

GENERAL GOVERNMENT CABINET
Personnel Board
(Amendment)

101 KAR 1:367. Standards of conduct and technology governing recording board proceedings.

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

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 specifies that the Personnel Board promulgate comprehensive administrative regulations provisions for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation will govern any and all recordings of Personnel Board proceedings.

Section 1. Equipment, Personnel, and Location. The Personnel Board, its hearing officers, and staff shall have the discretion to determine:

- (1) The appropriate and permissible equipment used for recording Personnel Board proceedings;
- (2) The appropriate and permissible personnel allowed to record Personnel Board proceedings; and
- (3) The appropriate and permissible location(s) for the equipment and personnel allowed to record Personnel Board proceedings. The Personnel Board, its hearing officers, and staff may use the discretion afforded them primarily to ensure that the process of recording Personnel Board proceedings does not produce distracting sound or light, which would unduly disrupt the orderly conduct of those proceedings.[]

Section 2. Movement During Proceedings. At the discretion of the board, recording equipment shall not be placed in or removed from the hearing room except prior to commencement or after adjournment of proceedings each day, or during a recess.

Section 3. Conferences of Counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences that occur in the hearing room between attorneys and their clients, between co-counsel of a client, or between counsel and the hearing officer held at the bench.

Section 4. Use of Media Material. Unless specifically permitted by the board, none of the recordings developed during or by virtue of coverage of a board proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any rehearing or appeal of such proceedings.

Section 5. Confidentiality.

(1) In order to protect the legally recognized interests in confidentiality of individuals, any party may move to exclude electronic media or still photographers from the hearing room during all or any portion of a hearing.

(2) The hearing officer, on their own motion, may exclude electronic media or still photographers from the hearing room during all or a portion of a hearing in their sound discretion.

Section 6. Applicability. This administrative regulation shall apply to all Personnel Board proceedings. Where this administrative regulation is to be applied to a meeting of the full board, the discretion afforded the board as set out herein shall be exercised by the chairman or vice-chairman of the board or, in their absence, the member of the board who is moderating the board meeting. Where this administrative regulation is to be applied to any other Personnel Board proceeding, the discretion afforded the board as set out herein shall be exercised by the hearing officer and/or member of Personnel Board staff.

MARK A. SIPEK, Executive Director

APPROVED BY AGENCY: August 25, 2021

FILED WITH LRC: August 25, 2021 at 9:19 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2021, at 9:30 a.m. Eastern Time at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email stafford.easterling@ky.gov.