



KENTUCKY PERSONNEL BOARD

Andy Beshear
Governor

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Mark A. Sipek
Executive Director and Secretary
Stafford Easterling
General Counsel

May 18, 2020

Honorable Andy Beshear
Governor of Kentucky
The Capitol
700 Capitol Avenue
Frankfort, Kentucky 40601

Dear Governor Beshear:

In accordance with KRS 18A.075(6), I am forwarding the Kentucky Personnel Board's Annual Report for the Fiscal Year ending June 30, 2019.

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
Gerina Whethers, Secretary, Personnel Cabinet

KENTUCKY PERSONNEL BOARD

ANNUAL REPORT

FOR

FISCAL YEAR 2019

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, 2018 – JUNE 30, 2019**

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 --Chair	Jessamine	Appointed March 4, 2016	January 1, 2020
Mark O. Haines --Vice Chair	Barren	Appointed April 28, 2016 Reappointed January 4, 2018	January 1, 2018 January 1, 2022
Beverly H. Griffith	Daviess	Appointed June 24, 2016 Reappointed February 1, 2019	January 1, 2019 January 1, 2023
William J. Byrley	Jefferson	Appointed October 14, 2016	January 1, 2020
Catherine J. Monteiro	Jefferson	Appointed March 23, 2017	January 1, 2021
Richard Waite	Jackson	Elected July 1, 2018	June 30, 2022
Tanya Lawrence (Appointed to fill the vacancy caused by Heather C. Wagers' resignation.)	Franklin	January 11, 2019	June 30, 2022

PAST MEMBERS WHO SERVED PART OF FISCAL YEAR 2019

Heather C. Wagers (Sworn in February 10, 2017)	Franklin	November 16, 2016	June 30, 2018
		Re-Elected July 1, 2018	June 30, 2022
		Resigned to take a non-merit position	October 30, 2018

APPEALS

In Fiscal Year 2019, the Personnel Board received two hundred and seventy-three (273) 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 seventy (370) 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-five (45) 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 thirty-four (34) Personnel Board appeals, which resulted in twenty-eight (28) settlements.

APPEAL STATISTICS

Appeals Pending 7-1-18	287
Appeals Filed During Fiscal Year	273
Final Orders Sent Out for Fiscal Year	337
Total Pending Cases 6-30-19	223

FINAL ORDERS SENT

Agency Actions Upheld (Appeal dismissed)	153
Appeals Sustained to Extent (Agency's penalty lessened)	7
Appeals Sustained (Agency's action reversed)	4
Reinstatements (Employee returned to work after dismissal)	0
Agreed Orders (Settlements)	74
Withdrawals (Appellant decided not to proceed)	99

KENTUCKY ADMINISTRATIVE REGULATIONS

Amendments to 101 KAR 1:325, the regulation establishing the length of probationary periods, became effective August 31, 2018.

INVESTIGATIONS

Pursuant to KRS 18A.075, the Board has the power to conduct investigations concerning abuses of the merit systems.

1. The Board completed its investigation of allegations of sexual misconduct at the Little Sandy Correctional Complex on June 20, 2019.
2. The Board initiated an investigation of merit system violations in the State Board of Elections/Secretary of State's office at the request of Jared Dearing.
3. The Board initiated an investigation of discrimination in the Cabinet for Health and Family Services.

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, 2018, was 25,243.

Total number of Merit (classified) employees on June 30, 2019, was 24,529.

Twenty-eight (28) mediation requests were made by merit (classified) employees FY 2019.

One hundred fourteen (114) grievances were filed by merit (classified) employees in FY 2019.

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:	117
Average time to resolve for first level:	7 days
Number of grievances resolved at second level of review:	65
Average time to resolve at second level:	8 days
Number of grievances resolved at third level of review:	40
Average time to resolve at third level:	7 days
Number of grievances resolved at fourth level of review:	25
Average time to resolve at fourth level:	20 days
Number of grievances resolved at Appointing Authority level (final level):	42
Average time to resolve at Appointing Authority level (final level):	29 days

KENTUCKY PERSONNEL BOARD MEETINGS

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

<u>2018</u>	<u>2019</u>
July 13	January 11
August 10	February 8
September 14	March 8
October 12	April 12
November 9	May 6
December 14	June 14

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.

