



PERSONNEL RULES AND REGULATIONS

RULE 1: <i>County Civil Service Act General Provisions</i>	APPROVED: <i>January 1, 2015</i>
REGULATION 5: <i>Personnel Policy Board Hearings</i>	Pages: <i>1 of 6</i>

Section 1: Responsibility of the Board

When employees file an appeal or grievance before the Personnel Policy Board (Board), it shall be the duty of the Board to ascertain to the best of its ability the facts of the case and, after weighing all available evidence, to report its finding and decision for such disposition as the Board may deem appropriate, and to report its decision to all parties affected.

Section 2: Date of Hearing

A Hearing shall be held within 30 working days, or as soon as a quorum can be achieved, after receipt of said appeal or grievance, and at such time and place as shall be fixed by the Chair and the Human Resources Director.

Section 3: Notice of Hearing

The Human Resources Director shall give the appellant or grievant and the Department Head prompt notice of the time and place set for the Hearing. The notice shall be given at least 14 calendar days prior to the Hearing. In the case of the appellant or grievant, the notice shall be by regular and certified mail, addressed to the employee's last known address, as shown in the employee's personnel record unless such notice is waived in writing by the employee.

Section 4: Continuance/Layover of Cases and Adjournment

The Board will generally grant only one (1) continuance of a case and only in such instances where an emergency situation exists. Emergency situations constitute, but are not limited to, health issues, family emergencies, or severe weather conditions. Emergency situations do not include a last minute decision to use an attorney or union representative to represent the appellant's or grievant's interests. Written documentation for a continuance must be provided to the Human Resources Director seven (7) or more calendar days or as soon as reasonably possible prior to the Hearing date.

Hearings on appeals or grievances may be adjourned prior to completion of the Hearing only upon good cause shown and/or by agreement of the parties.



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Section 5: Access to Pertinent Data

In order to discharge its function properly in regard to review, the Board Members shall have access to any County files, correspondence, memos, departmental files, etc., which they feel might be pertinent to the case unless cause is shown why such files should not be provided at such a Hearing.

The Board shall have the right to question any officer or employee of the County whom they feel may be able to shed light on the circumstances involving the action in question.

No officer or employee shall be subjected to disciplinary action as a result of testimony given, with the exception of a violation of law.

Section 6: Scope of Board's Review

In its review of an employee appeal, the Board shall limit itself to the question of the appropriateness of the action and related matters, and to the following:

- A. *Review of Disciplinary Action Appeals:* In its review of a disciplinary action, the Board shall limit itself to the following questions:
1. Whether the employee committed the transgression(s) charged,
 2. Whether the discipline imposed for the transgression(s) is authorized under the provisions of the PRR or the relevant collective bargaining agreement, and
 3. Whether the Department Head, in imposing the discipline, considered any mitigating factors which may have existed in connection with the transgression(s).

In such cases, the Board shall affirm the action of the Department Head unless it is clearly established by evidence in the record that:

1. The employee did not commit the transgression(s) charged, or
2. The discipline imposed was not authorized under the provisions of the PRR or the relevant collective bargaining agreement, or
3. The Department Head, in imposing the discipline, failed to take into consideration any mitigating factors which may have existed in connection with the transgression(s).



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B. *Review of Grievance:* In its review of the Department Head's answer to the employee's grievance, the Board shall limit itself to interpretation of the relevant PRR and/or the relevant collective bargaining agreement cited in the grievance, and the facts which are the basis for the grievance.

Section 7: Exhibits

Each party must provide exhibits electronically to the Human Resources Director at least seven (7) calendar days prior to the Hearing. Exhibits from the appellant or grievant must be labeled alphabetically A through Z and exhibits from the defending party must be numerically labeled 1, 2, 3, etc. Failure to abide by this timeframe will result in the lack of exhibits for the Hearing.

Section 8: Witnesses

The Board shall have the authority, either upon its own initiative or upon application of any party, to compel any County employee to appear before it for the purpose of giving testimony or otherwise providing relevant evidence. The procedure for compelling the attendance of a County employee before the Board shall be as follows:

- A. If attendance of a County employee before the Board is sought by one of the parties, that party shall, not less than seven (7) calendar days prior to the date of the meeting at which the employee's attendance is sought, submit to the Board, through the Human Resources Director, a written request to compel the attendance of the witness or witnesses. The party shall also send copies of such request to the opposing party or their attorney.
- B. Such request shall include, for each employee whose attendance is sought, the following information: the employee's name, department, reason(s) attendance is sought, general subject matter on which employee is expected to offer evidence, a summary of the testimony (if any) which the employee is expected to give, the substance of any other evidence the employee is expected to give, the date and approximate time at which the employee's attendance is necessary, the approximate amount of time that the employee will need to be present, and any other information pertinent to the request.
- C. Following the receipt thereof, any other party may respond to a request to compel the attendance of a County employee before the Board, and may supplement their witness list. Any such response shall be in writing and shall be received by the Human Resources Director not later than the close of business on the second



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working day after the original request was filed. Copies of any such responses shall also be served upon all the parties.

- D. The parties and Department Heads shall cooperate in order to minimize the amount of time employees will be required to spend away from their duties as a result of being compelled to appear before the Board.
- E. As soon as the necessary arrangements have been made, the Department Head shall notify all affected employees and order them to appear accordingly. Employees who fail to comply with any such order without adequate excuse shall be subject to formal discipline.
- F. In the event an employee fails to comply with an order to appear before the Board, the Board pursuant to the provisions of Nebraska Revised Statute §23-2522[6], shall immediately issue and cause to be served on the employee a subpoena directing the employee to appear before the Board to give evidence at a date and time to be specified by the Board.
- G. All time spent by an employee, compelled to appear by either party, in a Hearing before the Board pursuant to this Rule shall be considered time spent in performance of the employee's duties, and the employee shall be compensated accordingly by the County.

Section 9: Hearings

Hearings before the Board shall be public, comply with the Open Meetings Act, and are conducted in an orderly manner with the presentation of all material facts so that a fair and impartial decision may be reached. The Board Chair shall have full authority at all times to maintain orderly procedure and to reject irrelevant matters and limit the Hearings to relevant facts.

As far as the order of presentation, the County shall present to the Board first unless agreed upon differently by both parties.

All parties are requested to keep their opening remarks to no more than five (5) minutes. Such remarks should indicate the nature of the issue/appeal and key points they plan to present to the Board.

If the complaint involves legal issues/challenges, the Board must be notified at least seven (7) calendar days prior to the Hearing.

Notification shall be made to the Human Resources Director at the listed mailing/email address or phone number.



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The Board will have such issues reviewed by an attorney representing the Board.

All witnesses testifying will be sworn-in prior to their testimony and will need to state their full name, position with the County or other organization, and/or their relationship to the appellant or grievant. They will remain under oath if recalled to testify.

At the end of the presentation of the case, all parties are requested to keep their closing remarks to less than five (5) minutes.

Section 10: Failure to Appear

In the event that the appellant or grievant shall fail to appear in person or by counsel at the time and place set for Hearing, the appellant or grievant shall be presumed to have waived his/her right to further Hearing, and the Board shall dismiss the appeal or grievance. The Human Resources Director shall inform the party within five (5) calendar days of such dismissal as well as his/her right to request the Hearing be rescheduled.

The Board may reschedule the Hearing upon written presentation, by appellant, grievant, and/or counsel, of evidence of extenuating circumstances which prevented the appearance of appellant or grievant and/or counsel. Such evidence shall be in writing and submitted to the Human Resources Director within seven (7) calendar days of the original Hearing date.

The Board will determine if a rescheduled Hearing will be approved based upon the written documentation. The Board's decision will be communicated to both parties within five (5) calendar days of the Board's decision.

Section 11: Representation

Appellant or grievant may, at his/her election, be represented by counsel, at their own expense.



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Section 12: Conduct

Representatives, whether employees, management, union representatives, or attorneys must remain professional at all times in regard to the presentation of the case, witness examination/cross-examination, objections, and comments to the Board as well as to all parties referred to in the case. Proper case presentation is expected by all parties.

Section 13: Executive Session(s)

The Board will go into Executive Session in situations when it becomes necessary for the protection of the public interest and for the prevention of needless injury to the reputation of any individual, unless the grievant or appellant requests a public hearing.

Section 14: Board Decision

After returning from Executive Session, the Board will usually have a decision. However, the Board at its discretion may recess and consider the case at a later date.

The decision shall be reduced to writing, shall include the Board's findings, and shall be sent to the representatives of each party within fifteen (15) calendar days of the Hearing. The Human Resources Director may also contact each of the respective parties with the Board's decision.

Section 15: Minutes and Recordkeeping

All Hearings will be recorded. The Human Resources Director shall act as the Board's secretary and keep minutes of its proceedings. The Board's rulings will be maintained in accordance with state and federal record-keeping requirements.