

101 KAR 1:375. Employee grievances and complaints.

RELATES TO: KRS 18A.075, 18A.0751, 18A.095

STATUTORY AUTHORITY: KRS 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to adopt comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1)(i) requires the Personnel Board to promulgate an administrative regulation governing employee grievances and complaints. This administrative regulation establishes the requirements governing employee grievances and complaints.

Section 1. Definition. "Grievance" means a complaint filed by an employee which concerns some aspect of his or her conditions of employment over which the employee's cabinet or agency has control and which has occurred or of which the employee has become aware, through the exercise of due diligence, within thirty (30) days prior to filing.

Section 2. General Provisions.

(1) An employee in the classified service who believes that he or she has been subjected to unfair or unjust treatment concerning conditions of employment may file a grievance in accordance with this administrative regulation.

(2) A grievance concerning an action which is appealable directly to the board pursuant to KRS 18A.095 may also be filed with the cabinet or agency. The filing of a grievance with the cabinet or agency shall not:

(a) Prohibit the employee from also filing an appeal with the board;

(b) Extend the statutory appeal period.

(3) An employee shall be entitled to file a grievance without interference, coercion, discrimination, or reprisal.

(4) An appointing authority shall inform its employees of the provisions of this administrative regulation, or any modifications in the levels of review that have been approved by the Personnel Board for the employee's cabinet or agency pursuant to Section 4(4) of this administrative regulation.

Section 3. Procedures.

(1) A grievance shall be filed on a Grievance Form with an employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action that is the subject of the grievance. If the action or conduct of the first line supervisor is the basis of an employee's grievance, the grievance may be filed with the second line supervisor.

(2) An employee shall state in writing the basis of the grievance or complaint together with the corrective action desired. If an employee wishes to submit additional information or documentation, the employee may attach it to the Grievance Form.

(3) If a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age forty (40) or over, the recipient of this grievance shall immediately notify the cabinet or agency EEO coordinator to comply with the affirmative action plan.

(4) Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle them to compensatory time.

(5) Interviews to evaluate or investigate the grievance held with the grievant or other employees shall not require the use of leave time.

(6) Parties may have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels.

(1) Except as provided by Section 3(1) of this administrative regulation, the immediate supervisor shall, upon investigation, issue findings and a decision in writing to the

employee within ten (10) work days after receipt of the grievance. If the responding supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within five (5) work days of receipt of the decision by the next appropriate level.

(2) The next line supervisors shall each have five (5) work days to respond to the grievance. The employee shall have five (5) work days after each intermediate supervisory review to decide to appeal the grievance to the next level.

(3) If the line supervisors are unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance within five (5) work days of receipt of the decision of the final line supervisor by the appointing authority for a final determination. The appointing authority, upon investigation, shall issue findings and a final determination in writing to the employee within twenty (20) work days.

(4) Unless the time limits have been extended by agreement of the parties, failure of supervisory or management personnel to respond within prescribed time limits shall automatically advance the grievance to the next review level.

(5) An intermediate grievance level may be waived by written agreement of the parties.

Section 5. Incorporation by Reference.

(1) "Grievance Form", October 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(15 Ky.R. 1721; eff. 3-8-1989; 17 Ky.R. 97; eff. 9-12-1990; 19 Ky.R. 81; 867; eff. 10-8-1992; 21 Ky.R. 462; eff. 9-14-1994; 38 Ky.R. 641; 890; eff. 11-16-2011; TAm eff. 1-22-2018.)