

General Information for University Support Staff for Appealing Disciplinary Action of Demotion, Dismissal, or Suspension

This is a summary of the University Support Staff Disciplinary Action Hearing Board Guidelines, which are located [here](#). Copies may also be obtained by contacting University Governance at 785-864-5169.

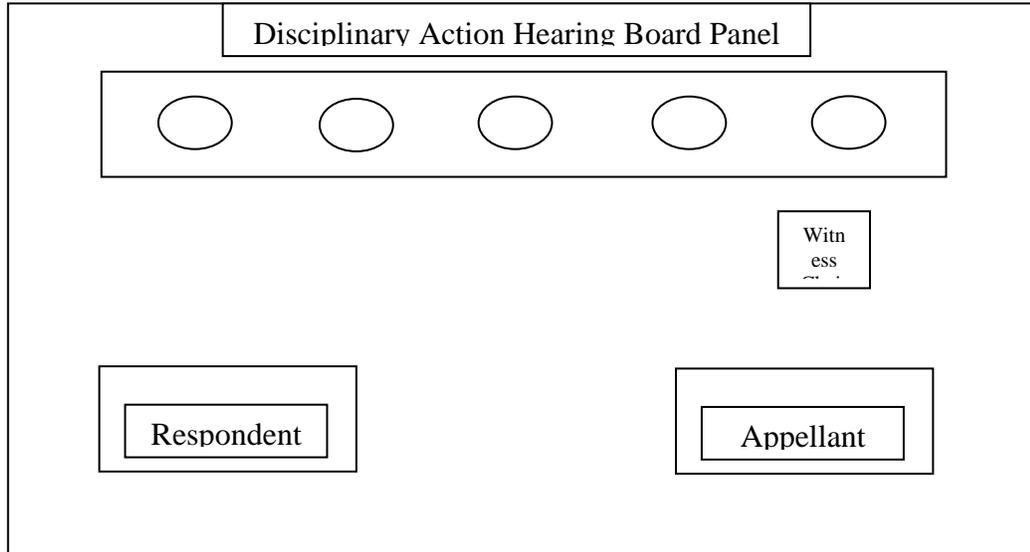
Appeal Guidelines

1. You have 21 calendar days after the “**effective date**” of any suspension, demotion, or dismissal to appeal the decision. University support staff covered by the memorandum of agreement between the University and the Public Service Employees Local Union #1290PE may appeal up to 14 calendar days after the effective date of disciplinary action. The effective date is always listed in your letter from the Human Resources/Equal Opportunity (HR/EO) department as the “effective date”. The appeal must be received in the Governance office (33 Strong Hall). You may also email your request to sscales@ku.edu.
2. Once the appeal is received, the Governance Office will send a copy of the Guidelines to the Appellant (the employee appealing the decision). The Governance Office will also advise Human Resources and the General Counsel’s office of the appeal.
3. The Governance Office will ask each of the current board members if they have a conflict of interest. In the event that a board member does have a conflict of interest, an alternate will be chosen. A letter will then go out to both the Appellant and the Respondent, notifying them of the Board's membership. They will then have 5 days to challenge any board member.
4. Once a Board is in place a hearing date will be set. The Appellant must provide the University Governance office with the following at least seven (7) calendar days before the hearing:
 - a. A written statement of facts (See example 1)
 - b. A list of witnesses, along with a brief statement regarding their testimony (See example #2)
 - c. List of exhibits along with copies of any exhibits (letters, notes, etc.) The list needs to be numbered, Exhibit #1, Exhibit #2, and Exhibit #3. (See example #3)
5. Individuals you wish to call as witnesses will be sent a letter by the Governance Office advising them about the hearing process (see example #4). The Supervisor and Department head of the witness will also be notified and advised that every effort should be made to accommodate attendance of the witness if the witness chooses to attend. Participation as a witness is voluntary and neither party can compel a witness to participate in the hearing. Witnesses will not be subjected to any form of intimidation or retaliation by any party for their decision to participate or to not participate in a hearing. Attempts at intimidation or retaliation should be

reported to the Provost's Office, and will be appropriately investigated. If intimidation or retaliation is determined to have occurred, appropriate disciplinary action will be taken.

Hearing Procedures

1. The room will be set up with the five board members at a table. Directly across from them will be two tables, one for the Appellant (the person appealing the decision) and one for the Respondent. If any witnesses are called they will be seated at a chair towards the end of the tables. The witness will be asked to swear or affirm that the testimony offered is truthful. The hearing is recorded.
 - a. Hearings are open to the public. It is important to note to everyone participating in a hearing, that falsification, distortion, or misrepresentation is a violation of university policy. Any person who abuses the hearing process in this way may face disciplinary charges for that violation.



2. The Chair will announce that the hearing has begun, with a statement like the following:
 - a. "Please note that today's Hearing is being tape recorded. This recording represents the sole official verbatim record of the Board Hearing and is the property of the University. Transcripts of the hearing will be made at the expense of the requesting party."
3. The Chair will note as stated in the guidelines that the burden of proof is on the appellant. This means that the Appellant must prove by a preponderance of the evidence (i.e., that it is more likely than not) that the disciplinary action taken was arbitrary, unreasonable, or without factual basis.
4. The Hearing will begin with the Respondent and the Appellant each having an opportunity to make an opening statement if they wish. They are not required to do so. Opening statements will be limited to 10 minutes.

5. The Respondent will present his/her case and call witnesses, if any. The Appellant will have the opportunity to cross examine and the Respondent will then have the opportunity to “redirect” or ask additional questions of the witness. The Board will also have the opportunity to ask questions of each witness.
6. The Appellant will then present his/her case and call witnesses if any. The Respondent will have the opportunity to cross examine and the Appellant will then have the opportunity to “redirect” or ask additional questions of each witness. The Board will also have the opportunity to ask questions of each witness.
7. Each party will then have the opportunity to make a closing argument if desired. You are not required to do so. The closing argument will be limited to 10 minutes. After all questioning is completed, the Board will adjourn to a closed session to deliberate on its recommendation.
8. After completing its deliberations, the Board will reconvene in the Hearing Room and members of the Board will vote on a recommendation in public. The vote will be decided by a plurality. If the Board has to deliberate for a length of time, the Board will come back to the hearing room, announce that it needs time to deliberate further, and that the findings of fact, vote and recommended determination will be sent by mail to the parties.
9. The Board will prepare and forward to the Provost its written findings of fact and its recommended determination. The final decision of the Provost will follow by mail. The Provost's decision is a final agency action.

Examples

Example 1: Written statement of facts

You were employed in the (department).

as a (position and title).

Your immediate supervisor is (name of supervisor).

Your normal work hours are Monday – Friday 8:00 a.m. – 5:00 p.m.

Your duties included but are not limited to: (a short description of your responsibilities).

You have been employed at the University since (starting date)

On (what ever the date is) you were given a 3 day suspension (demotion or dismissal).

The reason for the (action) was (state reason).

Include additional statements of fact relevant to the matter-why you feel the action taken was arbitrary, unreasonable or without factual basis.

Example 2: List of Witnesses

Here you would need to list any witnesses you will be calling to testify on your behalf. You will also need to add a short line as to what they will be testifying about.

Example:

Bob Smith will be testifying that he saw Prof. Bloom dump the trash in the hallway.

Mary Lamb will be testifying that she heard Prof. Bloom say he was going to empty the trash in the hallway.

Example 3: Exhibits

You will need to have an index with a description of each exhibit.

Index – Appellant’s Exhibits

| | |
|-----------|--|
| Exhibit 1 | Letter from HR/EO to appellant regarding disciplinary action |
| Exhibit 2 | Note excusing appellant from work |
| Exhibit 3 | Letter from Doctor. |
| Etc. | |

Example 4: Letter to Witnesses

Date

CONFIDENTIAL AND PERSONAL

Name

Campus Address

Re: Appeal of [Insert Name]

Dear (Name of Witness):

You have been identified by one of the parties as a potential witness in this appeal. If you have information that supports either side of the appeal, you are encouraged to participate in the hearing. However, it is your choice whether to participate as a witness in the appeal hearing. Neither party can compel your attendance at the hearing. If you wish to serve as a witness for the party described above, you must request the needed time away from work in advance of the hearing through your normal departmental procedures for requesting time away from work. If you wish to participate in the hearing and are denied time to do so, please report that information to the Provost's Office. Time spent at the hearing by witnesses is considered "work time" so you will not have to use any of your accrued leave.

By copy of this letter, supervisors and department heads are notified that every effort should be made to accommodate the attendance of this witness at the hearing scheduled for (date, time, and location) if the witness chooses to attend. (OR OTHER OPTIONAL SENTENCE if don't know date of hearing at time of this letter: You will be notified later regarding the date, time, and location of the hearing.) Furthermore, witnesses will not be subjected to any form of intimidation or retaliation by any party for their decision to participate or to not participate in the hearing. Attempts at intimidation or retaliation should be reported to the Provost's Office. Any complaint alleging intimidation or retaliation will be appropriately investigated. If intimidation or retaliation is determined to have occurred, appropriate disciplinary action will be taken against the individual(s) who are found to have engaged in such conduct.

Please feel free to contact me at 785-864-3125 (or sscales@ku.edu) with any questions you may have regarding witness duty or the hearing.

Sincerely,

Suzanne Scales

Executive Assistant

cc: [supervisor and department head]