

KENTUCKY
PERSONNEL
BOARD

ANNUAL REPORT

for

FISCAL YEAR 2013

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 2013.

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 2013
July 1, 2012 – June 30, 2013

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>
David F. Hutcheson, Jr.	McCracken	December 14, 2009 Reappointed Jan. 2, 2011	January 1, 2011 January 1, 2015
Douglas Wayne Sapp --Chair	Adair	November 20, 2009 Reappointed April 27, 2012	January 1, 2012 January 1, 2016
David B. Stevens	Fayette	June 30, 2009 Reappointed July 11, 2013	January 1, 2013 January 1, 2017
Tommy W. Chandler	Webster	June 16, 2011	January 1, 2014
Larry B. Gillis --Vice Chair	Anderson	December 12, 2008 Elected July 1, 2010	June 30, 2010 June 30, 2014
Donald W. Blevins	Fayette	August 11, 2011 Reappointed April 27, 2012	January 1, 2012 January 1, 2016
Ramona Herndon	Jefferson	Selected by Board July 13, 2012 (in accordance with KRS 18A.060)	June 30, 2014

APPEALS

In Fiscal Year 2013, the Personnel Board received two hundred ninety (290) 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 make certain claims 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.

The Board held approximately three hundred seventy-eight 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.

In February 2013, staff became aware that operating funds would be insufficient for the remainder of the year if the Board continued to operate as it normally would. The effect of this was that for approximately four and one-half months, all evidentiary hearings, as well as pre-hearing conferences, were conducted by the Executive Director and General Counsel, in addition to their other duties. Several evidentiary hearings had to be rescheduled into the next fiscal year, giving priority to dismissal cases. The average length of time for an appeal going to hearing increased from 9.75 months to 10.25. This trend is expected to continue into the foreseeable future.

The hearing officers (including the General Counsel and Executive Director) conducted eighty-one (81) 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 10.25 months. The Kentucky Employees Mediation Program, administered by the Personnel Cabinet, mediated seventeen (17) appeals which resulted in ten (10) settlements.

APPEAL STATISTICS

Appeals Pending 7-1-12	225
Appeals Filed During Fiscal Year	290
Final Orders Sent Out for Fiscal Year	272
Total Pending Cases 6-30-13	243

FINAL ORDERS SENT

116	Agency Actions Upheld (Appeal dismissed)
9	Appeals Sustained to Extent (Agency's penalty lessened)
6	Appeals Sustained (Agency's action reversed)
6	Reinstatements (Employee returned to work after dismissal)
55	Agreed Orders (Settlements)
80	Withdrawals (Appellant decided not to proceed)

KENTUCKY ADMINISTRATIVE REGULATIONS

No amendments were made to the Board's Administrative Regulations.

INVESTIGATIONS

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

1. Anonymous Request for Investigation of Department of Agriculture and referral of personnel matters by the Auditor's Report on Agriculture

This investigation consisted of the Executive Director conducting over thirty (30) interviews of current and former employees of the Department of Agriculture in reviewing the thirteen (13) major allegations referred by the Auditor of Public Accounts. The report has not yet been finalized, but will contain well over 200 pages when complete. This investigation has taken a considerable amount of time on the part of the Executive Director and staff in addition to their other duties.

The following new investigations were requested:

1. Justice and Public Safety Cabinet (Juvenile Justice), Lincoln Village Youth Development Center – Request by Thomas Brandenburg (Request denied and referred to Ethics Commission)
2. Department of Agriculture – Request by Steve Alvey (Request denied)
3. Department of Agriculture – Request by Thaddeus Price (Request denied)
4. Justice and Public Safety Cabinet (Juvenile Justice) – Request by Michael O'Brien (No action taken – dispute eventually resolved)
5. Cabinet for Health and Family Services - Request by Shelley Runkle (No action taken – dispute eventually resolved)
6. Transportation Cabinet reorganization – Requests by Randall Arvin and Bill Madden (Request denied)

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, 2012, was 28,810.

Total number of Merit (classified) employees on June 30, 2013, was 28,337.

Thirty-four (34) mediation requests were made by merit (classified) employees FY 2013.

Two hundred twenty-four (224) grievances were filed by merit (classified) employees in FY 2013.

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:	102
Average time to resolve for first level:	11 days
Number of grievances resolved at second level of review:	41
Average time to resolve at second level:	14 days
Number of grievances resolved at third level of review:	29
Average time to resolve at third level:	11 days
Number of grievances resolved at fourth level of review:	38
Average time to resolve at fourth level:	17 days
Number of grievances resolved at Appointing Authority level (final level):	14
Average time to resolve at Appointing Authority level (final level):	41 days

KENTUCKY PERSONNEL BOARD MEETINGS

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

2012

July 13

August 10

September 14

October 19

November 9

December 14

2013

January 11

February 15

March 8

April 12

May 10

June 14

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.