

TO: ALL COUNTY PERSONNEL
FROM: VERDENIA BAKER
COUNTY ADMINISTRATOR
PREPARED BY: HUMAN RESOURCES
SUBJECT: PERSONNEL APPEALS BOARD
PPM#: CW-P-055

ISSUE DATE
April 27, 2022

EFFECTIVE DATE
April 27, 2022

PURPOSE:

To establish procedures for the Personnel Appeals Board.

UPDATES:

Future updates of this PPM are the responsibility of the Director of Human Resources.

AUTHORITY:

Palm Beach County Merit System Rules and Regulations, Rule # 7
Palm Beach County Resolution No. 2013-0193 Uniform Policies and Procedures for Palm Beach
County Advisory Boards, Committees and Commissions

POLICY:

The Personnel Appeals Board shall be responsible for the adjudication of adverse action appeals involving discharge and layoff upon the request of any permanent status non-bargaining unit employee, and for rendering final and binding decisions for Palm Beach County in the appellate process.

PROCEDURES:

I. **ORGANIZATION**

A. **Board Members**

1. Each Palm Beach County Commissioner shall appoint a private citizen to the Board to serve at the pleasure of the Commissioner for a three-year term, consistent with the provisions of the Resolution governing Advisory Boards.

2. A Palm Beach County Commissioner may reappoint an existing member of the Board. There shall be a limit of three consecutive three-year terms.
3. The current Board members will continue to serve through their initial term as provided in Paragraph 1 unless and until the district commissioner makes a new appointment. A member may not serve beyond his/her initial term unless he/she has been reappointed by the district commissioner.
4. Commissioners may also appoint alternates to serve on the Board to ensure the availability of a quorum in scheduling hearings.
5. A simple majority of the currently appointed Board members shall be sufficient to constitute a quorum for the Board to conduct business.
6. At the first scheduled meeting after January 1 of each year, the Board members will appoint a Chair and a Vice Chair to conduct the hearings.
7. The Director of Human Resources, or designee, shall serve as advisor to the Board on the County's Merit Rules and provide clerical support for the Board hearings.

B. Schedule

1. The Board shall normally hear appeals the second Thursday of the month at the Human Resources Department. The Board shall meet and conduct business between the hours of 9:00 AM to 3:30 PM. This schedule may be changed, or appeals may be rescheduled on a case-by-case basis at the discretion of the Board.
2. At least fourteen (14) days before a hearing, an appellant may submit a written request to the Director of Human Resources, for a continuance of the hearing. If timely requested, a continuance will be granted as a matter of course for an appellant's first request. However, any subsequent requests for a continuance, or a request for a continuance less than fourteen (14) days before the hearing, will be considered by the Director of Human Resources. The request may be granted or denied based on a showing of extraordinary circumstances. If granted, the hearing will be rescheduled for a date later than all pending appeals. In cases of reinstatement, the Board may award back pay from the date of termination up to, and including the initial hearing date, but will not award back pay for any period beyond the initial hearing date.
3. The Board may also meet on other dates or locations at the request of the Chair, the Director of Human Resources, or upon the call of a quorum.
4. Board meetings are open to the public and advance notice will be provided of all Board meetings.

5. Records of all Board meetings will be kept by minutes, in the Human Resources Department and any interested party may hire a court reporter to transcribe the hearing at their own cost.

II. PROCEDURES

A. Preparation

1. At least ten (10) calendar days prior to the hearing, the parties shall submit to the Human Resources Department the names of all witnesses expected to testify at the hearing, and a copy of all documents or other exhibits that they expect to use as evidence during the hearing. Failure to timely comply shall result in the exclusion of such documents/exhibits and witnesses. The County will include in its submission, all pertinent documents related to the adverse action taken. If an appellant intends to have County employees appear as witnesses at the hearing, the appellant's submission must include a specific request for the employees to be notified of the appellant's request to appear at the hearing., The Appellant's request must state the employees' full name and department, if known. At least seven (7) days before the hearing, Human Resources will provide the Board and the parties with all the documents submitted by the parties and a copy of the Policy and Procedures governing the PAB.
2. The appellant may choose to be represented by counsel. The County will be represented by the County Attorney's office. The due process requirements of notice, presentation of evidence, and confrontation of adverse witnesses shall be afforded.
3. No ex parte communication by or on behalf of either side shall be made to the Board members regarding matters to be considered by the Board.

B. Proceedings

1. The hearing shall be conducted consistent with the provisions of Florida Sunshine Law.
2. The Chair or Vice Chair will convene the hearing promptly at 9:00 AM. In the absence of both Chair and Vice Chair, the Board will appoint a member as acting Chair.
3. The Board will wait thirty (30) minutes for the appellant's appearance. Should the appellant not appear within this time frame, the Board will sustain the termination in absentia.

4. The Board shall have the authority to administer oaths, call witnesses, and may compel the production of records and papers pertinent to the hearing that have not been otherwise excluded by the procedures governing the Personnel Appeals Board.
5. The Board shall consider evidence which would be admissible in civil proceedings in the courts of this State, but in receiving evidence, due regard shall be given to the informality of the proceeding and the exclusionary rules of evidence shall not be used to prevent the receipt of relevant evidence not otherwise excluded by the procedures governing the Personnel Appeals Board.
6. The order of proceedings shall be as follows: the appellant will present an opening statement followed by the County; the appellant shall then present his or her case, submit evidence, call and cross-examine witnesses, followed by the County; after which the appellant may be allowed rebuttal evidence. Appellant will then present closing arguments followed by the County. The Chair will make all rulings on objections for the record. All testimony shall be made under oath.
7. With the consent of both parties, a telephone conference call may be accepted by the Board in lieu of the personal appearance of witnesses where necessary and for cause shown.
8. After presentation of evidence and closing arguments, the Board will deliberate in the presence of both parties and issue a final determination based on a simple majority decision.

C. Determinations

1. The Board may sustain, modify or overturn the charges brought against the appellant.
 - a. If the Board members decide to take action other than to sustain the termination, they will also determine whether the appellant may be returned to work in the same position, or another vacant position for which the appellant meets the minimum qualifications, with or without back pay and benefits, and the effective date of the action.
 - b. In the case of a tied vote, the County's termination decision will be sustained.
2. A written summary of the Board's determination, including a statement of the underlying facts of record, which supported the conclusion, will be made a part of the record.
3. Human Resources will be responsible for assisting management in complying with the Board's determination.

4. Employees are not entitled to attorney's fees or other costs incurred as a result of their appeal.



**VERDENIA BAKER
COUNTY ADMINISTRATOR**

Supersession History:

1. PPM# CW-P-055, issued 2/14/17
2. PPM# CW-P-055, issued 3/1/93
3. PPM#CWP-055, issued 5/15/13