

PB 1 to 6

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ORDER OF THE PERSONNEL BOARD
REPEALING AND ADOPTING RULES

Relating to investigations and hearings conducted by the personnel board.

Analysis by the Personnel Board

These rules describe the procedures to be followed by the personnel board, as created by chapter 196, Laws of 1977, with respect to hearings and investigations.

Pursuant to authority vested in the personnel board by secs. 227.014(2)(a) and 230.07(1)(a), Stats., the board hereby repeals and adopts rules interpreting sec. 230.07, Stats., as follows:

SECTION 1. Chapters PB 1-6 of the Wisconsin administrative code are repealed.

SECTION 2. Chapters PB 1-2 of the Wisconsin administrative code are created to read:

7-1-82

CHAPTER PB 1

INVESTIGATIONS

PB 1.01 SCOPE OF INVESTIGATIONS. (1) STATUTORY AUTHORITY.

Pursuant to s. 230.07(4), Stats., the board may make investigations, on its own motion or upon request, with respect to all matters concerning the enforcement or effect of the civil service law, subch. II, ch. 230, Stats., and the rules of the administrator. If the investigation discloses that the administrator, appointing authority, or any other person acted illegally or to circumvent the intent and spirit of the law, the board may issue an enforceable order to remand the action to the administrator or appointing authority for appropriate action within the law.

(2) LIMITATIONS. The board shall not investigate or hear any matter within the exclusive jurisdiction of another person or body, including without limitation because of enumeration, a court, the personnel commission, the employment relations commission, or an arbitrator under a collective bargaining agreement. The board shall not order specific individual relief where it appears that the legislature intended that no such individual relief should be granted.

PB 1.02 REQUESTS FOR INVESTIGATIONS. (1) CONTENT. Requests for investigations shall be in writing, shall identify the agency or person sought to be investigated and the reason an investigation is requested.

(3) NOTICE. Notice shall be mailed to parties at least 10 days prior to the hearing. The notice shall include a statement of the time, place and nature of the hearing, and a short and plain statement of the issues involved.

(4) ANSWERS. Answers shall be in writing and shall set forth in non-technical language the position of the agency or person sought to be investigated. Answers shall be filed with the board and served on all parties at least 5 days prior to the hearing.

(5) REPRESENTATION. Parties may appear in person, by counsel, or by any agent of a party's choice.

(6) MOTIONS. An application to the board for an order shall be by motion which, except for those made at hearing, shall be in writing. Written motions shall be filed with the board and served on all parties.

(7) SUBPOENAS AND COMPENSATION FOR WITNESSES. Subpoenas may be issued by the board at the request of any party. All state officers and employes shall attend and testify when requested to do so by the board. Any person who appears before the board by order shall receive the fees and mileage provided for witnesses in civil actions in courts of record for attendance. Witnesses subpoenaed by parties other than the board shall be entitled to compensation from the state for attendance or travel only if the board certifies that their testimony was relevant and material to the matter investigated.

(8) DISCOVERY. The taking and preservation of evidence shall be permitted only with respect to a witness:

- (a) who is beyond the reach of subpoena,
- (b) who will be outside the state at the time of hearing,
- (c) who will be physically unable to attend the hearing, or
- (d) who is a legislator, if any committee or the legislator's house is in session, and the legislator waives any privilege.

(9) EVIDENCE. The board is not bound by common law or statutory rules of evidence. Immaterial, irrelevant or unduly repetitious testimony shall be excluded. All parties shall be afforded the opportunity to present evidence, and to rebut or offer countervailing evidence.

(10) ADJOURNMENTS. Requests for continuances, adjournments and extensions shall be granted only for good cause or for reasons deemed sufficient by the board or the presiding board member.

(11) BRIEFS. Briefs may be required or permitted by the board or the presiding board member.

PB 2.03 TRANSCRIPTS. A stenographic, electronic or other record of the hearing shall be made. A written transcript will be prepared for the purpose of appeal or for such other purpose as the board deems reasonable. Copies of the tape recordings, transcripts or other records shall be furnished upon request at the cost of production to the board.

