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## ARTICLE XI, Discipline

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### § 27-102. General provisions.

- A. Introduction. All employees are expected to work in a safe and efficient manner. When an employee fails to abide by the County's rules and regulations, it may be necessary to discipline the employee. Disciplinary action is intended to encourage compliance with the County's policies and procedures. Disciplinary action includes, but is not necessarily limited to, oral and written reprimands, demotion, suspension without pay or termination. The County reserves the right to determine the appropriate disciplinary action, up to termination, based upon the frequency and severity of the offense or offenses at issue.
- B. Basis for disciplinary action. It is not possible to list every conceivable form of conduct that is unacceptable. However, set forth below is a list of examples of conduct that may result in disciplinary action, up to termination. This list is not intended to be exhaustive and the County reserves the right to discipline employees for other conduct which is not listed but is considered inconsistent with the safe and effective operation of County government.
- C. The following conduct may result in disciplinary action up to and including termination:
- (1) Absence without approved leave;
  - (2) Acceptance of any service, benefit, or item of value, such as a loan or discount not available to the general public, received directly or indirectly from any person, firm, or corporation, for the implied or perceived expectation of favorable influence or preferential treatment from the employee;
  - (3) Acts during or outside of duty hours which are incompatible with the public service or which tend to bring the County into disrepute;
  - (4) Careless, negligent or improper use of County property or equipment;
  - (5) Committing an act which amounts to a violation of the ethics section;<sup>1EN</sup>
  - (6) Criminal conduct, that is, conviction of a crime, the potential sentence for which includes a period of incarceration for 30 days or more;
  - (7) Disclosure of information which is restricted under the Maryland Public Information Law;
  - (8) Discourteous treatment of the public or other employees;
  - (9) Engagement in any private endeavor in conflict with County business, ethical policy, or operations;

- (10) Excessive attention to personal business or affairs while on duty as a County employee;
- (11) Excessive lateness or absenteeism, absence from workplace or duty station without notice, or abuse of leave benefits;
- (12) Habitual pattern of failure to report for duty at the assigned time and place;
- (13) Employment fraud; that is, making a false representation of a material fact on a job application or during the selection process;
- (14) Falsification or unauthorized destruction of County records;
- (15) General misconduct or boisterous or disruptive activity, such as gambling, fighting, use of abusive or obscene language, threatening violence, or creating a nuisance or disturbance, while on duty, at the workplace, or engaged in County business;
- (16) Improper political activity as defined in this chapter;
- (17) Inappropriate official or personal conduct degrading to County classified service or general misconduct undermining the trust in public service;
- (18) Inappropriate, unlawful, or unauthorized solicitation or influence for political or ideological purposes or personal gain, including ticket sales, posting of advertisements, circulation of petitions, donation requests, while on duty or engaged in County business;
- (19) Incompetence, inefficiency or negligence in the performance of duties;
- (20) Negligent or willful damage or waste of County or client-owned property, vehicles, equipment, material, or supplies;
- (21) Offensive treatment of clients, the public, or coworkers;
- (22) Possession of unauthorized or deadly weapons, firearms, or explosives while on duty or engaged in County business;
- (23) Racial, sexual, or other unlawful or unwelcome harassment, or failure to act to stop such conduct in the workplace;
- (24) [Smoking-Tobacco use](#) in prohibited areas;
- (25) The use of alcohol or controlled substances while on duty or the presence of alcohol or controlled substances in the body system, subject to conditions outlined in the [respective County's Alcohol and Controlled Substances Testing Policy](#);
- (26) Theft, or inappropriate use, removal, or possession of County property;
- (27) Unauthorized, personal, or illegal use of telephones, the mail system, communications systems and equipment, and computer systems and equipment;

- (28) Unauthorized use of County property, equipment, materials, supplies, vehicles, or resources for personal gain;
- (29) Unauthorized disclosure of confidential information;
- (30) Unauthorized transfer of official identification or other County property;
- (31) Untruthful statements, willful or negligent falsification of timesheets, reports, records, or other fraudulent behavior detrimental, or potentially detrimental, to the County, the public or coworkers;
- (32) Use, possession, distribution, sale, or transfer of, or impairment by, alcohol or controlled or illegal substances while on duty, at a County workplace, engaged in County business, or operating County-owned vehicles or equipment;
- (33) Willful, negligent, or criminal violation of County personnel policies or federal, state, or local laws, regulations, ordinances, statutes, or policies in effect;
- (34) Willful or negligent violation of safety or health rules; or
- (35) Willful slander or malicious mischaracterization of coworkers, superiors, clients, associates, elected County officials, or public citizens.

**§ 27-103. Demotion.**

- A. An employee whose performance is unsatisfactory may be demoted.
- B. The appointing authority may, with the approval of the County Administrator and Director of Human Resources, reassign the employee to another position.
- C. When an appointing authority determines, with the concurrence of the County Administrator, that a County employee should be demoted, the employee shall immediately be provided written notice of the action to be taken, which will include:
  - (1) Effective date of the personnel action;
  - (2) The reason(s) for the action, including the specific work rule(s) alleged to have been violated; and
  - (3) The recourse available to the employee.

**§ 27-104. Disciplinary suspension.**

- A. A County employee whose performance is unsatisfactory may be suspended without pay for disciplinary reasons.
- B. When an appointing authority determines, with the concurrence of the Director of Human Resources, that a County employee should be suspended without pay, the employee shall

immediately be provided with written notice of the action to be taken, which shall include:

- (1) The effective date of the personnel action;
- (2) The reasons for the action, including the specific work rule(s) alleged to have been violated; and
- (3) The recourse available to the employee.

C. A County employee who is suspended without pay shall be relieved temporarily of all duties and responsibilities for the period of the suspension.

**§ 27-105. Dismissal.**

A. An employee whose performance is unsatisfactory may be dismissed from County service.

B. When an appointing authority determines, with the concurrence of the County Administrator and Director of Human Resources, that a County employee should be dismissed, the employee shall be provided with written notice of the recommended action which shall include:

- (1) The effective date of the personnel action;
- (2) The reasons for the action, including the specific work rule(s) alleged to have been violated;
- (3) The date of the pretermination hearing which shall be held within one business day from the date the written notice is provided to the employee;
- (4) The recourse available to the employee; and
- (5) Upon receipt of written notice of the contemplated termination, the employee shall immediately be placed on administrative leave with pay pending the pretermination hearing.

C. Department pretermination hearing.

(1) A departmental pretermination hearing shall be afforded any County employee:

- (a) Who has completed the probationary period;
- (b) Who an appointing authority has determined, and the County Administrator has concurred, should be terminated from County employment for one or more rules violations.

(2) Timing of pretermination hearing.

- (a) The pretermination hearing shall occur no later than five business days after receipt

of concurrence from the County Administrator and Director of Human Resources that an employee should be terminated from service;

(b) The pretermination hearing should when possible occur within one-three business days of receipt of written notice being provided to the employee of the proposed termination.

(3) Procedure for the pretermination hearing.

(a) At the pretermination hearing, the accused shall be:

- [1] Informed of the specific nature of the allegations against him or her;
- [2] Given full opportunity to respond to the alleged rule infractions;
- [3] Asked why the employee's termination should not proceed.

(b) ~~At the conclusion of the hearing,~~ The appointing authority shall verbally inform the accused employee of the action to be taken, if any within one business day.  
NOTE: do we really want to require this?

D. Procedure for hearing.

(1) Attendees. The pretermination hearing shall be attended by and limited to:

- (a) The accused employee;
- (b) The supervisor(s) of the accused;
- (c) The appointing authority; and
- (d) The Director of Human Resources or a designee.

(2) Failure to attend pretermination hearing. In the event the employee is duly notified and fails to appear for the pretermination hearing, all rights to such hearing shall be forfeited. Furthermore, the employee shall forfeit his/her right to appeal the termination decision to the County's Personnel Board.

#### § 27-106. Exit procedure.

A. An exit interview shall be conducted by the Department of Human Resources with every County employees who leaves County employment voluntarily or involuntarily.

B. The purpose of the exit interview shall be to:

- (1) Advise the employee of his or her legal rights and benefits;
- (2) Ensure that all compensation due a terminating employee is paid that employee, less any legally collectible debts owed to the County; and

- (3) Identify areas in County operations, supervision and/or management which might require improvement.

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## ARTICLE XII, Appeals

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### § 27-107. Policy.

The prompt settlement of misunderstandings or problems on an informal basis at the work level is desirable in the interest of sound employee-employer relations. Accordingly, it is the policy of the County:

- A. To provide an effective procedure for the presentation and mutual adjustment of points of disagreement which arise between employees and their supervisors;
- B. That employees receive a prompt, fair and impartial review of their problems, concerns and complaints;
- C. To the extent reasonably possible, employees are encouraged to discuss and attempt to resolve their concerns regarding employment with their immediate supervisors;
- D. Supervisors and department directors should have an opportunity to rethink and adjust initial decisions regarding employees through the vehicle of the appeal procedure;
- E. No person who initiates, attends, testifies before or is otherwise involved in any appeal proceeding, either for or against an employee, shall suffer retribution from any person or organization; and
- F. The attendance of County employees at appeals proceedings is to be facilitated whenever and wherever possible.

### § 27-108. Matter which may be appealed.

Subject to the limitations imposed in Section 27-111, an appeal may be filed by an employee in connection with:

- A. A personnel action;
- B. Conduct of a supervisor;
- C. Conduct of a peer employee; or
- D. Working conditions.

### § 27-109. Eligibility to appeal.

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- A. Except as otherwise provided herein, any employee who is not on probationary status may file an appeal in response to a personnel action.
- B. Any employee may file an appeal for any other reason enumerated in this chapter.

**§ 27-110. Guidelines regarding appeals.**

- A. Termination of employment. An employee wishing to file an appeal of a decision to terminate his or her employment shall do so by filing a written notice of appeal with the Director of Human Resources within five business days of the date of the pretermination hearing.
- B. Demotion or suspension of employment. An employee wishing to file an appeal of the decision to demote or suspend his or her employment shall do so by filing a written notice of appeal with the Director of Human Resources within five business days of the date that the employee is notified of the demotion or suspension. Steps 1 and 2 of the County's Step Process are not applicable to demotions or suspensions. The employee shall immediately proceed to Step 3 of the County's Step Process.
- C. Other appeals.
  - (1) An employee wishing to appeal a covered matter shall proceed by filing a Step 1 appeal.
  - (2) The County, through the Director of Human Resources, may agree, in writing, to waive any steps of the appeal process.
  - (3) An employee who files an appeal may be accompanied, but not represented, by one other person of his or her choosing at Steps 1, 2 and 3 of the appeal process. An employee may be represented by an attorney or other qualified person of his or her choosing before the County Personnel Board. In the event that the employee's companion or representative disrupts the proceedings in any way, the presiding official shall warn the employee to control such person and, in case of repeated disruptions, may declare the case concluded in a fashion adverse to the employee.

**§ 27-111. Appeal steps.**

- A. Termination cases. All cases involving termination of employment shall be heard by the Director of Human Resources and the Personnel Board in accordance with the provisions for such proceedings established by this article.
- B. Nontermination cases.
  - (1) Step 1. Supervisor's meeting.
    - (a) Any employee desiring to initiate an appeal shall notify his or her immediate supervisor of that fact, ~~either orally or~~ in writing, within 10 ~~calendar~~ business days after an event or personnel action which gives rise to the appeal.

(b) The Supervisor shall receive and review the appeal and shall meet personally with the employee and any other person the employee wishes to attend such meeting within five ~~calendar~~business days after receipt of the notice of appeal. The purposes of the meeting shall be to:

- [1] Obtain all of the facts which form the basis for the appeal;
- [2] Hear the employee's version of the appeal in full;
- [3] Make a determination of any possible ways by which the matter can be resolved at the supervisor's level;
- [4] Discuss the available alternatives for resolution of the dispute, if any, with the employee; and
- [5] Attempt to conclude an informal resolution of the matter with the employee.

(c) At the conclusion of the meeting, the supervisor may elect to render a decision or consult with his or her superiors. In the latter instance, the supervisor's decision shall be provided within five ~~calendar~~business days of the meeting. If no response is received by the employee within the specified time period, the employee may proceed to Step 2 of the appeal process.

(2) Step 2. Director's conference.

(a) Any employee desiring to initiate an appeal from the decision of a supervisor at a supervisor's meeting shall do so within five ~~calendar~~business days after the date of the supervisor's meeting or the date of receipt of the supervisor's decision, whichever is later, by preparing a written notice of appeal and providing a copy to both the director of the department in which the employee works and to the Director of the Department of Human Resources.

(b) Within five ~~calendar~~business days after receipt of the notice of appeal, the director shall schedule and conduct a director's conference.

(c) The director's conference shall be held in an informal manner but shall conform with the following guidelines:

- [1] The employee shall bear the burden of establishing the propriety of his or her case by a preponderance of relevant facts and testimony;
- [2] The department director shall hear and decide the case on the basis of only credible information and facts which are presented at the conference and without regard to the identity of the employee or the nature of the appeal;
- [3] A representative of the Department of Human Resources shall attend the hearing for the purpose of monitoring the proceedings and shall take no active part in the presentation or adjudication of the case;

- [4] The employee may bring a representative to the conference; however, such representative shall be limited to persons who are employed by the County. Inasmuch as the hearing is administrative in nature, legal counsel will not be permitted for the County or the employee during the course of the hearing; and
  - [5] The employee and the County may call other employees as witnesses, and the director shall facilitate their attendance at the conference.
- (d) The purpose of the director's conference shall be for the director to:
- [1] Obtain all of the facts which form the basis for the appeal;
  - [2] Hear the employee's version of the appeal in full;
  - [3] Receive and review testimonial and other evidence;
  - [4] Determine whether the action or condition which forms the basis for the employee's appeal amounts to a violation of law or policy; and
  - [5] Determine whether the penalty imposed, if any, is consistent with the offense, principles of progressive discipline, the employee's job record, law and County policy.
- (e) The director's conference shall proceed in accordance with the following sequence:
- [1] The employee shall present his or her case;
  - [2] The supervisor or other person who is the subject of the appeal shall present the County's case;
  - [3] The employee shall present a closing statement; and
  - [4] The supervisor or other person who is the subject of the appeal shall make a closing statement.
- (f) The director may render a decision at the conclusion of the closing statements or may reserve the decision. In the latter instance, the director's decision shall be provided within five ~~calendar~~ business days after the conference. If no response is received by the employee within the specified time period, the employee may proceed to Step 3 of the appeal process.
- (g) The director may:
- [1] Affirm or reduce any penalty from which an appeal flows;
  - [2] Require another employee to take or refrain from taking any action or engaging in any conduct; or
  - [3] Take any action within his or her authority which the nature of the appeal may

require.

(3) Step 3. Human resource conference.

- (a) Any employee desiring to initiate an appeal from the decision of a departmental director at a director's conference shall do so within five ~~calendar-business~~ days after the date of the director's conference, or within five ~~calendar-business~~ days after the date of receipt of the director's decision, whichever is later, by preparing a written notice of appeal and providing a copy to both the director of the department who held the conference and to the Director of the Department of Human Resources.
- (b) Within five ~~calendar-business~~ days after receipt of the notice of appeal, the Director of Human Resources shall schedule and conduct a human resource conference.
- (c) The human resource conference shall be held in an informal manner but shall conform with the following guidelines:
  - [1] The employee shall bear the burden of establishing the propriety of his or her case by a preponderance of relevant facts and testimony;
  - [2] The scope of the appeal shall conform to the matters which were raised by the employee at the director's conference;
  - [3] The Director of Human Resources ~~or his or her~~ designee shall hear and decide the case on the basis of only credible information and facts which are presented at the conference and without regard to the identity of the employee or the nature of the appeal;
  - [4] The employee may bring a representative to the conference; however, such representative shall be limited to persons who are employed by the County. Inasmuch as the hearing is administrative in nature, legal counsel will not be permitted for the County or the employee during the course of the hearing; and
  - [5] The employee and the County may call other employees as witnesses, and the director of the department to which the employee is assigned shall facilitate their attendance at the conference.
- (d) The purpose of the human resource conference shall be for the Director of Human Resources ~~or his or her~~ designee to:
  - [1] Obtain all of the facts which form the basis for the appeal;
  - [2] Hear the employee's version of the appeal in full;
  - [3] Receive and review testimonial and other evidence;
  - [4] Determine whether the action or condition which forms the basis for the employee's appeal amounts to a violation of law or policy; and

- [5] Determine whether the penalty imposed, if any, is consistent with the offense, principles of progressive discipline, the employee's job record, law and County policy.
- (e) The human resource conference shall proceed in accordance with the following sequence:
- [1] The employee shall present his or her case;
  - [2] The supervisor or department director shall present the County's case;
  - [3] The employee shall present a closing statement; and
  - [4] The supervisor or department director shall make a closing statement.
- (f) Within five ~~calendar~~ business days after the conference, the Director of Human Resources shall notify the employee, in writing, of the findings and conclusions of the Director of Human Resources.
- (g) The Director of Human Resources may:
- [1] Affirm or reduce any penalty from which an appeal flows;
  - [2] Require another employee to take or refrain from taking any action or engaging in any conduct; or
  - [3] Take any action within his or her authority which the nature of the appeal may require.
- (4) Step 4. Personnel Board hearing.
- (a) An employee may only appeal the following actions to the Personnel Board:
- [1] dismissal from employment;
  - [2] suspension; or
  - [3] demotion which results in a pay reduction as a result of a violation of a workplace policy or procedure.
- (b) Any employee desiring to initiate an appeal from the decision of the Director of Human Resources at a human resources conference shall do so within 10 ~~calendar~~ business days after the date of the human resource conference, or within 10 ~~calendar~~ business days after the date of receipt of the Human Resource Director's decision, whichever is later, by preparing a written notice of appeal and delivering it to the Personnel Board via the Director of the Department of Human Resources.
- (c) Within five ~~calendar~~ business days after receipt of the notice of appeal, the Director of Human Resources shall confirm receipt of the notice of appeal to the

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employee. A hearing of the ~~and schedule a~~ Personnel Board hearing. will be scheduled as soon as is practical based on the availability of the Board members and other involved parties and a notice will be mailed to the employee by the Director of Human Resources accordingly.

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## **ARTICLE XIII, Personnel Board**

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### **§ 27-112. Establishment.**

- A. Establishment of Personnel Board. The Queen Anne's County Personnel Board is hereby established.
- B. Definitions. As used in this article, the following terms shall have the meanings indicated:
- PARTY -- Includes both the employee prosecuting an appeal and the County.
- RELEVANT -- Refers to information which relates to an issue before the Personnel Board and tends to establish the truth or falsity of such issue.
- C. Composition of Board. The Personnel Board shall consist of five residents of Queen Anne's County.
- D. Appointment. Personnel Board members shall be appointed by the County Commissioners and designated as Board Member Nos. 1 through 5 for purpose of establishing an initial term of office.
- E. Term of office.
- (1) In order to establish a system by which the terms of Board members are staggered so that, once established, continuity of operation may be maintained, the initial terms of Personnel Board members shall be as follows:
    - (a) Board Member No. 1: This member's term of office shall expire on June 30, 2001.
    - (b) Board Member No. 2: This member's term of office shall expire on December 31, 2001.
    - (c) Board Member No. 3: This member's term of office shall expire on June 30, 2002.
    - (d) Board Member No. 4: This member's term of office shall expire on December 31, 2002.
    - (e) Board Member No. 5: This member's term of office shall expire on June 30, 2003.
  - (2) After the initial terms of office have expired for each Board member, Personnel Board members shall be appointed for terms of four years.

- (3) Personnel Board members may be reappointed but may serve no more than three terms in office.
- (4) No member of the Personnel Board shall hold any other County office or County employment.

F. Removal of Board member. A member of the Personnel Board may be removed by a majority vote of the County Commissioners before the expiration of his or her term of office, for cause, for any of the following:

- (1) Failure to attend three or more meetings in any calendar year;
- (2) Failure to deliberate, receive or consider evidence or render a decision on any case in good faith; or
- (3) Conduct which is clearly intimidating, oppressive or abusive to any person.

**§ 27-113. Jurisdiction.**

A. Scope of authority. The Personnel Board shall be empowered to:

- (1) Hear and decide all appeals by members of the classified service from **personnel actions as defined in Section 27-111, Appeal Steps, Step 4, Personnel Board Hearing**, taken by the County.
- (2) Advise the County Commissioners regarding modifications to the classification and salary plan; and
- (3) Annually, receive a report from the Director of Human Resources regarding the state of the Human Resources Department and the County Merit System and present its findings regarding the Department specifically, and County personnel practices generally, to the County Commissioners.

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B. Scope of appeal. An appeal to the Personnel Board shall be limited to the issues:

- (1) Agreed upon by the County and the employee; or
- (2) Those which were presented at the human resource conference or pretermination hearing.

C. Authorized action.

- (1) Based upon the decision of a majority of the Board, the personnel action appealed from shall be either:
  - (a) Sustained; or
  - (b) Overruled. The Personnel Board shall not be empowered to modify any disciplinary

sanction imposed by an appointing authority.

(2) As a result of a Personnel Board hearing, the Board may require another employee to take or refrain from taking any action or engaging in any conduct.

D. Additional powers. The County Commissioners may, by ordinance, confer upon the Personnel Board such further rights and duties as may be deemed necessary to enforce and carry out the principles and intent of this chapter.

**§ 27-114. Purpose of Personnel Board hearing.**

The purpose of a Personnel Board hearing shall be for the Personnel Board to:

- A. Obtain all of the facts which form the basis for the appeal;
- B. Hear the employee's version of the appeal in full;
- C. Receive and review testimonial and other evidence;
- D. Determine whether the action or condition which forms the basis for the employee's appeal amounts to a violation of law or policy; and

~~E. Determine whether the penalty imposed, if any, is consistent with the offense, principles of progressive discipline, the employee's job record, law and County policy.~~

**§ 27-115. Frequency of meetings.**

The Personnel Board shall schedule a hearing as soon as practical given the availability of the Board members and other involved parties ~~meet within 10 calendar days~~ after receipt of an employee appeal and as frequently otherwise as is required to discharge its responsibilities effectively.

**§ 27-116. Rules of procedure.**

A. Quorum. Three Personnel Board members shall constitute a quorum.

B. Chairperson.

(1) ~~During the month of January of each year, or At~~ the first meeting of the Personnel Board in any year at which a quorum is present, the Personnel Board shall elect one of its members as Chairperson.

(2) The Chairperson shall:

(a) Schedule all Personnel Board hearings and meetings.

(b) Conduct and preside at all meetings of the Personnel Board.

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(c) Make evidentiary rulings at all hearings. In the event of any disagreements among members of the Personnel Board regarding evidentiary or procedural matters, obtain the consensus of the Board regarding the issue in question and abide by such consensus.

(d) Poll members of the Personnel Board telephonically to make preliminary rulings regarding preliminary objections raised by any party prior to a Personnel Board hearing.

C. Guidelines for hearings. The Personnel Board hearing shall be held in an informal manner but shall conform with the following guidelines:

- (1) The employee shall bear the burden of establishing the propriety of his or her case by a preponderance of relevant facts and testimony;
- (2) The scope of the appeal shall conform to the matters which were raised by the employee at the human resource conference;
- (3) The Personnel Board shall hear and decide the case in accordance with the Queen Anne's County Personnel Board Rules of Procedure;
- (4) The employee and/or the County may be represented by an attorney at a Personnel Board hearing; and
- (5) The employee and the County may call other employees as witnesses, and the director of the department to which the employee is assigned shall facilitate their attendance at the conference.

D. Time limits.

- (1) All appeals shall proceed in accordance with time limits established by this chapter.
- (2) If any action required by this chapter is not taken within an established time limit, it shall be time barred, and any appeal dependent upon such action shall be dismissed.

E. Preliminary objections.

- (1) A party may note an objection to any Step 4 appeal by filing a preliminary objection no later than 10 [business](#) days prior to the date of any scheduled Personnel Board hearing.
- (2) A preliminary objection may be filed to challenge:
  - (a) The impartiality of any member of the Personnel Board;
  - (b) The jurisdiction of the Personnel Board; or
  - (c) Nonconformance by a party with any mandatory time limit or other procedural requirement.

F. Evidence.

- (1) Formal rules of evidence shall not apply to a Personnel Board hearing.
- (2) The Personnel Board may take administrative cognizance of:
  - (a) The existence and content of federal, state and County laws;
  - (b) The identity of the County Commissioners, County Administrator and all department directors;
  - (c) Facts which are common knowledge; and
  - (d) Normal physical properties of items.
- (3) All remaining facts must be established through the introduction of admissible evidence at a Personnel Board hearing.
- (4) Evidence shall be received which, in the judgment of the Personnel Board:
  - (a) Is credible;
  - (b) Tends to establish or refute the existence of a relevant fact; and
  - (c) Is not, by its nature, unreasonably prejudicial or repetitious.
- (5) Evidentiary rulings shall be made by the Chairman of the Personnel Board upon objection by a party to a Personnel Board hearing to any testimony or item of evidence.
- (6) Evidence which is not admitted shall not be considered by the Personnel Board for any reason.

G. Burden of proof.

- (1) The employee prosecuting the appeal shall have the burden of establishing the propriety of his or her position by a preponderance of evidence.
- (2) If the Personnel Board is unable to decide whether the employee has successfully met his or her burden of proof, the Board shall find for the County.

H. Order of presentation. The following order of presentation shall apply to all Personnel Board hearings:

- (1) The employee who is prosecuting the appeal may make an opening statement or may elect to waive such statement;
- (2) The County may make an opening statement;
- (3) The employee who is prosecuting the appeal shall present his or her case through his or

her testimony, the testimony of witnesses and the introduction of physical evidence;

- (4) The County shall present its case through the testimony of witnesses and the introduction of physical evidence;
- (5) The employee who is prosecuting the appeal may make a closing statement summarizing the case; and
- (6) The County may make a closing statement summarizing the case.

I. Examination of witnesses.

- (1) A party shall examine his or its witnesses through use of nonleading, direct questions which are designed to elicit information which is relevant.
- (2) Each party may cross-examine the other party's witnesses, upon completion of such witness's direct testimony, through use of leading or other questions.
  - (a) No party may verbally abuse or otherwise impose upon a witness in terms of the manner in which questions are asked; and
  - (b) In the event that a witness refuses to answer questions on cross-examination, the witness shall be warned that continued refusal shall result in the exclusion from evidence of his or her direct testimony and, upon continued refusal of such witness to answer questions on cross-examination, the Personnel Board may exclude all or part of such person's testimony.
- (3) Upon completion of cross-examination, the party calling a witness shall have the opportunity to ask additional questions on redirect examination. The right of recross examination shall be granted or withheld in the discretion of the Personnel Board.

J. Decision of Personnel Board.

- (1) The decision of the Personnel Board shall be derived from a majority vote of a quorum of Board members who attended the entire Step 4 appeals hearing.
- (2) Within 30 calendar days after the conference, the Personnel Board shall notify the employee, in writing, of the findings and conclusions of the Personnel Board.

K. Continuances.

- (1) The Personnel Board shall, as a matter of right, grant one continuance to a party, provided that the request is made no later than seven ~~calendar~~business days before any scheduled Personnel Board hearing.
- (2) Upon good cause shown, the Personnel Board may grant such other continuances as it deems essential to the search for truth or the proper resolution of an employee's appeal.

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<sup>i</sup> Editor's Note: See Ch. 8, Ethics.