



## KENTUCKY PERSONNEL BOARD

**Matthew G. Bevin**  
Governor

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**Mark A. Sipek**  
Executive Director and Secretary

**Stafford Easterling**  
General Counsel

February 14, 2019

Honorable Matthew G. Bevin  
Governor of Kentucky  
The Capitol  
700 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Governor Bevin:

In accordance with KRS 18A.075(6), I am forwarding the Kentucky Personnel Board's Annual Report for the Fiscal Year ending June 30, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Sipek".

Mark A. Sipek  
Executive Director and  
Secretary of the Board

Copies to:

✓ Legislative Research Commission  
Thomas Stephens, Secretary, Personnel Cabinet

**KENTUCKY PERSONNEL BOARD**

**ANNUAL REPORT**

**FOR**

**FISCAL YEAR 2018**

## SUMMARY OF ACTIVITIES

This annual report is generated pursuant to KRS 18A.075(6).

The list below enumerates the major activities of the Personnel Board during Fiscal Year 2017.

1. Hearing appeals pursuant to the provisions of KRS Chapter 18A of Merit System (classified) employees and unclassified employees, who have been dismissed, demoted, suspended or otherwise penalized.
2. Revision of administrative regulations as needed.
3. Tracking grievances that are filed within the agencies.
4. Zealous protection of equitable treatment and due process of all state employees, including answering various questions from state employees, members of the press and the general public concerning the merit system and its procedures.
5. Participation by hearing officers, Executive Director and General Counsel in intensive hearing officer training conducted by the Office of the Attorney General and other professional organizations as mandated by KRS Chapter 13B, Administrative Hearing Procedures Act.
6. Conducting investigations of matters relating to KRS Chapter 18A as they are brought to us by various means.
7. Training state personnel on the activities of the Board and the provisions of KRS Chapter 18A.

**KENTUCKY PERSONNEL BOARD MEMBERSHIP  
FISCAL YEAR 2018  
JULY 1, 2017 – JUNE 30, 2018**

The Kentucky Personnel Board consists of five members who are appointed by the Governor for overlapping terms of four years, and two Merit System (classified) employees who are elected by their peers, also for four-year terms.

| <u>ACTIVE MEMBERS</u>                             | <u>COUNTY OF RESIDENCE</u> | <u>APPOINTMENT, REAPPOINTMENT OR ELECTION</u>           | <u>END OF TERM</u>                 |
|---|----------------------------|---|------------------------------------|
| Brian J. Crall<br>--Chair                         | Jessamine                  | Appointed March 4, 2016                                 | January 1, 2020                    |
| Mark O. Haines<br>--Vice Chair                    | Barren                     | Appointed April 28, 2016<br>Reappointed January 4, 2018 | January 1, 2018<br>January 1, 2022 |
| Beverly H. Griffith                               | Daviess                    | Appointed June 24, 2016                                 | January 1, 2019                    |
| William J. Byrley                                 | Jefferson                  | Appointed October 14, 2016                              | January 1, 2020                    |
| Heather C. Wagers<br>(Sworn in February 10, 2017) | Franklin                   | November 16, 2016                                       | June 30, 2018                      |
| Catherine J. Monteiro                             | Jefferson                  | Appointment March 23, 2017                              | January 1, 2021                    |
| Tanya Lawrence                                    | Franklin                   | August 11, 2017   | June 30, 2018                      |

## APPEALS

In Fiscal Year 2018, the Personnel Board received two hundred and thirty-nine (239) appeals alleging some violation of KRS Chapter 18A. These appeals came from classified employees who had been dismissed, suspended, demoted, laid off, or who alleged some other merit system violation. Also included in this number are appeals from unclassified employees who were dismissed, suspended, demoted, or otherwise penalized for cause or who made allegations of discrimination. Persons eligible on employment registers compiled by the Personnel Cabinet who allege some form of penalization are also allowed to make certain claims to the Board and those appeals are also included in this number. This number includes appeals filed by individuals over which the Personnel Board's legal jurisdiction is questionable. The appeals were reviewed to determine whether or not the Board actually had jurisdiction.

The Board held approximately three hundred ten (310) pre-hearing conferences. Each appeal is scheduled for a pre-hearing to determine the issues and address any matters that need to be clarified before the evidentiary hearing. Some appeals may require more than one pre-hearing conference. The Board's Executive Director and General Counsel conduct almost all of the pre-hearings to conserve the hearing officers' funding.

The hearing officers (including the General Counsel and Executive Director) conducted forty (40) evidentiary hearings. Some of these were multiple-day hearings, while others lasted only part of a day. The Board reviews the hearing officers' Findings of Fact, Conclusions of Law and Recommended Order. The Board also reviews any Exceptions and Responses to Exceptions filed by the parties and considers oral arguments, if requested by the parties. In all cases, the Board takes the final action.

The Kentucky Employee Mediation Program, administered by the Personnel Cabinet, mediated nineteen (19) Personnel Board appeals, which resulted in thirteen (13) settlements.

### APPEAL STATISTICS

|                                       |     |
|---------------------------------------|-----|
| Appeals Pending 7-1-17                | 342 |
| Appeals Filed During Fiscal Year      | 239 |
| Final Orders Sent Out for Fiscal Year | 294 |
| Total Pending Cases 6-30-18           | 287 |

### FINAL ORDERS SENT

|  |     |
|--|-----|
| Agency Actions Upheld (Appeal dismissed)                   | 156 |
| Appeals Sustained to Extent (Agency's penalty lessened)    | 1   |
| Appeals Sustained (Agency's action reversed)               | 0   |
| Reinstatements (Employee returned to work after dismissal) | 0   |
| Agreed Orders (Settlements)                                | 50  |
| Withdrawals (Appellant decided not to proceed)             | 87  |

### KENTUCKY ADMINISTRATIVE REGULATIONS

Amendments were submitted as of June 30, 2018, to 101 KAR 1:325, the regulation establishing the length of probationary periods.

## INVESTIGATIONS

Pursuant to KRS 18A.075, the Board has the power to conduct investigations concerning abuses of the merit systems. There were no investigations carried forward from the prior fiscal year.

The Kentucky Personnel Cabinet requested an investigation of the Little Sandy Correctional Complex.

## GRIEVANCES

KRS 18A.075(6) was amended by the General Assembly in 2010 and reads as follows:

(6) Make annual reports to the Governor, the Legislative Research Commission, the secretary of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy. The board may request state agencies to provide information to assist the board in compiling the reports, which shall include the following:

(a) The number of merit state employees at the beginning and the end of the reporting period;

(b) The total number of grievances filed and mediation requests made by merit employees during the reporting period;

(c) A tabulation of the stages in which employee complaints were resolved during the reporting period; and

(d) The average amount of time taken to resolve employee complaints during the reporting period, by stage.

The total number of Merit (classified) employees on July 1, 2017, was 24,894.

Total number of Merit (classified) employees on June 30, 2018, was 23,451.

Twenty-eight (28) mediation requests were made by merit (classified) employees FY 2018.

One hundred fourteen (114) grievances were filed by merit (classified) employees in FY 2018.

There can be several stages of a grievance, depending at what stage the grievance is resolved.

|  |         |
|--|---------|
| Number of grievances resolved at first level of review:                    | 26      |
| Average time to resolve for first level:                                   | 6 days  |
| Number of grievances resolved at second level of review:                   | 25      |
| Average time to resolve at second level:                                   | 14 days |
| Number of grievances resolved at third level of review:                    | 10      |
| Average time to resolve at third level:                                    | 15 days |
| Number of grievances resolved at fourth level of review:                   | 15      |
| Average time to resolve at fourth level:                                   | 30 days |
| Number of grievances resolved at Appointing Authority level (final level): | 38      |
| Average time to resolve at Appointing Authority level (final level):       | 36 days |



## KENTUCKY PERSONNEL BOARD MEETINGS

In compliance with KRS 18A.070(2), the Personnel Board scheduled at least one regular meeting each month.

### 2017

July 14

August 11

September 8

October 16

November 6

December 11

### 2018

January 12

February 9

March 9

April 13

May 11

June 8

All meetings were conducted in accordance with the Kentucky Open Meetings Act (KRS 61.805, *et seq.*). Notices were sent to the press and posted in public places.