

# Administrative Appeal Procedures

Effective July 13, 2021



**PERSONNEL BOARD OF  
JEFFERSON COUNTY, ALABAMA**

**ADMINISTRATIVE APPEAL PROCEDURES**

*Adopted May 12, 2015*

*Revised July 13, 2021*

**Table of Contents**

<b>A. INTRODUCTION.....</b>	<b>4</b>
<b>B. THE APPEAL PROCESS.....</b>	<b>4</b>
<b>I. Who May Appeal and Types of Disciplinary Actions Which May Be Appealed .....</b>	<b>4</b>
<b>II. Initiating the Appeal .....</b>	<b>5</b>
<b>III. Time Calculations.....</b>	<b>5</b>
<b>IV. Hearing Officer Role.....</b>	<b>5</b>
<b>V. Representation by Counsel .....</b>	<b>5</b>
<b>VI. Filing and Service of Documents, Correspondence and other Materials .....</b>	<b>5</b>
<b>C. PRE-HEARING REQUIREMENTS .....</b>	<b>6</b>
<b>I. Scope of Hearing/Issues to be Decided .....</b>	<b>6</b>
<b>II. Hearing Date and Length of Hearing.....</b>	<b>6</b>
<b>III. Initial Instructions to the Parties.....</b>	<b>6</b>
<b>IV. Scheduling Order .....</b>	<b>7</b>
<b>V. Pre-Hearing Conference .....</b>	<b>7</b>
<b>VI. Discovery.....</b>	<b>7</b>
<b>VII. Witness and Exhibit Lists.....</b>	<b>8</b>
<b>VIII. Subpoena Requests .....</b>	<b>8</b>
<b>IX. Motions.....</b>	<b>9</b>
<b>X. Pre-Hearing Order .....</b>	<b>10</b>
<b>XI. Settlement Agreements .....</b>	<b>10</b>
<b>D. HEARING PROCEEDINGS.....</b>	<b>10</b>
<b>I. Conduct of Hearing.....</b>	<b>10</b>
<b>II. Burden of Proof .....</b>	<b>11</b>

III. Report and Recommendation .....	11
IV. Decision by the Board.....	12
V. Compliance with Board Order.....	12
VI. Judicial Review.....	12
E. AUDIO AND VIDEO RECORDING OF PROCEEDINGS.....	12
I. Audio and Video Recording.....	12
II. Obtaining Hearing Records from Personnel Board .....	13
F. VIRTUAL HEARING SUPPLEMENTAL INFORMATION.....	13
APPENDICES .....	15
A. Sample Initial Instructions to the Parties	
B. Sample Scheduling Order	
C. Sample Pre-Hearing Order	

## **A. INTRODUCTION**

These Administrative Appeal Procedures were promulgated under the authority of Section 22 of the *Enabling Act* of the Personnel Board of Jefferson County, Act. No. 248, H. 580, as amended, and were adopted by the Personnel Board of Jefferson County (PBJC) to establish guidelines to promote the just and efficient conduct of the administrative hearings provided to Classified Employees. Rule 12 of the *Rules and Regulations of the Personnel Board of Jefferson County*<sup>1</sup> specifically addresses disciplinary actions and appeals. In addition, Rule 15 of the *Rules and Regulations of the Personnel Board of Jefferson County* addresses hearings that may arise from a grievance. These administrative procedures are not intended in any way to circumvent, substitute and/or replace any of the requirements under the *Enabling Act* as executed through the Rules and Regulations of the Personnel Board and to the extent there is a direct conflict, the *Enabling Act* shall prevail.

## **B. THE APPEAL PROCESS**

With regard to disciplinary appeals, the role of the Personnel Board is to ensure that a Regular Employee of the Classified Service who for cause has been **discharged, demoted, suspended** for either a single suspension of more than five scheduled working days or more than a total of ten scheduled working days in the twelve-month period immediately preceding the suspension<sup>2</sup>, or **involuntarily placed on administrative leave without pay** for more than five working days<sup>3</sup>, is provided a fair process under which the employee is provided written notice of the nature and substance of the disciplinary charges brought against him and a reasonable opportunity to respond to the charge.

Each jurisdiction shall give notice to each classified employee of his or her rights regarding appeals to the Personnel Board. The most current version of the *Rules and Regulations of the Personnel Board* are available on the Personnel Board website: <http://www.pbical.org/documents/rules/default.aspx>

### **I. Who May Appeal and Types of Disciplinary Actions Which May Be Appealed**

A Regular Employee who for cause is **discharged, demoted, suspended** for either a single suspension of more than five scheduled working days or more than a total of ten scheduled working days in the twelve-month period immediately preceding the suspension<sup>4</sup>, or **involuntarily placed on administrative leave without pay** for more than five working days has the right of appeal to the Personnel Board.<sup>5</sup> (Personnel Board Rules 12.1; 12.2; 12.14; and 13.20(c)).

A Regular Employee is defined as a Full-Time Classified Employee who has completed a Probationary Period and not thereafter separated from the Classified Service. A Probationary Period is defined as an uninterrupted twelve-month period of full-time paid service within a discrete class.<sup>6</sup>

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<sup>1</sup> Where noted, the Rules and Regulations of the Personnel Board of Jefferson County are fully incorporated by reference herein. [cited as Personnel Board Rule #]

<sup>2</sup> See Rule 12.14

<sup>3</sup> See Rule 13.20(c)

<sup>4</sup> See Rule 12.14

<sup>5</sup> Demotions governed by PBJC Rule 11.6(b), and suspensions governed by PBJC Rule 12.14, are excluded from the appeals provisions.

<sup>6</sup> See Rule 1.3

## II. Initiating the Appeal

An appeal is initiated by the employee filing a written Notice of Appeal with the Director of the Personnel Board within ten (10) calendar days after the date the employee receives written notice of the Appointing Authority decision to discipline.<sup>7</sup> The Personnel Director shall determine whether the appeal is timely filed, and whether the Personnel Board has jurisdiction to hear the matter. Matters eligible for appeal will be assigned a case number, designating the appealing employee as the “Complainant” and the employing jurisdiction as the “Respondent.” In most circumstances, the Personnel Director will appoint a Hearing Officer who will handle the appeal and prepare a Report and Recommendation with Findings of Fact for consideration by the Three-Member Board. The employing jurisdiction will receive notification of the appeal, and should immediately provide the Personnel Board with copies of any internal policy or procedure relied upon in making the decision to discipline the employee.

Personnel Board Rule 12.4 specifies the information the employee must include in the Notice of Appeal. Notice of Appeal forms are accessed from the “FORMS” section of the Personnel Board website, <http://www.pbjcal.org/formsdocs.aspx>, or available at the front desk of the Personnel Board.

## III. Time Calculations

In computing any period of time for deadlines under Rule 12, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, legal holiday or any other day the Personnel Board is in fact closed based on the official dates of closure posted on the Personnel Board’s website. In this event, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday or other day the Personnel Board is closed. A half-holiday shall be counted the same as a business day. Personnel Board closures can be found online at [www.pbjcal.org/holidayschedule.aspx](http://www.pbjcal.org/holidayschedule.aspx).

## IV. Hearing Officer Role

Section 22 of the *Enabling Act* provides for a public hearing of disciplinary appeals. In most instances, the Personnel Board appoints a Hearing Officer to handle pre-hearing matters, take testimony and submit a Report and Recommendation with Findings of Fact for consideration by the Three-Member Board. Upon consideration of the Report and Recommendation the Three-Member Board may modify, alter, set aside or affirm the findings in the Report and Recommendation.

## V. Representation by Counsel

Each party to the appeal may be represented by counsel. Counsel must file with the Personnel Board a written Notice of Appearance containing the name, mailing address, phone number, email address and party represented, for each attorney participating in the appeal. The Notice of Appearance must bear an attestation that the attorney is licensed to practice in the State of Alabama. After an appearance has been filed all communications regarding the appeal will be directed to the attorney of record.

## VI. Filing and Service of Documents, Correspondence and other Materials

All communications regarding the disciplinary appeal shall be directed to the Employee Relations Department of the Personnel Board and/or the appropriate attorney, **not** to the Hearing Officer. All

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<sup>7</sup> See Rules 12.3 and 12.4. An appeal is subject to dismissal if the employing jurisdiction failed to provide proper notice of the disciplinary action to the employee or to the Personnel Director.

submissions filed with the Personnel Board must be signed by the party or its attorney and must reference the assigned case number. The communications should be filed with the Personnel Board either in person, by U.S. Mail, or by emailing [ER@pbjcal.org](mailto:ER@pbjcal.org). Email is the preferred method of correspondence. If U.S. Mail is utilized, the postmark must be on or before any deadline under the Rules and Regulations of the Personnel Board as calculated under Section III above.

All pleadings and other documents filed in the appeal shall be entered on a docket maintained by the Employee Relations Staff. The Employee Relations staff shall make a notation of the filing date on all pleadings and other documents. Each party to the appeal is responsible for serving copies of all pleadings and other documents to the other party, or its attorney. All pleadings must contain a certification executed by the serving party identifying the parties served, the method or manner of service, and the date of service.

### **C. PRE-HEARING REQUIREMENTS**

#### **I. Scope of Hearing/Issues to be Decided**

The scope of the Hearing is limited to the disciplinary charges that serve as the basis of the appeal. Matters outside the discipline at issue shall not be heard. During the Pre-Hearing Conference, described in more detail below, the parties shall agree to a statement of the issues that will be heard. If an employee's appeal disputes some, but not all, of the charges alleged, the party shall so state at the Pre-Hearing Conference. If the Appointing Authority who issued the discipline is no longer pursuing any portion of the charges alleged, the Appointing Authority shall so state at the Pre-Hearing Conference. Evidence regarding any portion of the disciplinary matter that is no longer being pursued shall not be admitted at the Hearing.

When multiple pending appeals involve a common question of law or fact, the Director may determine administratively, or upon motion of a party, that the appeals be consolidated and presented at the same Hearing.

#### **II. Hearing Date and Length of Hearing**

The Hearing Officer shall determine the length of the hearing, giving due consideration to the complexity of the matter to be heard. Rarely should hearings exceed more than one (1) business day.

The parties will be advised of the hearing date. If either party has a conflict with the hearing date, the party must within three (3) business days after receiving notice of the hearing date notify the Employee Relations staff of the conflict. The hearing date will not be changed absent extraordinary circumstances. If a party subsequently seeks to have the hearing date rescheduled, the party must file in writing no later than **three (3) business days** prior to the commencement of the hearing, a Motion to Continue specifying the grounds upon which the request is based. Continuances will not be routinely granted. For virtual hearing requirements, refer to the Supplement in Section F.

#### **III. Initial Instructions to the Parties**

The Personnel Board will issue within five (5) calendar days of receipt of Notice of appeal a set of Initial Instructions to the parties. These instructions will advise the parties of the process and procedures that

must be followed. Deadlines within the Initial Instructions shall be calculated in accordance with Section III, Time Calculations, above. A sample Initial Instructions to the Parties is attached as Appendix A.

#### **IV. Scheduling Order**

The Personnel Board will issue a Scheduling Order providing instructions and deadlines for the parties. Among the information contained within the Scheduling Order will be a statement of the issues to be heard and a statement of the relief requested by the employee, as stated in the Notice of Appeal. Deadlines within the Scheduling Order shall be calculated in accordance with Section III above. A sample Scheduling Order is attached as Appendix B.

#### **V. Pre-Hearing Conference**

A Pre-Hearing Conference will be held normally within 30 days following the receipt of the notice of appeal. An assigned designee of the Employee Relations Department will conduct the Pre-Hearing Conference. Each party to the appeal or its attorney of record, if any, is required to attend the Pre-Hearing Conference. Contractually designated union representatives may appear at the conference with the employee so represented. Non-lawyer staff members of the attorney of record may not appear at the conference *in lieu of counsel*. Parties should be prepared to discuss and resolve outstanding discovery issues, if any; other issues that need resolutions prior to the hearing, if any; and the possibility of settlement.

#### **VI. Discovery**

The hearing process provides for limited discovery between the parties. The scope of discovery is limited to the narrow issues to be addressed upon appeal. Each party may submit to the other a Request for the Production of Documents. The Request for Production of Documents must be submitted no later than five (5) business days prior to the Pre-Hearing Conference. No more than ten (10) document requests should be propounded on any one party. The Request for Production of Documents should be served directly upon the opposing party without a subpoena. A copy of the Request for Production of Documents should be provided to Employee Relations Department of the Personnel Board on the same date that the request is served on the opposing party.

Responses to a Request for the Production of Documents should be submitted to the propounding party no later than 21 days after the discovery request was submitted. A copy of the response (i.e. pleading), not the underlying responsive documents, should be provided to the Personnel Board on the same date that the response is served on the opposing party. The Hearing Officer may preclude the introduction of evidence if a party refuses, without a legitimate basis, to respond to a discovery request. If a party believes that the discovery request seeks information that is neither relevant nor material to the limited scope of the hearing, the party may file an Objection or Motion to Quash the Request for the Production of Documents. Such motion must be filed within the 21-day period in which to respond to the discovery request. The motion should be filed with the Personnel Board. The decision of the Hearing Officer on the Objection or Motion to Quash is final. If a party fails to produce documents within the 21-day period, the propounding party may file a Motion to Compel Production. Such motion must be filed within three (3) business days after the deadline for the discovery response. The motion should be filed with the Personnel Board. The decision of the Hearing Officer on the Motion to Compel is final.

## **VII. Witness and Exhibits**

No later than five (5) calendar days after the Pre-Hearing, each party shall submit to the Personnel Board a list of anticipated witnesses to be called to testify at the hearing and a list of anticipated exhibits that will be introduced at the hearing. The list of witnesses shall contain the following for each witness: 1) Name; 2) Employer; 3) Job Title; and 4) a brief description of the nature of testimony anticipated from said witness.

Witnesses should be limited to those that are *essential* to the case. It is critical each witness is available and ready at the time they are called to testify. Stipulations as to all undisputed facts are encouraged and should be emailed to the Board ([er@pbjcal.org](mailto:er@pbjcal.org)) no later than three (3) business days prior to the hearing. The Hearing Officer has the authority to recommend stipulations and to disallow testimony regarding matters that should have been the subject of stipulation.

The Personnel Board is requiring information regarding the anticipated order in which witnesses may be called, the projected time needed for each witness, and which exhibits, if any, the witness may need to examine. Attorneys should complete Attachment A and email to the Board ([er@pbjcal.org](mailto:er@pbjcal.org)) no later than three (3) business days prior to the hearing. There may be instances where witnesses may be called out of order, or be required to view exhibits other than or in addition to those listed on Attachment A. The Hearing Officer has discretion to allow adjustments as may be needed.

Any exhibit or other document that a party anticipates using at the hearing must be exchanged with the other party no later than ten (10) calendar days prior to the hearing. Each party shall email exhibits as separate files to opposing counsel and the Employee Relations Department ([er@pbjcal.org](mailto:er@pbjcal.org)) no later than three (3) business days prior to the hearing. The Complainant must name their exhibit files using the following naming scheme: Exhibit C1, Exhibit C2, Exhibit C3, etc., where “C” identifies the party offering the exhibit as the Complainant. The Respondent must name their exhibit files using the following naming scheme: Exhibit R1, Exhibit R2, Exhibit R3, etc., where “R” identifies the party offering the exhibit as the Respondent. All documents shall be legible. A full set of exhibits will be available digitally during the hearing.

The Personnel Board will digitally share exhibits on your behalf and will be able to highlight and point to sections of a document or the section or sections of a video or audio that should be played. Should rebuttal exhibits be necessary, the party should email the exhibit electronically to [er@pbjcal.org](mailto:er@pbjcal.org) so that the exhibit may be shared with the Hearing Officer and all parties and admitted as deemed appropriate by the Hearing Officer. The Exhibit should be numbered with the naming scheme described above. The Employee Relations staff will add bates number, as appropriate. If email is not possible, the party should discuss the need for the exhibit and the manner of securing the exhibit with the Hearing Officer.

The Hearing Officer may exclude exhibits and witnesses not identified in accordance with this paragraph. The Hearing Officer may, in his or her discretion, subpoena witnesses or documentation she deems essential to the consideration of the disciplinary charge being heard.

## **VIII. Subpoena Requests**

If the party seeks to have the Personnel Board prepare a subpoena for the production of witnesses or documents, the party must file a “Subpoena Request” with the Employee Relations Department no less



than 30 days prior to hearing. The party must provide the complete name and street address for each person or entity to be subpoenaed. The party requesting the subpoena must include a sworn affidavit, attesting that the testimony and documents subject to subpoena are necessary in order for the party to present his or her case. If any of the preceding information is not provided to the Personnel Board, the subpoena will not be prepared. The attorney requesting the witness's presence shall be responsible for service of the subpoena.

Absent good cause shown as ordered by the Hearing Officer, each party is limited to no more than 10 subpoenas. (See Personnel Board Rule 12.8(b)). Should a party request more than 10 subpoenas without an order from the Hearing Officer permitting same, only the first 10 subpoenas will be issued. Unless otherwise approved in advance by the Hearing Officer, all witnesses are expected to be present at the date and time appearing on the subpoena. In case of the failure of any person to comply with any subpoena issued by the Director, the Director may invoke the aid of the Circuit Court of Jefferson County. The court may thereupon order such person to comply with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt thereof.

To compel the production of documentary evidence from a third party witness, any party to an appeal may file with the Employee Relations Department, a written Request for Issuance of Subpoena *Duces Tecum*. Each request shall specify: (1) name of person or entity who is to produce such documentary evidence; (2) street address for service of the subpoena (within Jefferson County); and (3) a brief statement supporting the relevancy and materiality of the documentary evidence to the appeal.

## **IX. Motions**

All pre-hearing motions should be filed in writing with the Employee Relations Department of the Personnel Board. All motions must state the grounds for the motion and the relief requested. The non-moving party generally will be given three (3) business days in which to submit a written response or opposition to such motion. Motions shall be acted on in the manner outlined below:

Motion for Voluntary Withdrawal of the Appeal – Such motions shall be acted on by the Director of the Personnel Board.

Motion to Dismiss – Motions to dismiss may be filed for the limited purpose of determining whether the appeal was properly filed (e.g. within the appropriate time frame) or whether the matter has been adequately pursued by the parties (e.g. failure to participate or a joint settlement). Such motions shall be reviewed by the Hearing Officer. The Hearing Officer may deny the motion and hear the matter on the merits or may make a recommendation to the Three-Member Board that the motion be granted. If the Hearing Officer denies the motion, the order of the Hearing Officer is final. If the Hearing Officer recommends the motion be granted, the Three-Member Board shall vote to either affirm the Hearing Officer's recommendation or deny the motion to dismiss and remand the matter back to the Hearing Officer.

Motion to Stay – Such motions shall be acted on by the Three-Member Board.

All Other Motions – The Hearing Officer shall decide and act on all other motions. The order of the Hearing Officer is final.

## **X. Pre-Hearing Order**

No later than ten (10) calendar days prior to the hearing, the Hearing Officer will issue a Pre-Hearing Order. That order shall include the following: 1) a statement of the charges to be heard; 2) a statement of undisputed facts; 3) the stipulations agreed to by the parties; 4) each party's position on the issues in dispute; 5) a list of witnesses to be called by each party; 6) a list of exhibits to be offered by each party; and 7) any other instructions from the Hearing Officer about the manner of the proceedings. Any omissions or objections to the information contained in the order should be sent to the Employee Relations Department within three (3) business days after the Hearing Officer enters the Pre-Hearing Order. Failure by any party to abide by the provisions of the Pre-Hearing Order may result in punitive action by the Hearing Officer against the noncomplying party. A sample Pre-Hearing Order is attached as Appendix C.

## **XI. Settlement Agreements**

Settlement negotiations and agreements must be conducted in advance of the hearing. The Three-Member Board must approve all settlement agreements. Any provision of the settlement agreement pertaining to the employment relationship must be in compliance with the *Rules and Regulations* of the Personnel Board and the *Enabling Act*. The parties are encouraged to communicate with the Personnel Board prior to final execution of a settlement agreement to ensure that the terms reached are consistent with the Personnel Board's Rules and Regulations and the *Enabling Act*. Should the parties reach a proposed settlement, a **Joint Notice of Settlement** should immediately be filed advising the Personnel Board that the parties have agreed to a resolution of the matter in dispute. Upon receipt of such notification the Hearing Officer shall immediately stop the administrative process. The Hearing Officer will neither rule on nor make any recommendations regarding the terms of the proposed settlement. No later than seven (7) business days after notifying the Personnel Board of settlement, the parties must submit to the Employee Relations Department a copy of the final written unexecuted agreement containing the terms and conditions of the settlement agreement. If the provisions of the settlement agreement relating to the terms and conditions of employment are consistent with the Rules and Regulations of the Personnel Board, the parties shall fully execute the agreement and it will be placed on the Personnel Board's agenda for review and approval.

If the parties fail to timely submit a fully executed settlement agreement after notifying the Personnel Board that settlement has been reached the matter will be placed on the Personnel Board's agenda at its next regular meeting in order for the parties to *show cause* why the matter should not immediately proceed to hearing.

## **D. HEARING PROCEEDINGS**

### **I. Conduct of Hearing**

The purpose of the hearing is to determine whether there is a sufficient basis for the disciplinary action or the employee's grievance. The Hearing Officer shall hear or receive evidence only on the disciplinary charges as outlined in the Pre-Hearing Order or on the specific grievance as described in the Personnel Board Director's determination on grievability. The Hearing Officer's review is *de novo*, thus the appeal will be decided without giving deference to previous conclusions of the Appointing Authority.

The Hearing Officer shall not be bound to follow technical rules of evidence. All relevant and material evidence may be admissible, but the Hearing Officer may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. The Hearing Officer may, in his or her discretion, subpoena witnesses or documentation she deems essential to the consideration of the disciplinary charge being heard.

All witnesses shall testify under oath and shall be subject to cross-examination. The Hearing Officer will afford the parties, witnesses, and representatives respect and fairness consistent with his or her duty to maintain decorum and exercise due diligence throughout the proceedings. The Hearing Officer shall exercise ultimate control over the manner and order of witness examination and the presentation of evidence.

The Complainant may remain in the hearing room throughout the course of the hearing. The Respondent may have one representative, in addition to its' attorney, remain in the hearing room during the course of hearing, even if that representative may be called to testify.

Documents received into evidence by the Hearing Officer shall be marked by a Personnel Board representative, and filed as part of the record of the appeal. Rebuttal and surrebuttal evidence may be heard in the discretion of the Hearing Officer. Summations of the evidence and the law may be heard at the discretion of the Hearing Officer. For virtual hearing requirements, refer to the Supplement in Section F.

## **II. Burden of Proof**

The Respondent (the Appointing Authority), shall have the burden of proving that there is substantial and legal evidence to support the disciplinary action taken.

## **III. Report and Recommendation**

Unless expressly agreed to by the parties in writing, within five (5) business days of the close of the hearing, the Hearing Officer shall submit a Report and Recommendation with Findings of Fact to the Employee Relations Department. Upon receipt, the Employee Relations Department will distribute the Report and Recommendation to the parties of record via email. In isolated situations where an employee does not have an email, U.S. mail will be used.

If the Hearing Officer determines that the employee is not guilty of the charge(s) alleged, the Hearing Officer should recommend reinstatement of the employee under such conditions as may be determined, including whether the employee should receive backpay. If the Hearing Officer determines that the employee is guilty of the charge(s) alleged, the Hearing Officer shall include in their recommendation, whether the employee shall be dismissed, demoted, suspended or otherwise disciplined.

The parties may submit to the Employee Relations Department written objections to the Hearing Officer's Report and Recommendation within three (3) business days following its issuance. Any written objections to the Hearing Officer's Report and Recommendation must be based on specific factual findings and/or specific legal arguments. If no objections are filed, the Personnel Board shall consider the Report and Recommendation without further argument from the parties. If objections are filed, the Personnel Board shall hear argument only on those matters to which one or more of the parties objected.

#### **IV. Decision by the Board**

The Three-Member Board must consider the Hearing officer's Report and Recommendation and modify, alter, oppose or affirm said report and certify its findings to the Appointing Authority and any interested party. Unless the parties agree in writing, if the Personnel Board fails to act within forty-five (45) days after receipt of the Hearing Officer's Recommendation, it shall become the order of the Personnel Board. If no objections were filed to the Report and Recommendation, the Personnel Board shall consider the Report and Recommendation without further argument from the parties. If either party filed objections, the Personnel Board shall hear argument only on those matters to which one or more of the parties objected.

The Personnel Board meets on the second Tuesday of every month. Notices of meetings of Personnel Board are posted in accordance with the Alabama Open Meetings Act. Meeting notices, agendas, and minutes can be obtained from the Personnel Board website in the Public Information section.

#### **V. Compliance with Board Order**

An Appointing Authority must immediately comply with all decisions and orders of the Personnel Board. The Appointing Authority must submit written confirmation of compliance to the Employee Relations Department within ten (10) calendar days following issuance of the Personnel Board's final Order. Failure to comply with the Order of the Personnel Board may lead to the initiation of appropriate legal action in the Circuit Court of Jefferson County to compel said compliance.

#### **VI. Judicial Review**

Any decision rendered by the Personnel Board pursuant to Rule 12.6 or 12.11 is final and subject to appeal by either party to the Circuit Court of Jefferson County to review questions of law and whether the decision or order of the Personnel Board is supported by substantial and legal evidence. On appeal, the Circuit Court must review the record and affirm, reverse, remand or render said cause. The decision of the Personnel Board controls until reversed on appeal. See Rule 12.13 for the specific requirements that govern the filing of the appeal.

### **E. AUDIO AND VIDEO RECORDING OF PROCEEDINGS**

#### **I. Audio and Video Recording**

The Personnel Board of Jefferson County conducts its business meetings in public, in accordance with the Alabama Open Meetings Act, Ala. Code § 36-25A-11 (1975).<sup>8</sup> In addition, under the Personnel Board's Enabling Legislation, the Personnel Board and its hearing officers are required to conduct certain disciplinary hearings in public.

As a general matter, the Personnel Board does not prohibit individuals present at meetings and disciplinary hearings from making audio or video recordings of the proceedings. All such recording must

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<sup>8</sup> A meeting of a governmental body, except while in executive session, may be openly recorded by any person in attendance by means of a tape recorder or any other means of sonic, photographic, or video reproduction provided the recording does not disrupt the conduct of the meeting. The governmental body may adopt reasonable rules for the implementation of this section. Ala. Code § 36-25A-6

be conducted openly. In certain circumstances, however, recording may be prohibited or subjected to appropriate conditions.

To ensure that any audio or video recording is conducted “openly,” any person making an audio or video recording must inform the Hearing Officer or other presiding officer before commencing recording. The Hearing Officer may require that the individual making the recording do so in a manner that does not unduly disrupt or distract from the proceedings. As an example, the Hearing Officer may order that the individual making the recording remain stationary in the rear of the hearing room, and/or may require that any set-up or take-down of the recording equipment occur before or after the proceedings.

In circumstances where the further publication, dissemination or broadcasting of the audio or video recording could bring undue publicity, scandal, or disrepute to any person, or where private personally identifying information will be revealed or discussed, the Hearing Officer may temporarily halt or prohibit audio or video recording.

In all circumstances, the official record of the hearing shall be the designated recording, orders, transcripts, evidence, and other materials kept and maintained by the Personnel Board and its staff in accordance with Section 4 of the Open Meetings Act and the *Enabling Act*.

Any individual making an audio or video recording is responsible for their own actions, and any subsequent actions in connection with the recording. The Personnel Board shall not be liable or responsible for any legal consequences arising out of any further transmission, duplication, dissemination, or publication of any such audio or video recording.

## **II. Obtaining Hearing Records from Personnel Board**

The Personnel Board of Jefferson County maintains records of hearings for a period of six (6) years following final disposition of the matter. The evidentiary records of hearings are stored and maintained electronically. A certified copy of the record from any public hearing can be obtained via service of subpoena to the Personnel Director issued from court of competent jurisdiction. Costs of subpoenaed documents, CD recordings, or transcripts will be assessed to the requestor for the production of such records.

### **F. VIRTUAL HEARING SUPPLEMENTAL INFORMATION**

#### **I. General Information**

Administrative hearings will be held as in-person hearings, unless a motion is made by a party and granted by the Hearing Officer. The party requesting the virtual hearing must file a motion, which will be decided by the Hearing Officer, no later than thirty days prior to the hearing. The Hearing Officer will generally deny any motion for a virtual hearing if the opposing party submits an objection to that motion.

If a motion for a virtual hearing is granted, the virtual hearing will be held through the Zoom platform with a secure link and password. The Hearing Officer will be physically located within the Personnel Board Hearing Room and will be accompanied by an Employee Relations staff member and a Personnel Board technical adviser, who will provide technical support and handle activities, such as muting individuals, joining and disconnecting witnesses, electronically sharing exhibits, starting and stopping recording and addressing other technical needs.

Representatives for the Complainant and Respondent may be located within any location that meets the requirements for the virtual hearing outlined in *Section F(II) Witnesses*. The Personnel Board will join the individuals to the hearing beginning with the Hearing Officer, Attorney for the Complainant, Complainant, Attorney for the Respondent and Agency Representative. Witnesses will be joined to testify when called and either returned to the waiting room or dismissed, if there are no further questions.

If the Hearing Officer or the Personnel Board determines at any time that the audio or video connection is not sufficient and is interfering with the hearing, the hearing shall be suspended and rescheduled to convene at a later time. It is the responsibility of a party or counsel to immediately inform the Personnel Board representative if they are experiencing technical issues by calling 205-279-3474 (ER main line) or 205-279-3478 (Employee Relations Manager).

## II. Witnesses

The Personnel Board recommends that witnesses testify from the respective attorney's office. If the witness testifies from the attorney's office, the witness must be in a room separate from the attorney, unless the witness is a party or party representative. A witness may testify from any location if the following equipment, resources, and location requirements are met:

- A computer, laptop, or internet-enabled tablet *with video conference capabilities (camera, microphone and monitor)*
- Access to Zoom video conferencing (either through downloading the free software application or accessing Zoom through an internet browser)
- An e-mail address and internet service with sufficient broadband for a video conference.
- A private location (e.g., a private office) quiet and free from interruption.
- A working phone that can be used to notify the Personnel Board of technical difficulties

For *pro se* individuals or others that may need assistance, the Personnel Board may have space available at the 2121 Building. Any request for assistance must be emailed to [er@pbjcal.org](mailto:er@pbjcal.org) no later than 3 business days prior to the hearing.

The attorney calling the witness shall be responsible for providing each witness an acknowledgement notice (Attachment B) prior to the hearing. Witnesses will be under oath. Unless a party or party representative, the witness shall be at a secure location with no other person present. If a witness, other than a party or party representative is testifying at the attorney's office, the attorney and the witness should be in separate rooms, each equipped with the necessary equipment described above and no other person should be present in the room in which the witness is testifying. The witness shall not provide details of his or her testimony with any other person during the pendency of the hearing. The hearing shall not be recorded by any party or witness.

The attorney calling the witness shall be responsible for ensuring the witness is able to participate in the virtual hearing. Zoom meeting information (number and password) will be included in the prehearing order and shall be included on all subpoenas issued in the matter. If the witness is not able to participate

in the virtual hearing, the respective attorney shall decide whether the witness is material and, if so, make arrangements for the witness to appear.

**APPENDICES**

- A.** Sample Initial Instructions to the Parties
- B.** Sample Scheduling Order
- C.** Sample Pre-Hearing Order

# APPENDIX A

## BEFORE THE PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA

EMPLOYEE NAME, )  
)  
Complainant, )  
)  
vs. ) CASE NO. DA-2020-0000-00  
)  
EMPLOYER NAME, )  
)  
Respondent. )

### INITIAL INSTRUCTIONS TO PARTIES

This cause came before the Personnel Board of Jefferson County pursuant to a Notice of Appeal filed on behalf of the employee and received by the office of the Personnel Board on **Date**. The Notice of Appeal is received as timely filed, pursuant to Rule 12.4, and given the following case number, which must appear on all pleadings, and written submissions hereafter: **Case Number DA-2020-\_\_\_\_\_**. This appeal shall be heard by a Hearing Officer to be appointed by the Personnel Board. You will be notified of the name of the Hearing Officer and the date of hearing in a Scheduling Order that will be sent to you within the next ten (10) days.

The following instructions are provided in order for you to understand the manner in which your appeal will be processed. Rule 12 of the *Rules and Regulations* of the Personnel Board of Jefferson County specifically addresses disciplinary actions and appeals. These instructions contain deadlines that must be met. If you have any questions regarding the instructions you should contact:



**Employee Relations Department  
Personnel Board of Jefferson County  
2121 Reverend Abraham Woods Jr. Boulevard - Suite 100  
Birmingham, Alabama 35203  
[er@pbjcal.org](mailto:er@pbjcal.org)  
(205) 279-3474**

### **Time Calculations**

In computing any period of time for deadlines under Rule 12, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, legal holiday or any other day the Personnel Board is in fact closed based on the official dates of closure posted on the Personnel Board's website. In this event, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday or other day the Personnel Board is closed. A half-holiday shall be counted the same as a business day. Personnel Board closures can be found online at [www.pbjcal.org/holidayschedule.aspx](http://www.pbjcal.org/holidayschedule.aspx).

### **Representation by Counsel**

Each party to the appeal may be represented by counsel. Counsel must file with the Personnel Board a written Notice of Appearance containing the name, mailing address, phone number, email address and party represented, for each attorney participating in the appeal. The Notice of Appearance must bear an attestation that the attorney is licensed to practice in the State of Alabama. After an appearance has been filed, all communications regarding the appeal will be directed to the attorney of record.

### **Filing and Service of Documents, Correspondence and other Materials**

All communications regarding the disciplinary appeal shall be directed to the Employee Relations Department of the Personnel Board and/or the opposing party or its attorney, **not** to the Hearing Officer. All submissions filed with the Personnel Board must be signed by the party or its attorney and must reference the assigned case number. The communications should be filed with the Personnel Board either by email ([er@pbjcal.org](mailto:er@pbjcal.org)), in person, or by U.S. Mail. Email is the preferred method of correspondence. If U.S. Mail is utilized, the postmark must be on or before any deadline under the *Rules and Regulations* of the Personnel Board as calculated under the Time Calculation Section above.

All pleadings and other documents filed in the appeal shall be entered on a docket maintained by the Employee Relations Staff. The Employee Relations staff shall note the filing date on all pleadings and other documents. Each party to the appeal is responsible for serving copies of all pleadings and other documents to the other party or its attorney. All pleadings must contain a

certification executed by the serving party identifying the parties served, the method or manner of service, and the date of service.

### **Scope of Hearing/Issues to be Decided**

The scope of the Hearing is limited to the disciplinary charges that serve as the basis of the appeal. Matters outside the discipline at issue shall not be heard. During the Pre-Hearing Conference, described in more detail below, the parties shall agree to a statement of the issues that will be heard. If an employee's appeal disputes some, but not all, of the charges alleged, the party shall so state at the Pre-Hearing Conference. If the Appointing Authority who issued the discipline is no longer pursuing any portion of the charges alleged, the Appointing Authority shall so state at the Pre-Hearing Conference. Evidence regarding any portion of the disciplinary matter that is no longer being pursued shall not be admitted at the Hearing.

When multiple pending appeals involve a common question of law or fact, the Director may determine administratively, or upon motion of a party, that the appeals be consolidated and presented at the same Hearing.

### **Hearing Date and Length of Hearing**

The Hearing Officer shall determine the length of the hearing, giving due consideration to the complexity of the matter to be heard. Rarely should hearings exceed more than one (1) business day.

The parties will be advised of the hearing date.

If either party has a conflict with the hearing date, the party must within three (3) business days after receiving notice of the hearing date notify the Employee Relations staff of the conflict. The hearing date will not be changed absent extraordinary circumstances. If a party subsequently seeks to have the hearing date rescheduled, the party must file in writing no later than **three (3) business days** prior to the commencement of the hearing, a Motion to Continue specifying the grounds upon which the request is based. Continuances will not be routinely granted.

### **Scheduling Order**

The Personnel Board will issue a Scheduling Order providing additional instructions and deadlines for the parties. Unless specifically stated otherwise, the instructions contained herein are incorporated by reference in the Scheduling Order. The Scheduling Order will contain, among other information, a statement of the issues to be heard and a statement of the relief request by the employee. Deadlines within the Scheduling Order shall be calculated in accordance with the Time Calculation section above.

## **Pre-Hearing Conference**

A Pre-Hearing Conference will be held normally within thirty (30) days following the receipt of the Notice of Appeal. An assigned designee of the Employee Relations Department will conduct the Pre-Hearing Conference. Each party to the appeal or its attorney of record, if any, is required to attend the Pre-Hearing Conference. Contractually designated union representatives may appear at the conference with the employee so represented. Non-lawyer staff members of the attorney of record may not appear at the conference *in lieu of* counsel. Parties should be prepared to discuss and resolve outstanding discovery issues, if any; other issues that need resolutions prior to the hearing, if any; and the possibility of settlement.

## **Discovery**

The hearing process provides for limited discovery between the parties. The scope of discovery is limited to the narrow issues to be addressed upon appeal. Each party may submit to the other a Request for the Production of Documents. The Request for Production of Documents must be submitted no later than five (5) business days after the Pre-Hearing Conference. No more than ten (10) document requests should be propounded on any one party. The Request for Production of Documents should be served directly upon the opposing party without a subpoena. A copy of the Request for Production of Documents should be provided to Employee Relations Department of the Personnel Board on the same date that the request is served on the opposing party.

Responses to a Request for the Production of Documents should be submitted to the propounding party no later than twenty-one (21) days after the discovery request was submitted. A copy of the response (i.e. pleading), not the underlying responsive documents, should be provided to the Personnel Board on the same date that the request is served on the opposing party. The Hearing Officer may preclude the introduction of evidence if a party refuses, without a legitimate basis, to respond to a discovery request. If a party believes that the discovery request seeks information that is neither relevant nor material to the limited scope of the hearing, the party may file an Objection or Motion to Quash the Request for the Production of Documents. Such motion must be filed within the 21-day period in which to respond to the discovery request. The motion should be filed with the Personnel Board. The decision of the Hearing Officer on the Objection or Motion to Quash is final. If a party fails to produce documents within the 21-day period, the propounding party may file a Motion to Compel Production. Such motion must be filed within three (3) business days after the deadline for the discovery response. The motion should be filed with the Personnel Board. The decision of the Hearing Officer on the Motion to Compel is final.

## **Witness and Exhibit Lists**

No later than five (5) business days after the Pre-Hearing Conference each party shall submit to the Personnel Board a list of anticipated witnesses to be called to testify at the hearing and a list of anticipated exhibits that will be introduced at the hearing. The list of witnesses shall contain the following for each witness: (1) Name; (2) Employer; (3) Job Title; and (4) a brief description of the nature of testimony anticipated from said witness. Amendments, if any, to the witness and exhibit lists must be submitted in writing no later than thirty (30) calendar days prior to the hearing. Any exhibit or other document that a party anticipates using at the hearing must be exchanged with the other party no later than ten (10) calendar days prior to the hearing.

The Hearing Officer may exclude exhibits and witnesses not identified in accordance with this paragraph. The Hearing Officer may in her discretion, subpoena witnesses or documentation she deems essential to the consideration of the disciplinary charge being heard.

## **Subpoena Requests**

If the party seeks to have the Personnel Board issue a subpoena for the production of witnesses or documents, the party must file a "Subpoena Request" with the Employee Relations Department no less than 30 days prior to hearing. The party must provide the complete name and street address for each person or entity to be subpoenaed, a brief description of the anticipated testimony of the witness, and a brief description of the documents requested. The party requesting the subpoena must include a sworn affidavit, attesting that the testimony and documents subject to subpoena are necessary in order for the party to present his case. If any of the preceding information is not provided to the Personnel Board, the subpoena will not be issued.

If the party seeks to have the Personnel Board prepare a subpoena for the production of witnesses or documents, the party must file a "Subpoena Request" with the Employee Relations Department no less than 30 days prior to hearing. The party must provide the complete name and street address for each person or entity to be subpoenaed, a brief description of the anticipated testimony of the witness, and a brief description of the documents requested. The party requesting the subpoena must include a sworn affidavit, attesting that the testimony and documents subject to subpoena are necessary in order for the party to present his or her case. If any of the preceding information is not provided to the Personnel Board, the subpoena will not be prepared.

Absent good cause shown as ordered by the Hearing Officer, each party is limited to no more than ten (10) subpoenas. (**See Personnel Board Rule 12.8(b)**). Should a party request more than ten (10) subpoenas without an order from the Hearing Officer permitting same, only the first ten (10) subpoenas will be issued. Subpoenas will only be served on residents of Jefferson County. If requested, a subpoena for a nonresident of Jefferson County will be prepared and

given to the party, who shall be responsible for service on the nonresident. Unless otherwise approved in advance by the Hearing Officer, all witnesses are expected to be present at the date and time appearing on the subpoena. The attorney requesting the witness's presence shall be responsible for service of the subpoena.

In case of the failure of any person to comply with any subpoena issued by the Director, the Director may invoke the aid of the Circuit Court of Jefferson County. The court may thereupon order such person to comply with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt thereof.

To compel the production of documentary evidence from a third party witness, any party to an appeal may file with the Employee Relations Department, a written Request for Issuance of Subpoena *Duces Tecum*. Each request shall specify: (1) name of person or entity who is to produce such documentary evidence; (2) street address for service of the subpoena (within Jefferson County); and (3) a brief statement supporting the relevancy and materiality of the documentary evidence to the appeal.

### **Motions**

All pre-hearing motions should be filed in writing with the Employee Relations Department of the Personnel Board. All motions must state the grounds for the motion and the relief requested. The non-moving party generally will be given three (3) business days in which to submit a written response or opposition to such motion. The Director of Personnel shall act on any Motion for Voluntary Withdrawal of the Appeal. The Three-Member Board shall decide Motions seeking to Dismiss the Appeal, Motion to Stay, or to accept a Settlement Agreement from the parties. The Hearing Officer shall decide all other Motions. -The order of the Hearing Officer is final.

### **Pre-Hearing Order**

No later than ten (10) days prior to the hearing, the Hearing Officer will issue a Pre-Hearing Order. That order shall include the following: (1) a statement of the charges to be heard; (2) a statement of undisputed facts; (3) the stipulations agreed to by the parties; (4) each party's position on the issues in dispute; (5) a list of witnesses to be called by each party; (6) a list of exhibits to be offered by each party; and (7) any other instructions from the Hearing Officer about the manner of the proceedings. Any omissions or objections to the information contained in the order should be sent to the Employee Relations Department within three (3) business days after the Hearing Officer enters the Pre-Hearing Order. Failure by any party to abide by the provisions of the Pre-Hearing Order may result in punitive action by the Hearing Officer against the non-complying party.

## Settlement Agreements

The Personnel Board must approve all settlement agreements. Any provision of the settlement agreement pertaining to the employment relationship must be in compliance with the *Rules and Regulations* of the Personnel Board and the *Enabling Act*. The parties are encouraged to communicate with the Personnel Board prior to final execution of a settlement agreement to ensure that the terms reached are consistent with the Personnel Board's Rules and Regulations and the *Enabling Act*. Should the parties reach a proposed settlement, a **Joint Notice of Settlement** should immediately be filed advising the Personnel Board that the parties have agreed to a resolution of the matter in dispute. Upon receipt of such notification the Hearing Officer shall immediately stop the administrative process. The Hearing Officer will neither rule on nor make any recommendations regarding the terms of the proposed settlement. No later than seven (7) business days after notifying the Personnel Board of settlement, the parties must submit to the Employee Relations Department a copy of the final written unexecuted agreement containing the terms and conditions of the settlement agreement. If the provisions of the settlement agreement relating to the terms and conditions of employment are consistent with the Rules and Regulations of the Personnel Board, the parties shall fully execute the agreement and it will be placed on the Personnel Board's agenda for review and approval.

If the parties fail to timely submit a fully executed settlement agreement after notifying the Personnel Board that settlement has been reached the matter will be placed on the Personnel Board's agenda at its next regular meeting in order for the parties to *show cause* why the matter should not immediately proceed to hearing.

## Conduct of the Hearing

The purpose of the hearing is to determine whether there is a sufficient basis for the disciplinary action. The Hearing Officer shall hear or receive evidence only on the disciplinary charges as outlined in the Pre-Hearing Order. The Hearing Officer's review is *de novo*, thus the appeal will be decided without giving deference to previous conclusions of the Appointing Authority.

The Hearing Officer shall not be bound to follow technical rules of evidence. All relevant and material evidence may be admissible, but the Hearing Officer may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. The Hearing Officer may in her discretion, subpoena witnesses or documentation she deems essential to the consideration of the disciplinary charge being heard.

All witnesses shall testify under oath and shall be subject to cross-examination. The Hearing Officer will afford the parties, witnesses, and representatives respect and fairness consistent with

his duty to maintain decorum and exercise due diligence throughout the proceedings. The Hearing Officer shall exercise ultimate control over the manner and order of witness examination and the presentation of evidence.

The Complainant may remain in the hearing room throughout the course of the hearing. The Respondent may have one representative, in addition to its' attorney, remain in the hearing room during the course of hearing, even if that representative may be called to testify.

Documents received into evidence by the Hearing Officer shall be marked by a Personnel Board representative, and filed as part of the record of the appeal. Rebuttal and surrebuttal evidence may be heard in the discretion of the Hearing Officer. Summations of the evidence and the law may be heard at the discretion of the Hearing Officer.

### **Burden of Proof**

The Respondent, (the Appointing Authority) shall have the burden of proving that there is substantial and legal evidence to support the disciplinary action taken.

### **Report and Recommendation**

Unless expressly agreed to by the parties in writing, within ten (10) business days of the close of the hearing, the Hearing Officer shall submit a Report and Recommendation with Findings of Fact to the Employee Relations Department. Upon receipt, the Employee Relations Department will distribute the Report and Recommendation to the parties of record via email. In isolated situations where an employee does not have an email, U.S. mail will be used.

If the Hearing Officer determines that the employee is not guilty of the charge(s) alleged, the Hearing Officer should recommend reinstatement of the employee under such conditions as may be determined, including whether the employee should receive backpay. If the Hearing Officer determines that the employee is guilty of the charge(s) alleged, the Hearing Officer shall include in their recommendation, whether the employee shall be dismissed, demoted, suspended or otherwise disciplined.

The parties may submit to the Employee Relations Department written objections to the Hearing Officer's Report and Recommendation within three (3) business days following its issuance. Any written objections to the Hearing Officer's Report and Recommendation must be based on specific factual findings and/or specific legal arguments. If no objections are filed, the Personnel Board shall consider the Report and Recommendation without further argument from the parties. If objections are filed, the Personnel Board shall hear argument only on those matters to which one or more of the parties objected.

### **Decision by the Board**

The Three-Member Board must consider the Hearing officer's Report and Recommendation and modify, alter, set aside or affirm said report and certify its findings to the Appointing Authority and any interested party. Unless the parties agree in writing, if the Personnel Board fails to act within forty-five (45) days after receipt of the Hearing Officer's Recommendation, it shall become the order of the Personnel Board. If no objections were filed to the Report and Recommendation, the Personnel Board shall consider the Report and Recommendation without further argument from the parties. If either party filed objections, the Personnel Board shall hear argument only on those matters to which one or more of the parties objected.

The Personnel Board meets on the second Tuesday of every month. Notices of meetings of Personnel Board are posted in accordance with the Alabama Open Meetings Act. Meeting notices, agendas, and minutes can be obtained from the Personnel Board website in the Public Information section.

### **Compliance with Board Order**

An Appointing Authority must immediately comply with all decisions and orders of the Personnel Board. The Appointing Authority must submit written confirmation of compliance to the Employee Relations Department within ten (10) calendar days following issuance of the Personnel Board's final Order. Failure to comply with the Order of the Personnel Board may lead to the initiation of appropriate legal action in the Circuit Court of Jefferson County to compel said compliance.



# APPENDIX B

## BEFORE THE PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA

EMPLOYEE NAME, )  
Complainant, )  
)  
vs. ) CASE NO. DA-2020-0000-00  
)  
EMPLOYER NAME, )  
Respondent. )

### SCHEDULING ORDER

**Hearing Officer:** *Insert Name of Hearing Officer*  
*Insert Name of Hearing Officer's law firm*

**I. PARTIES:**

**Complainant:** *Insert name of Complainant*  
*Insert address for Complainant*  
*Insert email address and telephone number for Complainant*

**Complainant's Attorney:**

*Insert Name of Attorney*  
*Insert address for Complainant's attorney*  
*Insert email address and telephone number for attorney*

**Respondent:** *Insert name of Respondent*  
*Insert address for Respondent*  
*Insert email address and telephone number for Respondent*

***Respondent's Attorney***

*Insert Name of Attorney*

*Insert address for Respondent's attorney*

*Insert email address and telephone number for attorney*

**II. INCORPORATION BY REFERENCE**

The Initial Instructions previously issued to the parties are hereby incorporated by reference. Unless specifically stated herein, those instructions and deadlines remain in full force and effect. If you have questions regarding those instructions or any information contained in this Scheduling Order you are encouraged to contact the Employee Relations Department.

**III. STATEMENT OF CHARGES**

**A. Disciplinary Action**

1. Enter the details and date of the action
2. Enter the date the notice of the disciplinary action was issued
3. Enter the date the appeal of the action was filed

**B. Charges**

The disciplinary action was based on the following violations:

**Enter any Personnel Board of Jefferson County Rules and Regulations:**

- 1.
  - 2.
- etc.

**Enter any Respondent Policies and Procedures:**

- 1.
  - 2.
- etc.

**C. Conduct Alleged**

1. Enter the alleged conduct.
  2. Enter the alleged conduct.
- etc.

**D. Basis for Appeal & Claim for Relief**

1. Enter the Complainant's contentions about the charges.
2. Enter the Complainant's request for relief: (a) (b) (c) etc.

#### IV. PRE-HEARING CONFERENCE

The Pre-Hearing Conference in the above styled case has been scheduled for ***Insert Date and Time***. Pre-hearing conferences are held by either a telephone conference or the Zoom platform. Each party to the appeal or its attorney of record, if any, is required to attend the Pre-Hearing Conference. A contractually designated union representative may attend the conference with the employee so represented. Non-lawyer staff members of the attorney of record may not attend the conference *in lieu* of counsel.

The parties should be prepared to discuss and resolve any issues that remain with respect to the following items:

- a. the specific charges to be heard;
- b. the specific relief requested;
- c. discovery issues, if any;
- d. amendments, if any to witness and exhibit lists;
- e. outstanding motions, if any; and
- f. the possibility of pre-hearing resolution.

#### V. HEARING DATE

This matter shall be heard on ***Insert Date and Time***. The hearing date **will not** be changed absent extraordinary circumstances. If a party subsequently seeks to have the hearing date rescheduled, the party must file in writing, no later than **three (3) business days** prior to the commencement of the hearing, a Motion to Continue specifying the grounds upon which the request is based. Continuances **will not** be routinely granted.

#### VI. DEADLINES

Set out below is a table of deadlines based on the Initial Instructions previously provided to you on ***Insert Date***. You are encouraged to independently calculate the deadlines and should you believe that there is discrepancy between the deadline table and the Instructions you should immediately notify the Employee Relations Department.

### Timeline for Disciplinary Appeal Hearing Process

Event	Due Date	
Last Day to Serve Request for Documents on Opposing Party	Insert Date	<b>5 Business Days</b> prior to Pre-Hearing Conference
File <i>Preliminary</i> Witness List and Exhibit List	Insert Date	<b>5 Business Days</b> prior to Pre-Hearing Conference
<b>***PRE-HEARING CONFERENCE***</b>	Insert Date	Telephone conference
Last Day to file Subpoena Requests and Amended Witness/Exhibit Lists	Insert Date	<b>30 days</b> prior to Hearing Date
Last Day to Exchange Documents between Parties	Insert Date	<b>10 days</b> prior to Hearing Date
Pre-Hearing Order Issued by Hearing Officer	Insert Date	<b>no later than 10 days</b> prior to Hearing Date
Omissions/Objections to Pre-Hearing Order	<b>3 Business Days</b> following Pre-Hearing Order	
Last Day to file Motion to Continue ( <i>must show good cause</i> )	Insert Date	<b>3 Business Days</b> prior to Hearing Date
<b>***HEARING***</b>	Insert Date	
Hearing Officer Report & Recommendation Issued ( <i>unless otherwise agreed</i> )	Insert Date	<b>10 Business Days</b> following the close of Hearing
Objections to Hearing Officer Report & Recommendation	<b>3 Business Days</b> following entry of Hearing Officer Report & Recommendation	

For a detailed description of the hearing process and the items referenced herein, please refer to the Personnel Board's *Administrative Appeal Procedures and the Supplement to the Procedures*. A copy of the procedures can be obtained from the Board's website ([www.pbjcal.org](http://www.pbjcal.org)) from the "forms and documents" section.

**DONE this the Insert Date.**

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Employee Relations Manager

cc: Appointing Authority  
Complainant's Attorney  
Respondent's Attorney

**Important Notice:** In accordance with Section 6(a) (4) of Act 283 of the Alabama Legislature, 2013 Regular Session, the 2121 Building has been designated as an area where it is a misdemeanor to possess firearms. This prohibition applies to all persons except: (i) individuals with express permission to carry a firearm inside the 2121 Building; and (ii) law enforcement officers engaged in the lawful execution of their official duties. A pistol permit does not insinuate permission to carry a firearm inside the 2121 Building. Thank you for your cooperation!

# APPENDIX C

## BEFORE THE PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA

EMPLOYEE NAME, )  
Complainant, )  
)  
vs. ) Case No. DA-2020-0000-AA  
)  
EMPLOYER NAME, )  
Respondent. )

### PRE-HEARING ORDER

The Pre-Hearing Conference in this matter was held on ***INSERT DATE***. Present at the Pre-Hearing Conference were INSERT NAME, Counsel for Complainant; INSERT NAME, Counsel for the Respondent; and INSERT NAME, Complainant. This case will be heard by the Honorable INSERT NAME, as Hearing Officer on ***INSERT DATE AND TIME***.

#### **A. DISCIPLINARY ACTION**

1. Enter the details and date of the action
2. Enter the date the notice of the disciplinary action was issued
3. Enter the date the appeal of the action was filed

#### **B. CHARGES TO BE HEARD**

Based on the representation of the Respondent, the Hearing Officer will hear evidence on the following charges as grounds for Complainant's suspension:

##### **Enter any Personnel Board of Jefferson County Rules and Regulations:**

- 1.
- 2.
3. etc.

##### **Enter any Respondent Policies and Procedures:**

- 1.
- 2.
3. etc.

**C. STATEMENT OF THE RELIEF REQUESTED**

Enter the Complainant's request for relief: (a) (b) (c) etc.

**D. ENTER RESPONDENT'S ISSUES TO BE HEARD**

- 1.
- 2.
3. etc.

**E. ENTER COMPLAINANT'S ISSUES TO BE HEARD**

- 1.
- 2.
3. etc.

**F. ENTER STIPULATIONS/UNDISPUTED FACTS**

- 1.
- 2.
3. etc.

**G. ENTER MOTIONS OF RECORD**

- 1.
- 2.
3. etc.

**H. CONDUCT OF HEARING**

The information contained in this Order supplements the information previously provided in the Initial Instructions to the Parties and the Scheduling Order, both of which are incorporated by reference herein.

1. The parties may be allowed to present a brief opening statement at the beginning of the hearing. The opening statement must be five (5) minutes or less per party. If closing arguments are permitted, the closing argument will also be limited to five minutes per party.
2. Exhibits are addressed in the Supplement to the Administrative Appeal Procedures.

3. Witness requirements are addressed in the Supplement to the Administrative Appeal Procedures.

**DONE** this **ENTER DATE**

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ENTER NAME, Hearing Officer  
ENTER Case No.

cc: Appointing Authority  
Complainant's Attorney  
Respondent's Attorney