

902 KAR 8:110. Disciplinary appeal process applicable for local health department employees.

RELATES TO: KRS 211.170(1), 212.170(4), 212.870

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.1755 requires the cabinet to promulgate administrative regulations establishing the policies and procedures for the local health department personnel program. KRS 211.1752 provides for an appeal process for employees who are disciplined, applicants or employees who allege discrimination in personnel actions and eligibles who question their rating in the examination process. This administrative regulation provides for the specific appeal process.

Section 1. Appeals. (1) An employee with status who is demoted according to 902 KAR 8:090, Section 3(1)(c), suspended, or dismissed shall have the right to appeal the action. The appeal shall be:

(a) In writing, on a "Form CH-41 Request for Appeal"; and
(b) Filed with or mailed to the department by certified mail, return receipt requested within fifteen (15) days of the demotion, suspension, or dismissal.

(2) An applicant who has taken an oral or written examination may appeal his rating in any part of an examination to assure rating procedures have been applied fairly and equitable. The appeal shall be in writing and mailed to the department no later than thirty (30) days after the date on which the notification of removal was mailed to the eligible.

(3) An eligible whose name has been removed from a register for any of the reasons specified in 902 KAR 8:070, Section 4(5)(a) through (i) may appeal the action. The appeal shall be mailed to the department within thirty (30) days after the date on which the notification of removal was mailed to the eligible.

(4) An applicant or employee may appeal within thirty (30) days of the alleged discrimination if he believes that he has been discriminated against in a personnel action because of:

- (a) Sex;
- (b) Religious opinion or affiliation;
- (c) Political opinion or affiliation;
- (d) Race;
- (e) National origin;
- (f) Disability; or
- (g) Age.

(5) An appeal shall be conducted in accordance with Section 2 of this administrative regulation.

Section 2. Hearing Process. (1) The department shall schedule an administrative hearing upon an appeal to be held within sixty (60) days of receipt of the appeal. Notice of the hearing and conduct of the proceedings shall be in accordance with the requirements of KRS Chapter 13B.

(2) The hearing shall be conducted by a designated hearing officer.

(3) The hearing officer shall:

- (a) Make findings of fact and conclusions of law; and
- (b) Issue a recommended order.

(4) The recommended order shall be submitted to the Local Health Department Employment Personnel Council at its next meeting.

(5) The Local Health Department Employment Personnel Council may:

- (a) Adopt the report as submitted;
 - (b) Amend the findings and recommendations based on the evidence contained in the report; or
 - (c) Rehear the appeal.
- (6) The decision of the Local Health Department Employment Personnel Council shall be a final order, binding upon the employee and appointing authority.

Section 3. Hearing Process (1) "Form CH-41 Request for Appeal", 1/98, Cabinet for Health and Family Services, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (19 Ky.R. 2773; eff. 9-3-93; Am. 21 Ky.R. 592; eff. 9-21-94; 22 Ky.R. 1163; 1475; eff. 2-12-96; 25 Ky.R. 2208; 25 Ky.R. 577; eff. 8-19-98; 37 Ky.R. 1789; 2176; eff. 4-1-2011.)