

Technical Amendment
November 10, 2022
EDUCATION AND LABOR CABINET
(Technical Amendment)

803 KAR 2:010. Board procedures.

RELATES TO: KRS 338.051

STATUTORY AUTHORITY: KRS 338.051

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This administrative regulation establishes board procedures.

Section 1. Definitions.

- (1) "Board" is defined by KRS 338.015(6).
- (2) "Chairman" means chairperson of the Kentucky Occupational Safety and Health Standards Board.
- (3) "Chairperson Pro Tem" means the board member elected by the members of the board to chair any board meeting in the absence of the chairperson.

Section 2. The chairperson of the board shall administer the oath of office, if necessary, when the board convenes.

Section 3. The board shall meet annually, or when additional meetings are needed, at the call of the chairperson in a location designated by the chairperson.

Section 4.

- (1) Board decisions require a majority vote.
- (2) The chairperson shall have the same rights and duties as all other members, including the right to introduce, discuss, and vote on any matter before the board.

Section 5.

- (1) The board shall keep and preserve a record of the proceedings of its meetings including the time, place, members present, and votes.
- (2) Committees shall keep and preserve a similar record.

Section 6.

- (1) The board shall hold a public hearing prior to the adoption, promulgation, modification, or repeal of any standard or administrative regulation.
- (2) Notice of the hearing stating the date, time, location, and a brief description shall be posted on the Education and Labor Cabinet website not less than ten (10) calendar days before the hearing.
- (3) Notice shall not be required prior to the adoption of federal standards received by the Education and Labor Cabinet after general notice of the board meeting.
- (4) Any interested person may petition, in writing, the Secretary of the Education and Labor Cabinet to promulgate, amend, or repeal a standard. The petition shall articulate the terms, substance, effects, and reason.
- (5) Within a reasonable time after the receipt of a submission pursuant to subsection (4) of this section, the secretary shall notify the board and it may afford an opportunity for a hearing.

Section 7.

- (1) Hearings shall be conducted in accordance with the following procedures, which may be suspended or modified when deemed necessary.

- (2) The members of the board shall elect a chairperson pro tem whose duties shall be to chair any meeting of the board in the absence of the chairperson.
- (3) The chairperson pro tem shall be a member of the board and shall not lose the right to vote while acting as chairperson.
- (4) The chairperson pro tem shall be elected for a term of two (2) years or until a successor is elected. If the chairperson pro tem ceases to be a member of the board prior to the expiration of his or her term as chairperson pro tem, a new chairperson pro tem shall be elected by the board at the next board meeting.
- (5) Any interested person may appear at the hearing to offer testimony or evidence if, at the opening of the hearing, or at an earlier time as the chairperson directs, the person files with the chairperson a notice of appearance which shall set forth the:
 - (a) Name and address of person appearing;
 - (b) Name and address of person represented, if any; and
 - (c) Approximate length of time for presentation.
- (6) Each person filing a notice of appearance will be notified, if practicable, of the approximate day and the place at which he or she may offer evidence at the hearing. If the person does not appear at the time set in the notice, he or she will not be permitted to offer evidence at any time except by special permission of the chairperson.
- (7) At the discretion of the chairperson, the hearing may be continued to a later date, or to a different place, by chairperson announcement at the hearing.

Section 8.

- (1) The chairperson may appoint standing and special committees.
 - (2) A committee shall meet at the call of its chairperson or the chairperson of the board at the time and place designated by either chairperson.
- (OSH 4-1; 1 Ky.R. 833; eff. 5-14-1975; Am. 8 Ky.R. 1444; eff. 7-7-1982; TAm eff. 8-9-2007; TAm eff. 9-8-2011; 47 Ky.R. 1261, 1960; eff. 7-6-2021; TAm eff. 11-10-2022.)
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