Sapp
 Columbia, KY
 (Term Expires: January 1, 2012)

Dr. David B. Stevens
 Lexington, KY
 (Term Expires: January 1, 2013)

***DENOTES CLASSIFIED MEMBER**



2010 Personnel Board Members (from L to R): Larry Gillis, Suzanne Cassidy, Tina Goodmann (Chairman), Doug Sapp, Mark Sipek, and Betty Gibson. Absent from photo: Dr. David Stevens and David F. Hutcheson, Jr.

