

**KENTUCKY PERSONNEL BOARD
MINUTES OF JULY 11, 2025**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Michael Eaves on July 11, 2025, at approximately 9:30 a.m., ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Note: Board portrait taken just prior to Board meeting.

Board Personnel Present:

Michael Eaves, Chair
Mitchel Denham, Vice Chair
Morgan Ward, Member
Larry Gillis, Member
Rick Reeves, Member
Lisa Haydon, Member
Michelle Snodgrass, Member

Gordon A. Rowe, Jr., Executive Director and Secretary
Erritt H. Griggs, General Counsel
Gwen McDonald, Administrative Section Supervisor

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD JUNE 13, 2024.**

The minutes of the last Board meeting were previously circulated among the members. Chair Eaves asked for any additions or corrections. Ms. Haydon moved to approve the minutes as submitted. Ms. Snodgrass seconded, and the motion carried 7-0.

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

Mr. Rowe welcomed the Board members and noted that it was very nice to have all Board members present in person for the Board portrait and meeting.

Mr. Rowe informed the Board that a new contract Hearing Officer, the Hon. James Dickinson, had been added to our team, which will assist in helping reduce the case backlog. Mr. Dickinson has over forty (40) years' experience in administrative practice and we are glad to welcome him to the Board.

Following the June Board meeting, Mr. Rowe and Mr. Griggs participated in a panel discussion on KRS Chapter 13B, which governs administrative hearings, at the Kentucky

Association of Administrative Adjudicators (KAAA) annual conference. Mr. Griggs took the lead in this effort, preparing a thorough PowerPoint presentation and moderating the panel discussion. Mr. Griggs explained to the Board the Supreme Court's recent action overturning the long-standing *Chevron* decision and summarized the panel discussion on the effects of this action in Kentucky, and changes to KRS Chapter 13B. In recognition of the Supreme Court case, the language of KRS 13B.150 has been amended to state that agency interpretations of laws and regulations are not entitled to any deference from a reviewing court. The panel also discussed how the civil rules of procedure and the rules of evidence relate to cases subject to KRS Chapter 13B. Mr. Griggs reported that there was a lot of good interaction with the audience. There was also discussion regarding Personnel Board procedure and process, which many said would be useful in their practice before the Personnel Board. Mr. Griggs stated that the presentation was a good effort at outreach and benefited the Personnel Board by allowing practitioners to interact with Board Staff and ask questions.

Mr. Rowe stated that he and Mr. Griggs will continue to participate in presentations of this type, educating counsel, agency representatives, Appellants, and potential Appellants on Board practice and procedure. Mr. Rowe stated their goal would be to continue to make progress in this area over the next fiscal year.

Mr. Griggs noted he had also presented at the Kentucky Bar Association annual convention in June. He mentioned that this was another forum for Board staff to display competence and educate practitioners in our area of expertise. The presentation was about recent US Supreme Court decisions regarding whistleblower litigation and their effect generally on employment law practice.

Mr. Rowe stated that they were reviewing the proposed budget for the next few years and would be requesting increases in a few areas. One increase is to request additional staff, specifically, a staff attorney and a paralegal. Another staff attorney would assist with core functions like investigations, would assist with case administration, and would provide Mr. Rowe and Mr. Griggs with flexibility to further educate employees, litigants, and counsel about the Board. If approved, staff also envision that this person would help us better incorporate advances in legal technology to promote efficiency. We will also be asking for money for a new case management system. We attended an online presentation of the system used by the Energy and Environment Cabinet's Office of Administrative Hearings, in an effort to see if this can be adapted to our needs. It would require some modifications and we are exploring costs to adapt it to our needs.

We are also requesting to have our hourly rate for contract hearing officers increased from the current \$125 per hour to \$200 per hour, to attract more and better qualified applicants. Staff hope to attract more hearing officers to our forum by raising the rate.

Mr. Rowe briefly touched on the case progress by stating that we had a net reduction of eight (8) cases from the June Board meeting. We did not have as much progress this month as

during previous months, as reflected by the July cases for decision. Mr. Rowe stated this was an anomaly; we have been focusing on working through some older cases that have taken more time and some evidentiary hearings were postponed.

Staff is continuing to focus on older cases and problem cases to try to figure out why some of these cases are stalled and how they can be moved forward.

Mr. Griggs then reported on an appeal from a decision regarding the Public Protection Cabinet that was before the Court of Appeals. It dealt with 101 KAR 2:034, Section 1, the new appointments section of the regulation that lifts pay if a new employee is hired at a higher salary than existing employees in that job classification. Mr. Griggs, also reported on an unfavorable ruling on an appeal of a Personnel Board decision in the Whitley County Circuit Court. Although historically Personnel Board decisions have been appealed to Franklin Circuit, changes in the venue statute of KRS 452.005 now provide that Appellants have the opportunity to file in the county of their own residence, despite the provisions of KRS Chapter 13B and the Board's enabling statutes, including KRS 18A.100, which states that an aggrieved party may appeal to Franklin Circuit Court. This change is being litigated now, with briefs due in August. Personnel Board staff are working with the Public Protection Cabinet on this appeal. The main issues are work county and the locality premium. Mr. Griggs reported that there are approximately fifteen (15) cases before appellate courts at this time.

4. REPORT OF THE PERSONNEL CABINET

The Hon. Robert Long, Deputy Secretary and General Counsel of the Personnel Cabinet, presented for the Cabinet.

Mr. Long confirmed that the Hon. Rosemary Holbrook and the Hon. Catherine Stevens are monitoring the appeal of the Personnel Board case described in Mr. Griggs's report and anticipate that the Personnel Cabinet will file an *amicus* brief to support the Public Protection Cabinet in the appeal. The Personnel Cabinet intends to highlight in its *amicus* brief that, given the specialized issues and precedential value of decisions involving KRS 18A and public employment, such appeals should be decided by the Franklin Circuit Court, whose judges routinely handle such actions and deal with the merit system rules. The Cabinet also thinks that KRS 18A.100 and KRS Chapter 13B should be the controlling statutes in terms of venue for these actions.

Mr. Long reminded everyone that July is the month that the annual increment is applied. The annual Personnel Action Notifications have been processed and sent. The annual increments were effective on July 1 and will be reflected in July 30 paychecks. State government employees went for many years without consistent increments and this has changed over the past few years. This has been a positive in state agencies' ability to retain and recruit employees.

The LivingWell Wellness Fairs have been mentioned several times this summer. Mr. Long stated they have continued to be very popular and well attended. The last one was held at the State Office Building on June 10. It was very successful. Although sometimes there is a lull in participation in summer months there has been a lot of participation this year. Many employees were motivated to show up because of recipes and other perks, and they are able to get their biometric screening done. This provides them with some really good information that may help them have better health outcomes. Two (2) more Wellness Fairs are scheduled: one (1) in Louisville on July 16 and the last will be held at the Mayo-Underwood Building on August 13. Employees, with prior supervisor approval, may attend.

Ms. Haydon asked if state employees from rural counties are allowed to attend. Mr. Long stated that they were welcome to attend if they have prior supervisor approval. Mr. Long stated that this is an initiative that the Cabinet is constantly trying to improve and expand.

Mr. Long also updated the Board on another initiative the Cabinet has proposed regarding childcare for state employees at the Rosenwald Center on Kentucky State University's campus. Some bids were submitted during the Cabinet's initial Request for Proposal (RFP) period but ultimately negotiations did not render a contract and the RFP was cancelled. It has since been reissued and the Cabinet is optimistic that they can get still get this initiative off the ground and provide state employees with a new benefit. He stated that the Rosenwald Center is well-suited for childcare for state employees and the Personnel Cabinet is doing its best to try to make this happen.

Lastly, Mr. Long discussed proposed changes to personnel regulations. The proposed changes clean up the language in the current regulations to clarify and make them consistent with current practice. Mr. Alan Hurst was also present to answer any questions from the Board.

A. Proposed Regulations for Board Review:

1. 101 KAR 2:120, Employee Suggestion System and State Adoption Benefits
2. 101 KAR 2:140, Workers' Compensation Fund
3. 101 KAR 2:230, Kentucky Employee Mediation Program and Workplace Resolution Program

Mr. Denham moved to approve all amended regulations as submitted. Ms. Snodgrass seconded, and the motion carried 7-0.

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 July 11, 2025 meeting.](10:17 a.m.)

Ms. Snodgrass moved to return to open session. Mr. Ward seconded, and the motion carried 7-0. (10:37 a.m.)

6. CASES TO BE DECIDED

A. Cress, Jeffrey v. Finance and Administration Cabinet (2024-109)

Mr. Ward, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Ms. Haydon seconded, and the motion carried 6-0, with Mr. Denham abstaining.

B. Lee, Melissa v. Public Protection Cabinet (2024-124)

Mr. Denham, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Ms. Snodgrass seconded, and the motion carried 7-0.

C. Tucker, Amber v. Administrative Office of the Courts (2025-029)

Mr. Gillis, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order dismissing the appeal. Mr. Reeves seconded, and the motion carried 7-0.

D. Williams, Benjamin v. Finance and Administration Cabinet (2024-086)

Ms. Haydon, having considered the record, including the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, moved to accept the recommended order

dismissing the appeal. Mr. Ward seconded, and the motion carried 6-0, with Mr. Denham abstaining.

Show Cause Order – No Response Filed – Appeal Dismissed

- E. Vergara, Christian v. Justice and Public Safety Cabinet, Department of Corrections (2024-128)

In the case listed above, Mr. Gillis moved to find that the Appellant had not responded to the show cause order and that the recommended order be accepted dismissing the appeal for failure to timely prosecute the appeal. Mr. Ward seconded, and the motion carried 7-0.

7. WITHDRAWALS

Mr. Gillis moved to accept the following withdrawals *en bloc* and to dismiss the appeals. Mr. Ward seconded, and the motion carried 7-0.

- A. Murphy-Silverwolf, Paula v. Cabinet for Health and Family Services (2025-073)
- B. Waller, Shaelyn v. Cabinet for Health and Family Services (2024-064)
- C. Wood, James v. Education and Labor Cabinet and Personnel Cabinet (2025-034)

8. SETTLEMENTS

Ms. Snodgrass moved to issue settlement orders and to sustain the following appeals to the extent set forth in the settlements as submitted by the parties. Mr. Denham seconded, and the motion carried 7-0.

- A. Brown, Laura v. Kentucky Department of Veterans Affairs (2025-023)
- B. Hester, Lyndel v. Justice and Public Safety Cabinet, Department of Corrections (2024-092)

9. OTHER

- A. Case Load Reduction

- 1. Backlog, status of appeals, plan of action

Mr. Rowe stated we can expect to see more cases next month. He reminded the Board that, once the Recommended Order is completed, the parties have time to file exceptions and responses to exceptions before the Order comes before the Board.

Mr. Rowe acknowledged that he and Mr. Griggs's focus continues to be on trying to prioritize older cases and dismissal cases. There are some problem cases that they have had issues with trying to move them forward and one, in particular, that has several associated cases should be resolved in the next month.

Chair Eaves questioned whether the cases had already had evidentiary hearings conducted in them or if they were being scheduled for hearings. Mr. Rowe said that one (1) case had an administrative issue; the parties originally agreed to settle all three (3) cases, but one case was inadvertently left off the Order, so it just needs to be written up. Another matter, which includes several related cases, is due to be settled. There is another case where the original appeal was resolved, and the Appellant appealed again because they were not happy with the way the appeal was resolved and the lack of the restoration of duties. Negotiation between the parties has failed and a dispositive motion has been filed that is ready for a ruling. Mr. Rowe stated this matter was sent to a contract Hearing Officer to rule on the motion.

Mr. Gillis questioned how many cases were on appeal to an appellate court. Mr. Griggs stated it was approximately fifteen (15) cases. Three (3) or four (4) cases are on appeal to the Court of Appeals and the rest are in circuit court. Mr. Griggs stated he would provide a synopsis of each cases on appeal at the next Board meeting.

Ms. Haydon questioned whether the Board had any paralegals on staff now. Mr. Rowe stated that we do not.

B. Next Board Meeting: August 8, 2025


Mr. Denham made a motion for the Board to adjourn. Ms. Haydon seconded, and the motion carried 7-0. (10:45 a.m.)



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Morgan Ward, Member


Larry Gillis, Member
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Personnel Board

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