

803 KAR 3:030. Unfair labor practice complaints.

RELATES TO: KRS 345.070, 345.120

STATUTORY AUTHORITY: KRS 345.120(7)

NECESSITY, FUNCTION, AND CONFORMITY: The State Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this administrative regulation is to establish general rules for the Board relating to the administrative and adjudicatory handling of unfair labor practice complaints. This administrative regulation is to establish general rules for the State Labor Relations Board relating to the administrative and adjudicatory handling of unfair labor practice complaints filed under the Firefighters Collective Bargaining Act.

Section 1. Who may File a Complaint. A complaint that a person has engaged or is engaging in an unfair labor practice may be submitted by any party in interest. Such complaint shall be in writing upon a form provided by the board, the original being signed and sworn to before any person authorized to administer oaths or acknowledgments. Five (5) additional copies of the complaint shall be filed.

Section 2. Complaint. The complaint shall include:

- (1) The full name and address of the person making the complaint, hereinafter referred to as the complainant;
- (2) The full name and address of the person against whom the complaint is made; hereinafter referred to as the respondent;
- (3) A clear and concise statement of the facts constituting the alleged unfair labor practice or practices, including the time and place of occurrence of particular acts and the names of all persons involved.

Section 3. Service of Complaint. On the filing of a complaint, the board shall immediately serve on all parties in interest a copy thereof and a notice of a hearing by return receipt mail to their last known post office address. The hearing will be held not less than five (5) days after notice is served upon the respective parties.

Section 4. Answer. The person or persons complained of may file an answer before the hearing or at the hearing. The answer shall contain a clear and concise statement of the facts which constitute a defense. The answer shall specifically admit, deny, or explain each allegation of the complaint, unless the person complained of shall be without knowledge, in which case he shall so state. Any allegation in the complaint not specifically denied in the answer, unless it is stated in that answer that the respondent is without knowledge, shall be deemed to be admitted as true. If no answer is filed, its absence shall be deemed a general denial.

Section 5. Filing and Service of Answer. If an answer is filed, the original and five (5) copies of the answer shall be signed and filed with the board, the original being sworn in. The respondent shall serve a copy upon each of the other parties.

Section 6. Amendment to Complaint and Answer. Any complaint or answer may be amended at any time prior to the issuance of a final order by the board.

Section 7. Notice of Hearing. Notice of the time and place of a hearing shall be given to all parties. The hearing will be held in the office of the Office of Kentucky Department of Labor, Louisville, Kentucky except as otherwise agreed by the board and the parties.

Section 8. Hearing Procedure. A hearing will be held at specified times in which the claimants shall complete proof as far as possible. Upon request of either party, extra time to complete proof may be granted. Hearings will be conducted in a manner properly suited to

ascertain the substantial rights of the parties and to determine the outcome fairly and expeditiously.

Section 9. Postponement of Hearing. Postponements, ordinarily will not be allowed, except in case of an extreme emergency or in unusual circumstances. No postponements in excess of twenty (20) days shall be allowed.

Section 10. Examination of Witnesses. Witnesses shall be examined under oath. Opposing parties shall have the right to cross examine any witness whose testimony is introduced by an adverse party.

Section 11. Stipulation of Fact. In any such proceeding, stipulations of fact may be introduced into evidence with respect to any issue.

Section 12. Exhibits. In the absence of objection by another party, exhibits shall be entered as evidence and marked with an appropriate designation.

Section 13. Rules of Evidence. Hearings before the board shall not be governed by the rules of evidence prevailing in the courts of the Commonwealth of Kentucky. However, due regard will be had for generally accepted rules of administrative agency hearings in the Commonwealth of Kentucky.

Section 14. Standards of Conduct. All persons appearing in any proceeding shall conform to the standards of ethical conduct. Impetuous conduct at a hearing will not be tolerated and will be considered as grounds for exclusion.

Section 15. Computation of Time. In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, and federal or state holidays shall not be counted.

Section 16. Decisions of the Board. After the close of a hearing, the board shall make and file findings of fact and an order which shall be signed by a board member and dated. The order, which shall state the determination as to the rights of the parties, shall either dismiss or sustain the complaint in whole or in part; or require the respondent to cease and desist from prohibited practices and take such affirmative action as will affect the policies and intent of KRS 345.010 to 345.130.

Section 17. Review of Findings.

(1) Right to file, time. Within twenty (20) days from the date that a copy of the findings of fact, conclusions of law and order of the single member or examiner was mailed to the last known address of the parties in interest, any party in interest, who is dissatisfied with such findings of fact, conclusions of law and order, may file a written petition with the board, and at the same time cause copies thereof to be served upon the other parties, to review such findings of fact, conclusions of law or order. If the board is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings of fact, conclusion of law or order, it may extend time another twenty (20) days of filing the petition for review.

(2) Petition for review. This shall briefly state the grounds of dissatisfaction with the findings of fact, conclusions of law and order, and such review may be requested on the following grounds;

(a) That any finding of material fact is clearly erroneous is established by the clear and satisfactory preponderance of the evidence and prejudicially affects the right of the petitioner designating all relevant portions of the record.

(b) That a substantial question of law or administrative policy is raised by any necessary legal conclusions in such order.

(c) That the conduct of the hearings or the preparation of the findings, conclusion of law or order involved a prejudicial procedural error, specifying in detail the nature thereof and designated portions of the record, if appropriate.

(3 Ky.R. 423; Am. 688; eff. 4-6-77; TAm eff. 8-9-2007; Crt eff. 2-26-2020.)