

16.150 Appeal from disciplinary action or removal.

- (1) Any officer of the department who shall be found guilty by the trial board of any charge as provided in KRS 16.140 shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court, provided the punishment be a suspension of more than twenty (20) days or his pay be reduced more than ten percent (10%), or if he is reduced in grade, if his classification so warrants, or is removed or dismissed from the department; provided, however, the enforcement of the judgment of the trial board upon said charges shall not be suspended during said appeal.
- (2) To perfect said appeal within the time specified, such officer shall file in the office of the clerk of the Franklin Circuit Court a copy of the order, of all the evidence heard, and of all the steps taken by the trial board relative to such charges, but shall first post a bond to secure the cost of the action in a lump sum to be approved by the circuit clerk, with corporate surety approved by the Department of Insurance as to solvency and responsibility and authorized to transact business in this state, or he may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to such appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.
- (3) Such action shall be set down for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.
- (4) No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party engaged in the administration of KRS 16.010 to 16.170, or one (1) who is a member of the trial board, but the court shall otherwise hear the case upon the record as attested by the board, and in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:
 - (a) The board acted without or in excess of its powers;
 - (b) The order appealed from was procured by fraud; or
 - (c) If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from. After such a hearing, the court shall enter a judgment sustaining or setting aside the order of the trial board appealed from. The cost of the action shall follow the judgment of the court.
- (5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure, but such appeal shall be docketed within sixty (60) days from the entry of judgment, unless the time be extended by the Circuit Court, but in no event beyond one hundred twenty (120) days from the entry of judgment.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 23, effective July 15, 2010. -- Amended 1976 Ky. Acts ch. 62, sec. 12. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4). -- Amended 1952 Ky. Acts ch. 84, sec. 54. -- Created 1948 Ky. Acts ch. 80, sec. 14.

