

67C.323 Review of disciplinary actions -- Hearings -- Appeal.

In all cases provided for in KRS 67C.321, the discipline issued by the chief, upon final opinion issued by the chief, or the chief's designee following the pre-disciplinary hearing, shall be reviewed by the board as follows:

- (1) All discipline consisting of either a dismissal, suspension, or demotion of a nonprobationary officer made by the chief shall be subject to review by the board. Discipline consisting of dismissal, demotion, or a forty (40) hour or more suspension of a nonprobationary officer shall be heard by the full board. The board shall give notice and hold a hearing. After the hearing, the board shall, without the parties to the appeal, retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the discipline issued by the chief is unsupported by a preponderance of the evidence or that the discipline is unjustified, the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the discipline issued by the chief. No officer shall be removed or dismissed except as provided for in this section.
- (2) All discipline consisting of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal of the discipline is heard by a hearing officer, all rules established by the board relating to disciplinary hearings shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his or her findings of fact, conclusions of law, and recommended disposition of the appeal of the discipline, which may include recommended penalties. The recommended order shall also include a statement advising the officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including the recommended order and any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.
- (3) (a) Every action of a dismissal, suspension, or demotion made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets.

The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. Notice of the appeal shall be given to the chief or the officer if not already a party to the appeal as real parties in interest. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action with appropriate judicial review of an administrative action or decision.

- (b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 181, sec. 9, effective January 1, 2025. -- Amended 2013 Ky. Acts ch. 95, sec. 3, effective June 25, 2013. -- Amended 2003 Ky. Acts ch. 118, sec. 10, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 12, effective July 15, 2002.