

KING COUNTY PERSONNEL BOARD

RULES OF PRACTICE AND PROCEDURE

A. OVERVIEW

1. Preamble

The King County Personnel Board is an independent Board of King County established pursuant to Section 540 of the King County Charter and Chapter 3.08 of the King County Code. These rules establish procedures governing the conduct of appeal hearings before the Board and are adopted pursuant to King County Code sections 3.08.100 and 3.12.290, and Section 540 of the King County Charter.

2. Jurisdiction

The Board is authorized to hear appeals of King County career service employees from any action pertaining to the methods of examination, appointment or promotion; from any suspension for more than sixty days, reduction in rank or rate of pay, or removal; and from any classification or reclassification of positions.

3. Chairperson

The Board shall designate a Chairperson and Vice-Chairperson. Unless otherwise specified by the Board, the Chairperson shall preside at all hearings and pre-hearing conferences and shall render scheduling, evidentiary and other procedural decisions on the Board's behalf. Such decisions by the Chairperson may be revised or rescinded by a majority of the Board. The Chairperson shall ensure that Board hearings are conducted in accordance with the law and these Rules. The Vice-Chairperson shall serve in the absence of the Chairperson.

4. Board Address and Location of Hearings

The address of the Board and the usual site of hearings is King County Personnel Board, King County Administration Building, 500 Fourth Avenue, Suite 510, Seattle, Washington 98104. The Board's electronic mail (email) address is PersonnelBoard@kingcounty.gov.

5. Effect of Rules

These rules shall take effect upon the date of approval and shall supplant and replace all rules and procedures that were previously adopted by the Board. In the event of any inconsistency between these rules and any provisions of state or county law governing personnel board procedures, the conflicting provision of state or county law shall control.

B. FILING AND NOTICE OF APPEAL

1. Timing of Appeal

Except where otherwise specifically provided by an adopted collective bargaining agreement covering the appellant, the notice of appeal shall be filed within the following timelines, as applicable:

- a. Disciplinary action appeals shall be filed within thirty (30) calendar days of the employee having been notified of the disciplinary action as provided for under King County Code Chapter 3.12 or within ten (10) calendar days of the employee having been given written notice following completion of the grievance or appeal process specified in King County Code Chapter 3.12 or in the applicable collective bargaining agreement.
- b. All other appeals shall be filed within fourteen (14) calendar days of either the date the appealed action was taken or the date the employee was provided written notification of the action, whichever is later.

2. Form and Filing of Appeal

An appeal to the Personnel Board shall be commenced by filing a written notice of appeal with the Personnel Board in accordance with Section B.3 of these Rules. A copy of the notice shall be served on the Director of the King County Human Resources Division within three (3) business days of filing. The notice of appeal shall include a statement identifying the action from which the appeal is taken, the grounds for appeal and the relief requested.

3. Filing

Filing of a Notice of Appeal with the Board shall occur upon actual receipt of hard copy documents by the Board at the Board Address or upon actual receipt of an electronic mail at the Board's email address. Parties shall provide the Board with an original and six (6) copies of any hard copy documents filed. Following the filing of a Notice of Appeal with the Board, filing of other case documents may be hard copy delivery or by facsimile or other electronic means. For purposes of filing, Board business hours are from 8:30 to 4:30 Monday through Friday. Filings must be made no later than the close of business at 4:30 pm. Documents received after 4:30 pm will be deemed to be received the next business day.

4. Service

Copies of any documents filed with the Board in an appeal shall be served upon all other parties to the appeal. Service upon parties may be made by actual delivery, regular first class mail or electronic mail. Service by mail shall be deemed effective three (3) business days after mailing.

C. PRE-HEARING PROCESS

1. Scheduling of Public Hearings

On behalf of the Board, the Chairperson shall be responsible for scheduling and continuing Board hearings and for issuing scheduling and other orders regarding matters identified in Section C-3 of these rules. Written notice of the initial hearing shall be given to all parties at least thirty (30) calendar days in advance of the hearing date; additional hearing dates shall be scheduled as appropriate.

2. Continuance of Hearings

The Board may continue a hearing upon its own motion or upon request, for good cause shown.

3. Prehearing Conference

The Board may order parties to appear at a prehearing conference in order to identify particular hearing issues, to determine the amount of time needed to allow the parties to reasonably present the case and to establish a schedule for identifying witnesses, exchanging exhibits, filing pre-hearing motions and hearing briefs and commencing and

completing the hearing. Parties shall abide by any associated scheduling orders issued by the Board. The Board may conduct a Pre-Hearing Conference with or without a quorum. Parties must have at least ten (10) business days' notice before the scheduling of a pre-hearing conference.

4. Discovery

Parties shall exchange witness and exhibit lists and other relevant information and materials in advance of the hearing in accordance with the Board's Scheduling Order. A party that believes informal discovery efforts are unsatisfactory may file a motion with the Board to allow for formal discovery. Upon motion, the Board may grant reasonable formal discovery upon a showing of good cause.

5. Subpoenas

On request of any party or on its own initiative, the Board may issue subpoenas and subpoenas duces tecum to compel attendance of witnesses before the Board and to provide information relevant to any appeal within the jurisdiction of the Board.

6. Motions

Unless the Board orders otherwise, any motions shall be filed and served no less than ten (10) business days prior to the day noted for consideration ("noted date"). Responses shall be filed and served no less than six (6) business days prior to the noted date. Any reply shall be filed and served no less than two (2) business days prior to the noted date. Unless the Board indicates otherwise, non-dispositive motions will be decided without oral argument. Any party bringing or opposing such a motion may request oral argument by specifying reasons why argument is necessary or appropriate. Business days for purpose of these rules shall be Monday through Friday excluding legal holidays.

D. CONDUCT OF PUBLIC HEARINGS

1. Quorum

The Board is composed of five (5) members. A quorum of the Board shall consist of three (3) members.

2. Vacancy

Pursuant to King County Code Section 2.28.004(C), in the event of a vacancy on the Board, the Board will be deemed temporarily reduced in number for all official purposes.

Provided, however, that the Board will not be temporarily reduced to fewer than two members.

3. Open to Public

All Board hearings shall be open to the public. Provided, however, that the Board may, at its sole discretion, sequester witnesses.

4. Chairperson to Preside

Unless otherwise specified by the Board, the Chairperson shall preside at all hearings and shall ensure that Board hearings are conducted in accordance with the law and these Rules.

5. Rights of the Appellant

In proceedings before the Board, the appellant shall have the right to appear before the Board in person; to be represented by his or her legal counsel or chosen representative; to offer witnesses and evidence in his/her behalf; to examine and cross-examine witnesses; to challenge the credibility of any witness; and to rebut evidence against him/her.

6. Rights of the Respondent

In proceedings before the Board, the respondent shall have the right to appear before the Board in person; to be represented by its legal counsel or chosen representative; to offer witnesses and evidence in its behalf; to examine and cross-examine witnesses; to challenge the credibility of any witness; and to rebut evidence against it.

7. Order of Presentation

The party having the burden of proof shall present its supporting statements and evidence. The responding party shall then present statements and evidence in response to the appeal. At the discretion of the Board, parties may submit further rebuttal and response.

8. Testimony Under Oath

Testimony before the Board shall be given under oath or affirmation. Witnesses shall be subject to cross-examination and may additionally be questioned by members of the Board.

9. Rules of Evidence

The Chairperson shall rule on all questions of admissibility of evidence, subject to review by a majority of the Board then present. The Board is not bound by strict rules of evidence. Relevant evidence shall generally be admissible if it is the type of evidence that responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of any common law or statutory rule that would otherwise bar its admission in court proceedings. Evidence that is not relevant or that is unduly repetitious or time consuming may be excluded.

10. Burden of Proof and Standard of Review

In proceedings before the Board contesting disciplinary action, the County shall bear the burden of proof in supporting its action by a preponderance of the evidence presented at the hearing. In all other proceedings, the appellant shall bear the burden of proof in disputing the County's appealed action by a preponderance of the evidence presented at the hearing. In all proceedings, the Board's review shall be under a preponderance of evidence standard.

11. Hearing Record

The complete files of proceedings and actions taken in connection with the hearing shall be maintained by the Board's administrative staff and shall be made available to all parties and the public except where restricted by statutes concerning confidentiality. A recording shall be made of all public hearings, a copy of which may be obtained upon request. Persons requesting hearing documents or tapes shall bear the cost at a rate to be determined by the Board, as provided in King County Code Chapter 2.99, or as provided by the Washington State Public Records Act, Chap. 42.56 RCW, whichever is applicable.

12. Relief Available

The Board may order such relief as it deems proper including but not limited to the restoration of rank or pay, with or without loss of benefits and pay, and the allocation and reallocation of positions. In any appeal in which the employee is the prevailing party, the Board may award reasonable attorney's fees, not to exceed the actual fees paid by the employee.

13. Decisions of the Board

The Board shall consider all testimony and evidence presented in the hearings. The decision of the Board shall be by majority vote of a quorum of its members. The decision shall include written findings of fact and conclusions of law and shall be signed by the majority of participating Board members. Copies of the decision and any dissenting opinion shall be mailed to all parties.

14. Ex Parte Communication

Parties are prohibited from communicating with any Board member about the substance of an appeal that is pending before the Board without all other parties being present.

E. POST HEARING

1. Judicial Review of Board Decisions

Decisions of the Board shall be final unless appealed to a court of competent jurisdiction within fourteen (14) calendar days following the date of the decision.

THE ABOVE RULES PASSED AND APPROVED pursuant to rulemaking authority on the 14th day of April, 2017.

PERSONNEL BOARD OF KING COUNTY, WASHINGTON



CHAIRPERSON



VICE CHAIRPERSON

