GENERAL GOVERNMENT CABINET

Personnel Board

(Amendment)

101 KAR 1:375. Employee grievances and complaints.

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

STATUTORY AUTHORITY: KRS 18A.075, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 and 18A.0751 requires the Personnel Board to adopt comprehensive administrative regulations consistent with the provisions of KRS 18A.005 through 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 that concerns some aspect of the employee's conditions of employment:

(1) Over which the cabinet or agency has control; and

(2) That has occurred, or of which the employee has become aware through the exercise of due diligence, within thirty (30) calendar days prior to filing.

Section 2. General Provisions.

(1) An employee in the classified service who believes that they have been subjected to unfair or unjust treatment concerning the employee's conditions of employment may file a grievance. A grievance shall be in accordance with this administrative regulation.

(2) A grievance concerning an action that 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; or

(b) Extend the statutory appeal period.

(3) An employee utilizing the procedure established in this administrative regulation 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(3) 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) calendar 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 employee's 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 employee participants 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, which shall be requested 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, which shall be requested 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 the established time limits shall automatically advance the grievance to the next review level.

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

Section 5. Incorporation by Reference.

(1) "Grievance Form", April 2024,~~[October 2011,]~~ is incorporated by reference.

(2) This material may be found on the Personnel Board's Web site, https://personnelboard.ky.gov, and may be inspected, copied, or obtained, subject to applicable copyright law, from the Web site and at the Personnel Board's physical address~~[Board]~~, 1025 Capital Center Drive,~~[Driver,]~~ Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GORDON A. ROWE, Jr., Executive Director

APPROVED BY AGENCY: April 15, 2024

FILED WITH LRC: April 15, 2024 at 9:40 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2024, at 9:30 a.m., ET., 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 was received by that date, the hearing may be cancelled. 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 June 30, 2024. 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: Gordon A. Rowe, Jr., Executive Director, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email personnelboard@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Gordon A. Rowe, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This regulation defines conditions for instituting disciplinary measures and the manner of notification.

(b) The necessity of this administrative regulation:
This regulation is necessary to set the requirements of processing disciplinary actions.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
18A.075, 18A.005 to 18A.200 specifies that the Board adopt a regulation describing conditions for properly instituting disciplinary measures and notification to the employee.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This regulation will continue to provide effective administration of the statutes by its requirements to process disciplinary actions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This amendment incorporates by reference the revised Grievance Form.

(b) The necessity of the amendment to this administrative regulation:
The amendment is necessary to provide uniformity with the requirements of KRS Chapter 18A.

(c) How the amendment conforms to the content of the authorizing statutes:
The amendment verifies conformity with KRS 18A.075 and KRS 18A.0751 by fully describing the procedures for instituting a disciplinary action and providing the Grievance Form.

(d) How the amendment will assist in the effective administration of the statutes:
This amendment provides clarity and consistently required for effectively processing disciplinary actions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
This regulation affects all state government agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
There will not be any new actions required of the entities identified in question (3) to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no additional cost to the entities to comply with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Continued compliance of this regulation will provide uniformity among all entities identified in question 3.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be a minimal one-time cost to implement this amendment by revising the Grievance Form.

(b) On a continuing basis:

There will be no ongoing cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

There is no need for a source of funding to implement and enforce this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There will not be an increase in fees or a necessity in funding to implement this amendment. It will be a minimal one-time cost.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied?

No. This regulation, as amended, treats all impacted employees the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 18A.075 and 18A.0751.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:
Personnel Board, Personnel Cabinet, and all other State Government Agencies required to administer disciplinary actions.

(a) Estimate the following for the first year:

Expenditures:No expenditures will be generated.

Revenues:No revenue will be generated.

Cost Savings:No cost savings will be generated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):
N/A

(a) Estimate the following for the first year:

Expenditures:No expenditures will be generated.

Revenues:No revenue will be generated.

Cost Savings:No cost savings will be generated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3):
N/A

(a) Estimate the following for the first year:

Expenditures:No expenditures will be generated.

Revenues:No revenue will be generated.

Cost Savings:No cost savings will be generated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:
There will be a minimal one-time revision/printing cost resulting in a fiscal impact to administer the incorporation by reference of the amended Grievance Form to this regulation.

(b) Methodology and resources used to determine the fiscal impact:

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate)

No negative or adverse economic impact will result.

(b) The methodology and resources used to reach this conclusion: