

201 KAR 16:610. Procedures for grievances, investigations, and administrative charges.

RELATES TO: KRS Chapter 13B, 61.870 - 61.884, 321.190, 321.235(2), 321.351, 321.353, 321.360

STATUTORY AUTHORITY: KRS 321.235(2), (3), 321.240(5), 321.351, 321.353, 321.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2) authorizes the Kentucky Board of Veterinary Examiners to investigate an allegation of a practice that violates the provisions of KRS Chapter 321. KRS 321.235(3) and 321.240(5) authorize the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the procedures for handling grievances, investigations, and administrative charges.

Section 1. Definition. "Grievance" means a complaint, grievance, or other allegation of misconduct that might constitute a violation of KRS Chapter 321 or 201 KAR Chapter 16.

Section 2. Intake of Grievances.

(1)

(a) A grievance may be submitted by any individual, organization, or entity.

(b) The board may submit a grievance on its own initiative based on information in its possession that the board believes is sufficiently credible to justify a request for a response from the licensee (or other individual named in the grievance).

(2) The grievance shall be in writing on a Grievance Form or online equivalent form provided by the board, and shall include the complaining party's name, address, telephone number, and signature. Electronic signatures shall be accepted.

(3) The board's chair, or the chair's designee, shall perform an initial screen of any grievance that was submitted without identifying the complaining party. The chair, or the chair's designee, shall determine whether the grievance contains sufficient details or other indicators of credibility to justify a request for a response from the licensee (or other individual named in the grievance). If sufficient details or other indicators of credibility are lacking, then the grievance shall be discarded without further action or notice to the licensee or other named individual.

(4) The board shall send a copy of the grievance to the licensee (or other individual named in the grievance) along with a request for a response. The response shall be required within thirty (30) days from the date of when the board sent a copy of the written grievance. Failure to respond in writing within thirty (30) days may constitute a violation of the Code of Ethical Conduct pursuant to 201 KAR 16:500.

Section 3. Initial Review of Grievances.

(1) After the time period for the licensee's (or named individual's) response has elapsed, at the next scheduled board meeting the Complaints Screening Committee shall consider the grievance, the response if one was received, and other relevant information that is available to the Committee.

(2) The Complaints Screening Committee shall determine if an investigation is warranted after reviewing the information that is available. An investigation shall be warranted if the committee determines, based on upon a totality of the circumstances, that a reasonable probability exists that the grievance has merit.

(3) If, in the opinion of the Complaints Screening Committee, a grievance does not warrant an investigation, then the board shall notify the complaining party and the respondent that the grievance is being dismissed without investigation.

(4) The dismissal of a grievance without an investigation shall constitute a final action of the board. Following the dismissal, the grievance, the response from the individual

named in the grievance, and correspondence that is intended to give notice of the dismissal shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(5) If, in the opinion of the board, a grievance warrants an investigation, then the board shall open an investigation into the matter.

Section 4. Investigations.

(1) The Complaints Screening Committee shall have the authority to direct an investigation and shall exercise those powers possessed by the board in regard to investigations as provided by KRS 321.235.

(2) The Complaints Screening Committee shall have the authority to request the participation of any person in an investigation. The refusal or failure of any board licensee or certificate holder to participate when requested, or to provide information and documents requested by the committee within the requested timeframe, shall be considered a violation of 201 KAR 16:500.

(3) Investigative reports shall be reviewed at a meeting of the committee.

Section 5. Reports and Recommendations Following Investigation.

(1) If the board determines that the results of an investigation do not warrant the issuance of an administrative charge against the individual named in the grievance, then the board shall notify the complaining party and the individual that the grievance is being dismissed without further action.

(2) The dismissal of a grievance following an investigation shall constitute a final action of the board. Following the dismissal, the grievance, the response from the individual named in the grievance, correspondence that is intended to give notice of the dismissal, and any other documents obtained or generated during the investigation (other than those documents that are subject to a legitimate claim of privilege or otherwise exempt from disclosure by law) shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(3) If the board determines that the results of an investigation warrant the issuance of an administrative charge against a licensee, then the board shall cause an administrative charge to be prepared.

(4) If the board determines that the results of an investigation warrant proceedings against a person who is not a licensee, then the board shall cause a civil action to be prepared for filing in the Franklin Circuit Court or other court of competent jurisdiction.

Section 6. Administrative Charges.

(1) The administrative charge shall:

(a) Be signed and dated by a member of the board or the board's authorized representative;

(b) Be designated with an administrative charge number; and

(c) State:

1. The board's jurisdiction in regard to the subject matter of the administrative charge; and

2. In numerical paragraphs, sufficient information to apprise the named licensee or individual of the general nature of the charges.

(2) A licensee's written response shall be due within thirty (30) days after the issuance of the administrative charge. Failure to respond within that time period may be taken by the board as an admission of the charges.

(3) Each notice shall be issued in accordance with KRS 13B.050.

Section 7. Proceedings Following the Issuance of an Administrative Charge.

(1) The board shall arrange for the appointment of a hearing officer in accordance with KRS 13B.030 and 13B.040.

- (2) The board's legal counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding unless the board appoints a special prosecuting attorney.
- (3) The board may appoint a representative of the Attorney General's office or another attorney to act as advisory counsel to the board in regard to any deliberations of the board following the issuance of an administrative charge.
- (4) The provisions of KRS Chapter 13B shall govern the conduct of the proceeding.

Section 8. Incorporation by Reference.

- (1) "Grievance Form", 2/2020, is incorporated by reference.
 - (2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be obtained at www.kybve.com.
- (46 Ky.R. 1747, 2620; eff. 6-30-2020.)