

### **90.190 Dismissals and demotions.**

- (1) Any suspension in excess of ten (10) days, dismissal or demotions of employees in positions subject to the provisions of KRS 90.110 to 90.230 may be made only by the appointing authority upon the filing of written statements of the reasons of such suspension in excess of ten (10) days, or dismissals or demotions with the board, provided that copies of all such statements shall be furnished to the employees so suspended, dismissed, or demoted, on or before the effective date of such suspension, dismissal, or demotion, provided further that employees holding probationary appointments may be dismissed without the appointing authority being required to furnish either the board or the suspended, or dismissed, or demoted employee with a written statement of the reasons for such suspension, dismissal, or demotion. Any employee who has been suspended in excess of ten (10) days, dismissed, or demoted holding a regular appointment, shall be entitled, upon written demand, to a public hearing by the board, at which time he shall have the right to introduce evidence in his own behalf, and to be represented by counsel.
- (2) The board shall investigate and determine the justification for all suspensions in excess of ten (10) days, or dismissals, or demotions, reported, or complained of, according to the provisions of this section. The board shall keep an accurate record of its proceedings under this section, including evidence presented at any public hearing. The board's order and findings shall be final subject to the right of appeal as set out in subsections (3) and (4) of this section. Enforcement of the suspension, dismissal or demotion shall not be suspended pending any proceeding or appeal provided in this section. Copies of the order and findings of the board shall be immediately delivered to the mayor, appointing authority, and to the suspended, dismissed, or demoted employee.
- (3) Within thirty (30) days after the order of the board has been entered under subsection (2) of this section, any employee, who has been aggrieved by the order of the board, or the mayor or the appointing authority may appeal to the Circuit Court in the county in which the city is located in the following manner:
  - (a) Upon request in writing by the person making the appeal, and the payment of costs therefor, the secretary of the board shall provide a certified copy of the record and the findings of that body to the appellant. The appeal shall be prosecuted by filing a complaint in Circuit Court and shall otherwise be in accordance with the Rules of Civil Procedure. Upon the record being filed by the appellant, the case shall be docketed in the Circuit Court and tried de novo.
  - (b) If the secretary fails to provide a certified copy of the record to the appellant within thirty (30) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges, together with a copy of the board's findings and a statement that demand for the transcript had been made of the secretary more than thirty (30) days prior to the filing of the affidavit. Upon filing of this affidavit in the Circuit Court, the case shall be docketed in that court and the court may compel the filing of the transcript by the secretary by entering proper mandatory order, and upon

failure of the secretary to do so, he shall be liable to fine and imprisonment for contempt. Such appeal shall have precedence over other business and be determined speedily.

- (4) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases, in any controversy arising under this section.
- (5) Nothing in KRS 90.110 to 90.230 shall permit the suspension, dismissal, or demotion of any employee subject to the provisions of KRS 90.110 to 90.230 on account of religious faith, race, color, creed, or political affiliation.

**Effective:** July 13, 1984

**History:** Amended 1984 Ky. Acts ch. 280, sec. 2, effective July 13, 1984. -- Amended 1972 Ky. Acts ch. 74, sec. 1. -- Created 1942 Ky. Acts ch. 16, sec. 7.