

**KENTUCKY PERSONNEL BOARD
MINUTES OF AUGUST 9, 2024**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Eaves on August 9, 2024, at approximately 9:30 a.m., at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Board Personnel Present:

Michael Eaves, Chair
Morgan Ward, Member
Larry Gillis, Member
Rick Reeves, Member

Gordon A. Rowe, Jr., Executive Director and Secretary
Gwen McDonald, Administrative Section Supervisor

Personnel Board Members Absent: Mitchel Denham, Member
Josh Hardesty, Member
Lisa Haydon, Member

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD JULY 12, 2024.**

The minutes of the last Board meeting had been previously circulated among the members. Chair Eaves asked for any additions or corrections. Mr. Gillis moved to approve the minutes as submitted. Mr. Reeves seconded, and the motion carried 4-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR AND SECRETARY'S REPORT**

Mr. Rowe informed the Board he had met separately with each of the three (3) Hearing Officers: Brenda Perry, Roland Merkel, and Kim Hunt Price, and had conversations with them about their experience and knowledge in conducting evidentiary hearings. Cases will be assigned during August to the hearing officers.

Mr. Rowe reported that the applications of the candidates for the General Counsel position had been reviewed. The list of persons to interview was decided and interviews should be scheduled soon. Mr. Rowe stated he should have a selection narrowed down by early September.

Mr. Rowe also reported that the Board's proposed regulations would be coming up for review by the Administrative Regulations Review Subcommittee on August 13, 2024. Mr. Rowe is scheduled to testify soon before the Subcommittee and answer any questions they might have about the proposed regulations. The proposed regulations comport with the changes instituted by passage of Senate Bill 153.

4. REPORT OF THE PERSONNEL CABINET

Personnel Cabinet Secretary Mary Elizabeth Bailey presented for the Cabinet.

It has been a busy summer for the Cabinet, starting with implementing the legislated three percent (3%) increase for state employees that was effective July 1, 2024, and reflected in the July 30, 2024 payroll.

Health wellness fairs have been held at certain Frankfort office buildings throughout the summer to increase awareness about health benefits and the importance of maintaining good health. The fairs offered different wellness vendors and screenings for employee attendees. The Cabinet hopes to be able to continue to offer the health wellness fairs on a regular basis.

Preparations are underway for the 2024 Open Enrollment. More details will be shared soon regarding open enrollment and benefit fairs.

Lastly, the Cabinet is in final preparations for the 2024 Kentucky Leadership, Equality, Accessibility, and Diversity (LEAD) Conference. Last year, over one thousand (1,000) people attended the virtual two (2) -day conference. Tickets were available for purchase.

A. Proposed Regulation: 101 KAR 2.085, Internship Interview Preference

Secretary Bailey noted that the internship interview preference depended upon the person completing their internship program, consisting of a ten (10) -week, three hundred (300) -hour work program, being assigned a mentor, and giving career-ready interns a chance to increase their employment opportunities, hopefully with state employment. Internship Interview Preference candidates must meet the minimum qualifications of the job to be considered, and the preference expires after five (5) years or upon successful appointment to a position.

Chair Eaves moved that the Board approve the proposed changes to the Kentucky Administrative Regulation, 101 KAR 2.085, Internship Interview Preference. Mr. Gillis seconded, and the motion carried 4-0.

- B. **Petitioned Position** – Office of the Attorney General, Opioid Abatement Advisory Commission
-- Executive Director

Stacy Woodrum, Executive Director of the Office of Attorney General, Office of Management and Budget, and Galen Linville, Human Resources Branch Manager, appeared to discuss why this position was needed. They answered questions from the Board. Mr. Gillis moved to approve the Petitioned Position for the Office of Attorney General, Opioid Abatement Advisory Commission as stated above. Mr. Reeves seconded, and the motion carried 4-0.

- C. **Petitioned Position** – Cabinet for Health and Family Services, Office of the Secretary, Office of Medical Cannabis
--Executive Advisor

Michele Barnes, Executive Director of the Cabinet for Health and Family Services' Office of Human Resource Management, appeared for the Cabinet to discuss why this position was being requested. She answered questions from the Board. Mr. Gillis moved to approve the Petitioned Position for the Cabinet for Health and Family Services as stated above. Mr. Ward seconded, and the motion carried 4-0.

At Mr. Gillis' urging, Secretary Bailey stated she had won a national award, the Eugene H. Rooney, Jr. Award for Leadership in State Human Resource Management. The Board congratulated Secretary Bailey on her achievement.

5. **CLOSED SESSION/RETURN TO OPEN SESSION**

Mr. Gillis moved that the Board go into Executive Session for the purposes of discussions and deliberations regarding individual adjudications. Mr. Ward seconded. Chair Eaves stated that a motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum.

[Pursuant to KRS 61.810(1)(j), the Kentucky Open Meetings Act, the Board retired into closed Executive Session and the attendees were required to leave the video conference, pursuant to KRS 61.826. Specific justification under the Kentucky Open Meetings Act for this action were as follows, because there were deliberations regarding individual adjudications as listed on the Board's Agenda for the August 9, 2024 meeting.](10:01 a.m.)

Mr. Ward moved to return to open session. Mr. Gillis seconded, and the motion carried 4-0. (10:13 a.m.)

6. **CASES TO BE DECIDED**

(NONE)

Show Cause Orders – No Response Filed – Appeals Dismissed

- A. Dunbar, Gregory v. Department of Education (2023-065)
- B. Metts, Angela v. Transportation Cabinet (2023-100)

Mr. Ward moved to find that the Appellants have not responded to the show cause orders and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeals. Mr. Gillis seconded, and the motion carried 4-0.

7. **WITHDRAWALS**

Mr. Gillis moved to accept the following withdrawals *en bloc* and to dismiss the appeals. Mr. Reeves seconded, and the motion carried 4-0.

- A. Blackburn, Jessica v. Education and Labor Cabinet (2024-070)
- B. Dalrymple, Jeffrey v. KY Administrative Office of the Courts (2024-075)
- C. Davidson, Ronald v. Finance and Administration Cabinet (2024-020)
- D. Dempsey, Rita v. Cabinet for Health and Family Services and Personnel Cabinet (2024-084)
- E. Mullins, Stacey v. Finance and Administration Cabinet (2024-031)
- F. Steffey, Stefanie v. Finance and Administration Cabinet (2024-017)
- G. Sykes, Angela v. Finance and Administration Cabinet (2024-018)

8. **SETTLEMENTS**

Chair Eaves moved to issue a settlement order and to sustain the appeal to the extent set forth in the settlement as submitted by the parties. Mr. Reeves seconded, and the motion carried 4-0.

- A. West, Marisa v. Justice and Public Safety Cabinet, Kentucky State Police (2022-081)(Mediation)

9. **OTHER**

- A. Case Load Reduction
 - 1. Backlog, status of appeals, plan of action

Mr. Rowe noted the Board members had received a copy of the August Board Status Report, which detailed where the Board stands on each case. Staff is still addressing the backlog. The main strategies are to:

1. **Hear cases.** Over the past month, there have been four (4) evidentiary hearings and three (3) in the past three (3) weeks. Six (6) additional evidentiary hearings remained on the docket to be heard during August. Mr. Rowe stated that the Board now has more functionality to hear cases due to having contract hearing officers. The hearing officers will be a big help with the backlog, since they will be able to hear more cases than one person. Also, the latest upgrade to Hearing Room 1 makes three hearing rooms available to conduct hearings. With more hearing officers and more hearing rooms, the Board's hearing schedule can increase, which should reduce the backlog.
2. **Deal on the front end of the appeals by spotting those cases early that have jurisdictional issues.** As discussed during previous Board meetings, the Board's jurisdiction has been more limited since the passage of Senate Bill 153. It is now easier to address jurisdictional issues right from the start of the appeal. There has been an influx of appeals over the past few months with a very specific jurisdictional issue, and it was dealt with up front. Dealing with it means having the parties submit briefs on why the Board does/does not have jurisdiction over this issue rather than the hearing officer going through the entire evidentiary hearing process. By requesting the parties submit briefs on the issue, the hearing officer may render a decision promptly, which will allow the case to move forward, or the case can be dismissed.
3. **Push the parties toward mediation as much as possible.** Obviously, there are some cases that are not amenable to mediation, since the parties are very far apart on the anticipated outcome. Although we try to make those expectations more reasonable, some Appellants look at the Personnel Board like a court of general jurisdiction, with remedies that we do not have. Sometimes, being able to explain this, may make the parties more amenable to mediation. We do have cases where one side or the other is not agreeable to that. We have had pretty good success with mediation overall.
4. **When doing hearings, the hearing officers sometimes allow the parties to make post hearing motions.** On its face, this may seem like it causes the case to remain open longer but, on the back end, the hearing officer has more time to think through the case and, in some cases, can adopt some of the proposed findings and legal analysis cited in those briefs. We are also attempting to speed up this process by telling the parties that the briefs are not expected to be a thirty (30) or forty (40) -page post hearing brief, but something that helps outline the main facts that came out in the hearing and the applicable law.

These strategies should, over the next few months, shrink the Board's backlog a lot more.

Chair Eaves questioned whether the strategy was to still take the older appeal cases first? Mr. Rowe acknowledged that was being done unless there are motions or hearings that can be heard and concluded quickly, say a hearing that might take 1 day versus one that takes three (3) or four (4) days. Generally, older appeals are addressed first.

B. Next Board Meeting: **September 13, 2024**


After Chair Eaves confirmed there were no more issues to be addressed, Mr. Ward made a motion for the Board to adjourn. Mr. Gillis seconded, and the motion carried 4-0. (10:21 a.m.)



Michael Eaves, Chair

Morgan Ward, Member



Larry Gillis, Member

Rick Reeves, Member

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