

KENTUCKY PERSONNEL BOARD

ANNUAL REPORT

for

FISCAL YEAR 2011

SUMMARY OF ACTIVITIES

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

The list below enumerates the major activities of the Personnel Board during Fiscal Year 2011.

1. Hearing appeals pursuant to the provisions of 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. Tracking grievances that are filed within the agencies.
4. Zealous protection of equitable treatment and due process of all state employees, including answering various questions from state employees, members of the press and the general public concerning the merit system and its procedures.
5. 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.
6. Conducting investigations of matters relating to KRS Chapter 18A as they are brought to us by various means.
7. Training state personnel on the activities of the Board and the provisions of KRS Chapter 18A.

**KENTUCKY PERSONNEL BOARD MEMBERSHIP
FISCAL YEAR 2011
July 1, 2010 – June 30, 2011**

The Kentucky Personnel Board consists of five members who are appointed by the Governor for overlapping terms of four years, and two Merit System (classified) employees who are elected by their peers, also for four year terms.

<u>ACTIVE MEMBERS</u>	<u>COUNTY OF RESIDENCE</u>	<u>APPOINTMENT, RE-APPOINTMENT OR ELECTION</u>	<u>END OF TERM</u>
M. Suzanne Cassidy -- Chair	Kenton	February 20, 2008	January 1, 2012 Resigned June 2011
David F. Hutcheson, Jr.	McCracken	December 14, 2009 January 2, 2011	January 1, 2011 January 1, 2015
Douglas Wayne Sapp	Adair	November 20, 2009	January 1, 2012
David B. Stevens	Fayette	June 30, 2009	January 1, 2013
Tommy W. Chandler	Webster	June 16, 2011	January 1, 2014
Larry B. Gillis --Vice Chair	Anderson	December 12, 2008 July 1, 2010	June 30, 2010 June 30, 2014
Susan E. Gardner	Franklin	July 1, 2010	June 30, 2014

PAST MEMBERS WHO SERVED PART OF FISCAL YEAR 2011

Cecil F. Dunn	Fayette	July 1, 2010	March 8, 2011 (Not confirmed by Senate)
---------------	---------	--------------	--

APPEALS

In Fiscal Year 2011, the Personnel Board received two hundred eighty-eight (288) appeals alleging some violation of KRS Chapter 18A. These appeals came from classified employees who had been dismissed, suspended, demoted, laid off, or who alleged some other merit system violation. Also included in this number are appeals from unclassified employees who were dismissed, suspended, demoted, or otherwise penalized for cause or who made allegations of discrimination. Persons eligible on employment registers compiled by the Personnel Cabinet who allege some form of penalization are also allowed to appeal to the Board and those appeals are also included in this number. This number includes appeals filed by individuals over which the Personnel Board's legal jurisdiction is questionable. The appeals were reviewed to determine whether or not the Board actually had jurisdiction.

Appeals Pending 7-1-10	238
Appeals Filed During Fiscal Year	288
Final Orders Sent Out for Fiscal Year	<u>310</u>
Total Pending Cases 6-30-11	214

The Board held approximately three hundred sixty-two (362) pre-hearing conferences. Each appeal is scheduled for a pre-hearing to determine the issues and address any matters that need to be clarified before the evidentiary hearing. Some appeals may require more than one pre-hearing conference. The Board's Executive Director and General Counsel conduct almost all of the pre-hearings to conserve the hearing officers' funding.

The hearing officers conducted eighty-nine (89) evidentiary hearings. Some of these were multiple-day hearings, while others lasted only part of a day. After the hearing officer completes his recommended order, and upon filing of subsequent pleadings and oral arguments, if requested, the Board takes its final action. The average length of time from filing an appeal to final adjudication by the Board was approximately ten (10) months. Of the seventy-two (72) settlements, eighteen (18) were mediated by the Kentucky Employees Mediation Program, administered by the Personnel Cabinet.

FINAL ORDERS SENT

Agency Actions Upheld (Appeal dismissed)	116
Appeals Sustained to Extent (Agency's penalty lessened)	10
Appeals Sustained (Agency's action reversed)	10
Reinstatements (Employee returned to work after dismissal)	4
Agreed Orders (Settlements)	72
Withdrawals (Appellant decided not to proceed)	<u>98</u>
	310

INVESTIGATIONS

Pursuant to KRS 18A.075, the Board has the power to conduct investigations concerning abuses of the merit systems. The following investigations were carried forward from prior fiscal years:

1. Doerting Investigation, Transportation Cabinet (concluded)
2. Patton Database Investigation
3. Returning Retiree Investigation
4. Starting Salaries (New hires versus incumbent)

The following new investigations were requested:

1. Investigation of "Non P-1" position in Dept. of Military Affairs by Amy Mischler (denied).
2. Investigation into the Department of Juvenile Justice by Julie Johnson (denied).
3. Investigation of Two Assistant Director positions in Department of Agriculture by Larry Gillis (opened).

KENTUCKY ADMINISTRATIVE REGULATIONS

Amendments were submitted and approved as follows:

1. Effective March 31, 2011, to 101 KAR 2:095E, Classified Service; 101 KAR 2:102E, Classified Leave; and 101 KAR 3:015E, Unclassified Leave. The changes were required because of the new Kentucky Human Resources Information System (KHRIS).
2. Effective July 21, 2011, to 101 KAR 1:325, the regulation establishing the length of probationary periods.

GRIEVANCES

KRS 18A.075(6) was amended by the General Assembly in 2010 and reads as follows:

(6) Make annual reports to the Governor, the Legislative Research Commission, the secretary of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy. The board may request state agencies to provide information to assist the board in compiling the reports, which shall include the following:

(a) The number of merit state employees at the beginning and the end of the reporting period;

(b) The total number of grievances filed and mediation requests made by merit employees during the reporting period;

(c) A tabulation of the stages in which employee complaints were resolved during the reporting period; and

(d) The average amount of time taken to resolve employee complaints during the reporting period, by stage.

The total number of Merit (classified) employees on July 1, 2010, was 30,043.

Total number of Merit (classified) employees on June 30, 2011, was 29,039.

Fifty-three (53) mediation requests were made by merit (classified) employees FY 2011.

Two hundred forty-four (244) grievances were filed by merit (classified) employees FY 2011.

There can be several stages of a grievance, depending at what stage the grievance is resolved.

Number of grievances resolved at first level of review:	46
Average time to resolve for first level:	5 days
Number of grievances resolved at second level of review:	60
Average time to resolve at second level:	8 days
Number of grievances resolved at third level of review:	26
Average time to resolve at third level:	10 days
Number of grievances resolved at fourth level of review:	40
Average time to resolve at fourth level:	13 days
Number of grievances resolved at Appointing Authority level (final level):	72
Average time to resolve at Appointing Authority level (final level):	10 days

KENTUCKY PERSONNEL BOARD MEETINGS

In compliance with KRS 18A.070(2), the Personnel Board scheduled at least one regular meeting each month.

2010

July 9

August 13

September 10

October 8

November 15

December 10

2011

January 14

February 11

March 11

April 11

May 16

June 10

All meetings were conducted in accordance with the Kentucky Open Meetings Act (KRS 61.805, *et seq.*). Notices were sent to the press and posted in public places.