

LOUISVILLE CIVIL SERVICE BOARD
HEARING PROCEDURES

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HEARING PROCEDURES

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INTRODUCTION

Pursuant to Rule 9.2(7) of the Louisville Civil Service Board Rules, promulgated pursuant to KRS 90.160, the Louisville Civil Service Board adopts and published the following Louisville Civil Service Board Hearing Procedures.

I. TITLE AND SCOPE

- 1.1 The title of this document is the Louisville Civil Service Board Hearing Procedures.
- 1.2 These procedures govern practice in all hearings before the Louisville Civil Service Board relating to appeals of disciplinary actions as described in Rule 9.2 of the Louisville Civil Service Board Rules.

II. DEFINITIONS

- 2.1 “Employee” shall mean a person employed by any agency subject to the Rules of the Louisville Civil Service Board.
- 2.2 “Board” shall mean the Louisville Civil Service Board.
- 2.3 “Department” shall mean any agency subject to the Rules of the Louisville Civil Service Board.
- 2.4 “Day” when referred to in these procedures shall mean calendar day unless otherwise noted. If the day upon which, or by which, an act is required to be done is a Saturday, Sunday, legal holiday or day on which the Board office is closed, the act shall be done on the next work day.

III. GENERAL PROVISIONS

- 3.1 Counseling letters, warnings, reprimands and suspensions of the (10) days or less may not be appealed before the Board.
- 3.2 Non-disciplinary grievances other than appeals of layoffs and allegations of political discrimination may not be appealed through these procedures.
- 3.3 Hearings shall be open and public except for deliberations held in executive sessions or otherwise pursuant to KRS Chapter 61.
- 3.4 Any conflict or inconsistency shall be resolved in favor of KRS 90.110 et seq.

IV. REQUEST FOR HEARING AND SCHEDULING

- 4.1 An employee who has been suspended in excess of ten (10) days, demoted, laid off, dismissed, or who alleges political discrimination may be afforded an appeal to the Board as long as the employee provides written notice to the Board within ten (10) days of the discipline, layoff or alleged discriminatory act.
- 4.2 Acknowledgement of the receipt of the appeal shall be provided to the employee and the department by the Board. This acknowledgement shall inform the parties of the regularly scheduled meeting date that when the Board will take this appeal under advisement.
- 4.3 The Director of the Board shall notify the Board at its next regularly scheduled meeting of the request for a hearing. The Board shall consider the merits of the request and if proper, shall set a date for the hearing.
- 4.4 The Board may reassign the hearing to another date on its own agenda.
- 4.5 A request for a continuance by the employee or the department must be made in writing within five (5) working days of the scheduled hearing date and writing and provided to the opposing party. A first request for continuance shall routinely granted, unless objected to by the opposing party. Any exception to this procedure may be granted only by the chairperson, or in his or her absence, the vice chairperson, and only for extraordinary circumstances.
- 4.6 Except for good cause shown, all other requests to the Board by the employee or the department must be made in writing within ten (10) days of the scheduled hearing date and provided to the opposing party. Any exception to this procedure shall be granted by the chairperson and or in his or her absence, the vice chairperson, and only for extraordinary circumstances.
- 4.7 All hearings shall be recorded stenographically or otherwise as ordered by the Board.

V. PREHEARING PROCEDURES

- 5.1 At least ten (10) days prior to any scheduled hearing, the parties shall exchange the following information in writing, and copies shall be filed with the Board and its counsel:
- (a) The names and addresses of all persons each party intends to call as a witness and a brief summary of each witness' expected testimony.
 - (b) Copies of all records or other documents each party expects to tender as evidence at the hearing.
- 5.2 Any physical evidence not easily photocopied or reproduced shall be made available for inspection by the opposing party and counsel at least ten (10) days prior to the hearing.
- 5.3 Except upon a showing of extraordinary circumstances, or for purposes of rebuttal, the Board shall not permit a witness to testify or an exhibit to be admitted into evidence unless compliance has been made pursuant to this section.
- 5.4 Upon request of a party, or on its own motion, the Board shall issue subpoenas to compel the attendance of witnesses or the production of documents or other evidence at a Board hearing. Subpoenas requested by a party shall be served by the party requesting them, or his or her agent, with a return of service made to the Board.
- 5.5 Counsel for the parties shall confer prior to any scheduled hearing to determine the extent to which uncontested facts can be stipulated by the parties in connection with the evidence to be presented at the hearing and shall advise the Board prior to the commencement of the hearing of any such stipulations.
- 5.6 Any party objecting to the introduction and admission of a particular item of evidence shall file the objection with the Board in writing at least five (5) days prior to a hearing, with copies served to the opposing party, or its counsel if represented, and the counsel to the Board. The grounds for objections shall be stated with particularity, and authorities relied upon shall be attached. Except for good cause shown, any party failing to object in a timely manner, as indicated herein, shall be deemed to have waived his or her objection to the admission of any evidence in question. Any objection to a witness or to the admissibility of any document or other physical evidence shall be ruled upon by the Board.
- 5.7 Unless otherwise ordered by the Board, motions to dismiss the proceedings or for a summary disposition of the appeal shall be made in writing and filed with the Board not less than ten (10) calendar days prior to the scheduled hearing. The basis for any such motion shall be stated clearly and include copies of any authorities relied upon. Copies of any such motion shall be served to the opposing party or its response with

the Board within five (5) calendar days after receipt of any motion and shall serve a copy of any response to the other party or its counsel and the counsel for the Board.

VI. THE HEARING

- 6.1 During the hearing process, the employee may be represented by legal counsel.
- 6.2 The burden of going forward shall be with the Department if the appeal is based on discipline.
- 6.3 If the appeal is based upon layoff or political discrimination, the burden of going forward shall be on the employee.
- 6.4 All witnesses shall testify under oath, as administered by the Chairperson or Director of the Board. With leave of the Board in advance of the hearing, and where the circumstances warrant it at the Board's discretion, testimony of any witness may be introduced in the form of a deposition, provided that the other party and Board counsel are given full opportunity to be present at the witness's deposition and cross-examine the witness. The Board's preference, though, is for live testimony. Witnesses may be examined by a member of the Board or with leave of the Board, by its counsel.
- 6.5 If requested, the Board shall exclude the witnesses from the hearing; however, the appealing party and one representative of the Department shall have the right to remain at all times.
- 6.6 The hearing shall proceed in accordance with the rules of examination applicable in administrative hearings in the Commonwealth; hearsay evidence shall be admissible only as authorized in administrative hearings by Kentucky law.
- 6.7 Opening and closing statements shall be allowed by both parties. The Chairperson shall rule upon motions made during the course of the hearing with the advice of counsel.

VII. DECISION OF THE BOARD

- 7.1 At the conclusion of the hearing, the Board shall retire to executive session to reach its decision. No person other than the counsel for the Board and the Director shall be present.
- 7.2 The Board's Findings of Fact and Order shall be reduced to writing by the counsel for the Board and distributed to Board members for review.
- 7.3 If no Board member objects to the written decision as tendered, the Chairperson shall sign the Findings and Orders, and they shall be distributed to the affected employee, the Department, and the Mayor.