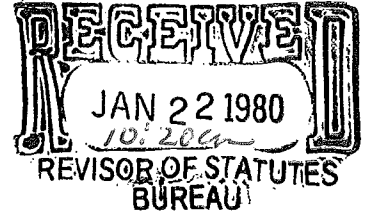


PC 1 to 6

STATE OF WISCONSIN

PERSONNEL COMMISSION

CERTIFICATE




STATE OF WISCONSIN )  
                          ) SS  
PERSONNEL COMMISSION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony J. Theodore, Legal Counsel of the Personnel Commission and custodian of the official records of said Commission do hereby certify that the annexed rules relating to Commission procedures were duly approved and adopted by this Commission on October 11, 1979.

I further certify that said copy has been compared by me with the original on file in this Commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand in the city of Madison, this 22d day of January A.D., 1980.

  
Anthony J. Theodore  
Legal Counsel

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STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
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ORDER ADOPTING, AMENDING, \*  
AND REPEALING RULES \*  
\*  
\* \* \* \* \*

Pursuant to the authority vested in the State Personnel Commission by section 230.45(1)(i), Wis. Stats., the commission hereby repeals, amends, and adopts rules as follows:

CHAPTER PB 1, Wis. Adm. Code, is renumbered PC 1.

SECTION PC 1.01(1) is adopted to read:

PC 1.01 APPEALS. (1) APPEALABLE ACTIONS. The basis for an appeal shall be one of the grounds set forth in s. 230.45 Stats.

SECTION PB 1.01(1), Wis. Adm. Code, is renumbered PC 1.01(2), and as renumbered, is amended to read:

(2) FORM. Appeals shall be in writing and need not conform to any technical requirements, but should ~~where-possible~~ contain the information set forth in ~~PB-1:01(2)~~ sub. (3). ~~below;--Wherever possible;--forms-promulgated-by-and-available-from-the-board;--or-their substantial-equivalents;--should-be-used;~~

SECTION PB 1.01(2), Wis. Adm. Code, is repealed.

SECTION PC 1.01(3), Wis. Adm. Code, is adopted to read:

(3) CONTENT. Appeals shall be dated and should contain the following information:

- (a) Name and address of appellant (person filing appeal)
- (b) Telephone numbers at home and work

- 1           (c) Agency or department of the appellant  
 2           (d) The facts which form the basis of the appeal  
 3           (e) The reason why the appellant believes the act or  
 4 omission was improper  
 5           (f) The relief or remedy requested

6           SECTIONS PB 1.01(3) and (4), Wis. Adm. Code, are renumbered  
 7 PC 1.01(4) and (5), respectively, and as renumbered, are amended to read:

8           (4) TIME AND MANNER OF FILING. Appeals shall be filed with the  
 9 State Personnel ~~Board~~, Commission, One 131 West Wilson Street, Madison,  
 10 Wisconsin 53702. In accordance with ~~section-16-05(2)~~ s. 230.44(3),  
 11 Wis. Stats., appeals must be received by the ~~board~~ commission within  
 12 15 30 calendar days after the effective date of the decision appealed,  
 13 or within 15 30 calendar days after the appellant is notified of  
 14 such decision, whichever is later; except that if the appeal alleges  
 15 discrimination under subch. II, ch. 111, Stats., the time limit for  
 16 that part of the appeal alleging such discrimination shall be 300  
 17 calendar days after that alleged discrimination occurred.

18           (5) SERVICE. ~~Board staff~~ The commission will serve copies  
 19 of the appeal on the agency or agencies apparently involved in the appeal.  
 20 ~~APPEAL~~ SECTION PC 1.01 (6), Wis. Adm. Code, is adopted to read:

21           (6) POSTING OF PROCEDURES. Every department and agency of  
 22 the State of Wisconsin shall post and keep posted in conspicuous  
 23 places on its premises, including all personnel offices, the  
 24 information contained in PC 1.01. Posters prepared and made  
 25 available by the Department of Employment Relations may be used

1 for this purpose.

2 SECTION PB 1.02, Wis. Adm. Code, is renumbered PC 1.02, and as  
3 renumbered, is amended to read:

4 PC 1.02 ANSWERS. (1) ANSWERS OPTIONAL. Respondents Agencies may  
5 ~~and-are-encouraged-to~~ serve and file written answers ~~if-they-desire~~  
6 within 15 calendar days after service of the appeal. Answers are particu-  
7 larly encouraged where a respondent an-agency has not already taken an  
8 ~~explicit~~ position on the subject matter of an appeal prior to its filing.

9 (2) ~~FORM-AND~~ CONTENT. ~~No-particular-form-is-required.~~ Answers  
10 should set forth ~~in-non-technical-language~~ the position of the agency  
11 on the appeal ~~including, where-appropriate,~~ and a statement of its  
12 version of the underlying facts, if different from those stated  
13 in the appeal.

14 SECTIONS PB 1.03(1) and (2), Wis. Adm. Code, are renumbered  
15 PC 1.03(1) and (2), respectively.

16 SECTION PB 1.03(3), Wis. Adm. Code, is renumbered PC 1.03(3),  
17 and as renumbered, is amended to read:

18 (3) MOTION TO DISMISS FOR LACK OF JURISDICTION OVER THE SUBJECT  
19 MATTER. Any party may move at any time to dismiss an appeal on  
20 the ground the board commission does not have jurisdiction of the  
21 subject matter of the appeal. ~~Since-the-appeal-will-normally-be~~  
22 ~~dismissed-if-the-motion-is-granted, such-motion-should-be-made-as~~  
23 ~~soon-as-the-basis-for-it-is-apparent.~~ \*NOTE: Since the appeal will  
24 normally be dismissed if the motion is granted, such motion should  
25 be made as soon as basis for it is apparent.

1 SECTION PB 1.04, Wis. Adm. Code, is renumbered PC 1.04.

2 SECTION 1.05(1) and (2), Wis. Adm. Code, are renumbered PC 1.05(1) and  
3 (2), and as renumbered are amended to read:

4 PC 1.05 PREHEARING CONFERENCES. (1) PURPOSE. Prehearing  
5 conferences are intended to provide an opportunity to formulate a  
6 statement of the issue or issues presented by a proceeding, to identify  
7 and exchange lists of witnesses, to attempt to reconcile differences  
8 among the parties and promote the settlement of appeals, and to perform  
9 any other functions in aid of the ~~board's~~ commission's performance  
10 of its duties. Within the discretion of the commission, conferences  
11 may be conducted by telephone conference call.

12 (2) PERSON PRESIDING. A ~~board~~ commission member or other  
13 person designated by the ~~board~~ commission shall preside.

14 SECTION PB 1.05(3), Wis. Adm. Code, is repealed.

15 SECTION PB 1.06, Wis. Adm. Code, is renumbered PC 1.06, and as  
16 renumbered, is amended to read:

17 PC 1.06 REPRESENTATION. A party is entitled to appear in person or by  
18 or with counsel or other ~~person-authorized-by-the-Wisconsin-supreme-court~~  
19 ~~to-practice-law-in-that-context-at-a-hearing-on-a-contested-case-before-the~~  
20 ~~board,~~ agent of the party's choice in any proceeding before the commission.

21 SECTION PB 1.07, Wis. Adm. Code, is renumbered PC 1.07, and as  
22 renumbered is amended to read:

23 PC 1.07 FILING OF PAPERS. All papers to be submitted to the  
24 board Commission shall be filed with the State Personnel ~~Board,~~  
25 Commission, One 131 West Wilson Street, Madison, Wisconsin 53702.

1 SECTION PB 1.08, Wis. Adm. Code, is renumbered PC 1.08, and as  
2 renumbered, is amended to read:

3 PC 1.08 SERVICE OF PAPERS. With the exception of the initial appeal  
4 which will be served by ~~board-staff~~ the commission pursuant to section  
5 ~~PB-1.01(4)~~ PC 1.01(5), Wis. Adm. Code, all subsequent papers filed  
6 by a party with the ~~board~~ commission shall be served by that party  
7 on all parties appearing in a proceeding. Service means providing  
8 copies of papers filed with the ~~board~~ commission to the other parties  
9 or their attorneys or agents. If a party is represented by an attorney  
10 or other agent, service shall be made upon ~~the-attorney~~ that person  
11 unless service upon the party is ordered by the ~~board~~ commission.  
12 Service ~~upon-the-attorney-or-upon-a-party~~ shall be made by delivering  
13 a copy ~~to-him-or-her~~ or by mailing it to ~~him-or-her-at-his-or-her~~ the  
14 last known address, or, if no address is known, by leaving it with the  
15 ~~secretary-of-the-board~~ commission. Delivery of a copy within this  
16 section means: handing it to the attorney or agent or to the party; or  
17 leaving it at ~~his-or-her~~ such person's office with ~~his-or-her-clerk-or~~  
18 ~~either~~ the person in charge thereof; or, if there is no one in charge,  
19 leaving it in a conspicuous place therein; or if the office is closed  
20 or the person to be served has no office, leaving it at ~~his-or-her~~ the  
21 person's dwelling house or usual place of abode with some person of  
22 suitable age and discretion then residing therein. Service by mail  
23 is complete upon mailing. That is, for purposes of service, the  
24 effective date is the date of mailing, not receipt. The filing of  
25 any paper required to be served constitutes a certification ~~by-the~~

1 ~~party-or-attorney-effecting-the-filing~~ that a copy of such paper has  
2 been timely served on all parties required to be served, except as  
3 the person effecting the filing may otherwise state in writing, and  
4 no affidavit, certificate, or admission of service need be filed  
5 with the board commission.

6 SECTION PB 1.09, Wis. Adm. Code, is renumbered PC 1.09, and as  
7 renumbered, is amended to read:

8 PC 1.09 TIME. ~~Whenever-possible~~ Unless otherwise provided by  
9 these rules, orders of the board commission setting forth time periods  
10 shall be expressed in terms of working days, which includes every  
11 day except Saturdays, Sundays, and statewide legal holidays provided  
12 in ~~section-16-30(4), Wis-~~ s.230.35(4)(a), Stats. The day the order  
13 is made or entered shall not count as one of the prescribed days.  
14 Any questions about time computations for procedural matters before  
15 the board commission shall be resolved by reference to ~~section~~  
16 s. 801.15(1), Wis- Stats.

17 SECTION PB 1.10 Wis. Adm. Code, is renumbered PC 1.10(1), and  
18 as renumbered, is amended to read:

19 PC 1.10 ATTENDANCE OF WITNESSES AND PARTIES. (1) SUBPOENAS;  
20 REQUESTS TO APPEAR. Subpoenas may be issued by the board commission  
21 at the request of a party or on its own motion, or may be issued  
22 by an attorney of record in a commission proceeding in the same  
23 manner as provided by-law-for-judicial-proceedings in s.805.07, Stats.  
24 The commission may, at the request of a party the-board-may or on its  
25 own motion, issue requests for state employes to attend and testify

1 ~~to-state-employees-and-officers-pursuant-to-section-16.05(3)-Wis-~~  
2 ~~Stats.~~ at commission proceedings.

3 SECTIONS PC <sup>1.01</sup> 1.01(2), (3) and (4) Wis Adm. Code, are adopted to read:

4 (2) PAY STATUS OF STATE EMPLOYE PARTIES. State employes who are  
5 requested by the commission to attend prehearing conferences or hearings  
6 as parties shall do so without loss of salary and with reimbursement  
7 for travel expenses in accordance with the uniform travel expense  
8 guidelines.

9 (3) PAY STATUS OF STATE EMPLOYE WITNESSES. State employes who  
10 attend hearings as witnesses shall do so without loss of salary and  
11 with the standard reimbursement by the employing agency for travel  
12 expense, provided that the commission certifies that the testimony of  
13 the witness was or would have been relevant and material to the  
14 matters in issue and not unduly repetitive.

15 (4) PAY STATUS OF STATE EMPLOYE AGENTS AND INTERVIEWEES. A party  
16 or party's representative shall be permitted to interview parties  
17 and potential witnesses during regular working hours upon reasonable  
18 notice and for reasonable periods of time without loss of salary.

19 CHAPTER PB 2, Wis. Adm. Code, is renumbered PC 2.

20 SECTIONS PB 2.01 and 2.02, Wis. Adm. Code, are renumbered PC 2.01  
21 and 2.02, respectively, and as renumbered, are amended to read:

22 PC 2.01 MANDATORY DISCLOSURE. At ~~the~~ prehearing conferences, the  
23 parties shall file and exchange lists of their witnesses, and the  
24 originals or copies of the documentary and other physical evidence  
25 which they intend to utilize at the hearing, if available at that time.



1 If the prehearing conference is conducted by conference telephone call,  
2 filing and exchange of these materials will be by mail. Following  
3 the prehearing conference, or if no prehearing conference is held, the  
4 parties are under a continuing obligation to file and exchange lists of  
5 further witness and further evidentiary matter which they intend to  
6 utilize at the hearing. With the exception of rebuttal matter,  
7 ~~witnesses-or-evidence-not-so-submitted-prior-to-three-working-days~~  
8 ~~before-the-hearing-will-not-be-permitted-to-testify-or-be-received~~  
9 ~~at-the-hearing,-unless-good-cause-for-the-failure-of-submission-is~~  
10 shown names of witnesses and copies of exhibits must be submitted more  
11 than 2 working days before the commencement of the hearing or will  
12 be subject to exclusion, unless good cause for the failure to comply  
13 is shown. For the purpose of this section only, service is not  
14 complete on mailing but on receipt. \*NOTE: As an example of how  
15 deadlines are computed under this section, if a hearing is scheduled  
16 for a Friday, the deadline for service and filing is the preceeding  
17 Tuesday.

18 PC 2.02 OTHER MEANS OF DISCLOSURE. Parties shall have available  
19 ~~substantially~~ all the means of discovery that are available to parties  
20 to judicial proceedings as set forth in ~~chapter~~ ch. 804, Wis. Stats.,  
21 to the extent that the same are not inconsistent with or prohibited  
22 by these rules or the Wisconsin Statutes or the Wisconsin Administrative  
23 Code. \*NOTE: Wherever ~~chapter~~ ch. 804 refers to resort to a court,  
24 as, for example, for an order compelling discovery, resort shall be  
25 had to the ~~board~~ commission rather than to a court.

1 CHAPTER PB 3, Wis. Adm. Code, is renumbered PC 3.

2 SECTION PB 3.01(1), Wis. Adm. Code, is renumbered PC 3.01(1)

3 and (2), and as renumbered, is amended to read:

4 PC 3.01 HEARING OFFICER, EXAMINERS DISQUALIFICATION, UNAVAILABILITY.

5 (1) DESIGNATION. Any matter to be heard by the board commission may be  
6 ~~assigned to~~ designated for hearing by one or more members of the board  
7 commission, or ~~to~~ by such other persons as may be permitted by statute ~~for~~  
8 ~~hearing, and shall be reported to the full board for determination.~~

9 Hearing ~~officers~~ examiners shall have all powers necessary for the  
10 efficacious conduct of board commission proceedings.

11 (2) LIMITATION AGAINST FINAL DISPOSITION. No hearing ~~officer~~  
12 examiner shall decide any motion which would require final disposition  
13 of an appeal or any part of an appeal. Such motions shall be reserved  
14 for decision by the board commission.

15 SECTIONS PB 3.01(2), (3) and (4), Wis. Adm. Code, are renumbered  
16 PC 3.01 (3), (4) and (5), respectively, and as renumbered, are amended  
17 to read:

18 (3) DISQUALIFICATION. If a hearing ~~officer~~ examiner ~~deems him or~~  
19 ~~herself is~~ is disqualified to preside for reasons of conflict of interest  
20 or personal bias, he or she the hearing examiner shall withdraw and  
21 notify the board commission and the parties.

22 (4) MOTION FOR SUBSTITUTION. If a party deems the hearing ~~officer~~  
23 examiner to be disqualified, ~~it~~ the party may move in a timely manner for  
24 substitution of a different hearing ~~officer~~ examiner. The motion shall  
25 be accompanied by an affidavit a written statement setting forth the

1 alleged ground for disqualification. If the hearing ~~officer~~ examiner  
2 does not grant the motion, it shall be referred to the board commission,  
3 which shall determine the sufficiency of the grounds alleged.

4 (5) UNAVAILABILITY. If a hearing ~~officer~~ examiner shall become  
5 unavailable during the course of a hearing, the board commission shall  
6 designate a substitute hearing ~~officer~~ examiner to finish the hearing.

7 SECTION PB 3.02, Wis. Adm. Code, is renumbered PC 3.02, and as  
8 renumbered, is amended to read:

9 PC 3.02 CONTINUANCES. Requests for continuances of hearing dates  
10 ~~are-not-favored-and~~ will only be granted only on a showing of cause and  
11 for pressing substantial reasons.

12 SECTIONS PB 3.03(1) and (2), Wis. Adm. Code, are renumbered PC 3.03  
13 (1) and (2), respectively, and as renumbered, are amended to read:

14 PC 3.03 CONDUCT OF HEARINGS. (1) GENERALLY. The board commission  
15 is not bound by ~~the strict~~ rules of procedures and customary practices of  
16 courts of law ~~or-by-common-law-or-statutory-rules-of-evidence.~~ The  
17 pleadings, prehearing practice provisions, and discovery provisions in  
18 chapters PC 1 and PC 3, Wis. Adm. Code, shall be applicable to proceedings  
19 under this chapter.

20 (2) OPEN TO THE PUBLIC; EXCEPTIONS. Hearings shall be open to the  
21 public except that the board commission may hold a closed hearing at the  
22 request of the appellant, ~~if-the-request-therfor-is-received-no-later~~  
23 ~~than-the-request-for-the-hearing~~ (see s.230.44(4)(a), Stats.) and may  
24 close a hearing in part to protect the confidentiality of the material  
25 exempt from disclosure under s. PC 6.04(5), Wis. Adm. Code.

1 SECTION PC 3.03(3) Wis. Adm. Code, is adopted to read:

2 (3) SEQUESTRATION OF WITNESSES. At the request of either party,  
3 the hearing examiner may order the exclusion of witnesses in accordance  
4 with the provisions of s. 906.15 Stats.

5 SECTION PB 3.03(3), Wis. Adm. Code, is renumbered PC 3.03(4).

6 SECTION PB 3.03(4), Wis. Adm. Code, is renumbered PC 3.03(5), and  
7 as renumbered, is amended to read:

8 (5) ORDER OF PROCEEDING. The appellant or complaining party normally  
9 shall ~~proceed first with his or her evidence~~ present evidence first unless  
10 the case falls into a category in which the ~~board~~ commission, the judiciary,  
11 or the legislature through statutory enactment has determined that the  
12 burden of proof shall be on the respondent. \*NOTE: For example, the  
13 burden of proof in an appeal of a discharged permanent employe is on the  
14 repondent. In which such cases, the respondent normally ~~shall~~ would proceed  
15 first. The order of proceeding may be varied by the ~~board~~ commission or the  
16 hearing ~~officer~~ examiner in the interest of obtaining the most cogent  
17 presentation of the case.

18 SECTION PB 3.03(5), Wis. Adm. Code, is renumbered PC 3.03(6), and as  
19 renumbered, is amended to read:

20 (6) EVIDENCE. In accordance with ~~section-227-10(1), Wis.~~ s.277.08  
21 Stats., the ~~board~~ commission is not bound by common law or statutory rules  
22 of evidence. ~~Irrelevant, immaterial, or unduly repetitious evidence will be~~  
23 ~~excluded.--In matters heard by less than a quorum of the board there shall~~  
24 ~~be a presumption in favor of admitting evidence subject to objection inasmuch~~  
25 ~~as normally the full board will scrutinize the entire record\*~~

1 SECTION PB 3.03(6)(a), Wis. Adm. Code, is renumbered PC 3.03(7)(a), and  
2 as renumbered, is amended to read:

3 (7) WITNESSES. (a) Normally, a witness shall be examined first on  
4 direct examination by the party calling ~~him-or-her~~ the witness, unless the  
5 witness is ~~an-adverse-witness~~ called adversely, in which case ~~he-or-she~~ the  
6 witness shall be first ~~cross-examined~~ adversely by the party calling ~~him~~  
7 ~~or-her~~ the witness.

8 SECTIONS PB 3.03(6)(b), (c), (d), and (e), Wis. Adm. Code, are  
9 renumbered PC 3.03(7)(b), (c), (d), and (e), respectively.

10 SECTION PC 3.03(8), Wis. Adm. Code, is adopted to read:

11 (8) STIPULATIONS. Parties may stipulate to some or all of the facts,  
12 and the commission may thereupon base its order.

13 SECTION PB 3.03(7), Wis. Adm. Code, is renumbered PC 3.03(9).

14 SECTION PB 3.03(8) and (9), Wis. Adm. Code, are renumbered PC 3.03(10)  
15 and (11), and as renumbered, are amended to read:

16 (10) TRANSCRIPTS. ~~(a)~~ A stenographic, electronic or other record of  
17 hearings of appeals and such other ~~hearings~~ proceedings as the ~~board-~~  
18 commission may designate shall be ~~transcribed~~ recorded. The typed ~~transcript~~  
19 transcript or other record will be available in the ~~board~~ commission  
20 office for the use of the parties. Copies of the tape recordings,  
21 transcripts or other records shall be furnished upon request, subject to  
22 the charges set forth in section PC 6.06, except that copies may be  
23 provided free of charge to parties who can demonstrate that they are indigent  
24 and who request a transcript for the purpose of preparing ~~objections~~ to  
25 proposed findings of fact or for pursuing judicial review pursuant to

1 s. 277.07(8), Stats.

2 ~~(b) Any party may serve and file with its first post-hearing brief,~~  
3 ~~or, in the event that none is filed, within the period designated for~~  
4 ~~filing of its first brief, a notice in writing of any claimed error in~~  
5 ~~the transcript. Any other party may serve and file exceptions to the~~  
6 ~~notice of claimed error with its brief in opposition or reply brief, or~~  
7 ~~within the time allowed for such brief.~~

8 (11) POST-HEARING BRIEFS. ~~If the parties elect to file post-hearing~~  
9 ~~briefs it shall be pursuant to the following schedule unless the hearing~~  
10 ~~officer, the board, or any member thereof, orders otherwise. The party~~  
11 ~~or parties having the burden of proof shall serve and file its brief~~  
12 ~~within 15 working days after the date of mailing of notice that the~~  
13 ~~transcript of the hearing is available. Parties opposed shall serve and~~  
14 ~~file their brief within 10 working days after the due date of the first~~  
15 ~~brief. Reply briefs shall be filed within 5 working days of the due~~  
16 ~~date of the second briefs. Post-hearing briefs and arguments may be~~  
17 ~~required or permitted by the commission or hearing examiner. The 90 day~~  
18 ~~period for the issuance of decisions set forth in s. 230.44(4)(f), Stats.,~~  
19 ~~shall commence the date that the last brief is filed or argument~~  
20 ~~is made.~~

21 SECTION PC 3.04 Wis. Adm. Code, is adopted to read:

22 PC 3.04 EFFECT OF FAILURE TO APPEAR. By failing to appear and  
23 participate after due notice, a party shall waive the rights set forth  
24 in section PC 3.02 and admit the accuracy of the uncontradicted evidence  
25 adduced by the parties present, and, unless good cause can be shown,

1 is precluded thereafter from introducing any evidence controverting any  
2 contentions or allegations. The commission or individual determining  
3 the matter may rely on the record as made. If the absent party has the  
4 burden of proof, the commission will consider a motion to dismiss by the  
5 party(ies) present without requiring presentation of the case.

6 SECTION PB 3.04, Wis. Adm. Code, is renumbered PC 3.05, and as  
7 renumbered, is amended to read:

8 PC 3.05 REQUESTS FOR REHEARINGS. Requests for rehearings ~~must be~~  
9 ~~made within 15 working days after the date of mailing of the board's~~  
10 ~~original decision to the parties~~ shall be made under s. 227.12, Stats.

11 CHAPTER PB 4, Wis. Adm. Code, is repealed.

12 CHAPTER PC 4, Wis. Adm. Code, is adopted to read:

13 PERSONNEL COMMISSION

14 Chapter PC 4

15 EQUAL RIGHTS PROCEEDINGS

16 PC 4.01 SCOPE OF INVESTIGATORY POWER. Pursuant to ss. 230.45(1)(b)  
17 and 111.33(2), Stats., the commission may, in response to timely filed  
18 complaints of discrimination, conduct investigations, undertake conciliations  
19 and settlements, and hold hearings to enforce with respect to state  
20 agencies the fair employment mandate set forth in subch. II of ch. 111,  
21 Stats. If after hearing the commission finds that the respondent  
22 agency has engaged in discrimination, it shall make written findings  
23 and order such action by the respondent as will effectuate the purposes  
24 of subch. II, ch. 111, with or without back pay.

25 PC 4.02 COMPLAINTS. (1) CONTENT. Complaints shall be in writing,

1 shall be signed and notarized and shall contain the following information:

2 (a) Name and address of complainant

3 (b) Type of discrimination alleged (age, race, color, handicap, sex,  
4 creed, national origin, ancestry, retaliation, arrest record or conviction  
5 record)

6 (c) The name, title, agency or department charged with the unlawful  
7 discriminatory practice or act

8 (d) The facts which constitute the alleged unlawful discriminatory  
9 practice or act

10 (e) The relief or remedy requested, if determined

11 (f) Notarized signature

12 If requested by the complainant, the commission's office will assist in  
13 preparing and will notarize complaints.

14 (2) FILING. Complaints shall be filed with the State Personnel  
15 Commission, 131 West Wilson Street, Madison, Wisconsin 53702. In  
16 accordance with 230.44(3), Stats., complaints must be filed within 300  
17 calendar days after the alleged discrimination occurred. At the  
18 complainant's request, a copy of the complaint shall be filed with the  
19 appropriate federal agency.

20 (3) RETALIATION. Complaints of harrassment and retaliation because of  
21 opposition to discriminatory practices under subch. II, ch. 111, Stats., or  
22 because of previously filed complaints, testimony or assistance in any  
23 proceeding under subch. II, ch. 111, will be received and processed in  
24 the same manner as other complaints.

25 (4) AMENDMENT AND WITHDRAWAL. Subject to the approval of the



1 commission, a complaint may be amended or withdrawn.

2 (5) NOTICE TO THE RESPONDENT. (a) Prior to a determination as to  
3 probable cause, disclosure of the identity of the complainant and the  
4 specific allegations shall be discretionary with the commission, where  
5 deemed necessary to protect the employe's anonymity pursuant to  
6 Sec. 111.33(1), Stats.

7 (b) Where the anonymity provision of Sec. 111.33 (1) Stats. is not  
8 applicable, a copy of the complaint shall be served on the respondent prior  
9 to the commencement of an investigation.

10 (c) When the commission determines the need to preserve the employe's  
11 anonymity, the commission shall serve the respondent with a general  
12 statement as to the charge of discrimination that has been filed.

13 (d) Notice under this subsection shall be provided to the head of the  
14 agency.

15 PC 4.03 INITIAL DETERMINATIONS. (1) INVESTIGATION AND REPORT.  
16 The commission shall promptly investigate all duly filed complaints and  
17 make an initial determination whether or not there is probable cause to  
18 believe that discrimination has been or is being committed. A report  
19 setting forth the basis for such determination shall be prepared by  
20 the commission, except as provided in section PC 4.05, Wis. Adm. Code.

21 (2) PROBABLE CAUSE DEFINED. Probable cause exists when there is  
22 reasonable ground for belief supported by facts or circumstances strong  
23 enough in themselves to warrant a prudent person in the belief that  
24 discrimination probably has been or is being committed.

25 (3) NO PROBABLE CAUSE DETERMINATIONS. When there is an initial

1 determination of no probable cause to believe that discrimination has been  
2 or is being committed, notice thereof shall be served upon the parties,  
3 together with copies of the complaint and the initial determination.  
4 Within 30 calendar days after the date of such service, the complainant  
5 may petition the commission for a hearing on the issue of probable cause  
6 wherein the commission may affirm or reverse the initial determination.  
7 reversed, the matter shall then be set for conciliation or  
8 hearing in conformance with PC 4.04 or PC 4.07, Wis. Adm. Code.

9 (4) PROBABLE CAUSE DETERMINATION. When there is an initial  
10 determination of probable cause to believe that discrimination has been  
11 or is being committed, notice thereof shall be served on the parties,  
12 together with copies of the complaint and the initial determination, and  
13 the case may be referred for conciliation in accordance with section  
14 PC 4.04, Wis. Adm. Code.

15 PC 4.04 CONCILIATIONS. When there is an initial determination of  
16 probable cause to believe that discrimination has been or is being  
17 committed, or the commission has made a finding of probable cause  
18 under section PC 4.03(3), Wis. Adm. Code, the commission may immediately  
19 notify the parties of the initial determination and endeavor to  
20 eliminate the discriminatory practice or recompense the discriminatory  
21 act by conciliation or persuasion. Proceedings under this section shall  
22 be scheduled within 30 calendar days from the date of service of the  
23 initial determination of probable cause unless waived by either party.  
24 During conciliations, the pay status of employe complainants shall  
25 be the same as provided in PC 1.10(2), Wis. Adm. Code.

1 PC 4.05 PREDETERMINATION SETTLEMENTS. Notwithstanding the other  
2 provisions of this chapter, the commission may, at any time prior to  
3 notifying the parties of the initial determination as to probable cause,  
4 convene the parties and attempt to effect a predetermination settlement.  
5 If agreement on such a settlement is reached and the terms thereof are  
6 satisfied by the parties, the complaint may be dismissed by the commission  
7 without a determination as to probable cause.

8 PC 4.06 CONCILIATION OR SETTLEMENT AGREEMENT. If, as a result  
9 of conciliation or predetermination settlement the commission is able  
10 to resolve a complaint, a written conciliation agreement or settlement  
11 agreement shall be prepared which sets forth all measures to be taken  
12 by any party. This agreement shall be enforceable by the commission  
13 or by either party as set forth in subch. II, ch. III, Stats.

14 PC 4.07 HEARINGS ON THE MERITS. (1) PROCEDURE. If, after a  
15 determination of probable cause, the commission is unable to eliminate  
16 the alleged discriminatory practice or act through conciliation, it  
17 shall issue and serve a written notice of hearing. The notice shall  
18 require that the respondent answer the allegations in the complaint at  
19 a hearing before the commission. Hearings under this subsection shall  
20 be conducted according to the procedures in chapter PC 3, and may be  
21 preceded by a prehearing conference as described in section PC 1.05,  
22 Wis. Adm. Code. Names of witnesses and copies of exhibits shall be  
23 served and filed in accordance with section PC 2.01, Wis. Adm. Code.

24 (2) NOTICE OF HEARING. The notice shall specify a place and time  
25 of hearing not less than 30 calendar days after the service of the notice

1 of hearing and the investigative report. Service of the notice and hearing  
2 and complaint shall be in accordance with section PC 1.08, Wis. Adm. Code.

3 (3) ANSWERS. An answer shall be a written statement which denies  
4 such allegations as are controverted by the respondent or as to which the  
5 respondent has insufficient information or knowledge to form a belief, admits  
6 others, and asserts any matter constituting a defence. Answers are not man-  
7 datory but are encouraged if the agency has not taken a position as to the  
8 subject matter in the investigative report prior to its service.

9 CHAPTER PB 5, Wis. Adm. Code, is renumbered PC 5, and the title  
10 thereof is amended to read:

11 PERSONNEL BOARD COMMISSION MEETINGS AND AGENDAS

12 SECTION PB 5.01, Wis. Adm. Code, is renumbered PC 5.01, and as  
13 renumbered, is amended to read:

14 PC 5.01 LOCATION AND SCHEDULING. The personnel ~~board~~ commission  
15 shall meet in regular session ~~on-the-third-Friday-of-each-month~~ at the  
16 ~~State-Office-Building~~ its offices at One 131 West Wilson Street, Madison,  
17 Wisconsin, 53702, unless a different dates meeting ~~or places shall be~~  
18 ~~determined~~ is designated by the ~~board~~ commission. Dates of meetings  
19 shall be set by the chairperson or at the request of 2 commissioners.

20 SECTION PB 5.02, Wis. Adm. Code, is renumbered PC 5.02, and as  
21 renumbered, is amended to read:

22 PC 5.02 QUORUM. If a quorum of 2 members of the ~~board~~ commission  
23 is not available for a regular meeting, the chairperson may designate  
24 ~~one-or-more~~ the available member ~~of-the-board~~ to hear matters ~~to-be-heard~~  
25 on behalf of the commission and to report back to the ~~board~~ commission

1 for any necessary action, ~~in accordance with section 16.05(3), Wis. Stats.~~  
2 SECTION PB 5.03. Wis. Adm. Code, is renumbered PC 5.03, and as  
3 renumbered, is amended to read:  
4 PC 5.03 AGENDAS. Items to be considered by the commission at its  
5 regular meetings may be submitted at any time; however, for items to appear  
6 on the agenda of the ~~board~~ commission meeting, they must be submitted  
7 received by ~~to~~ the ~~board~~ commission office no later than seven 3  
8 working days before a ~~board~~ commission meeting. ~~Other items may be~~  
9 considered by the board only under unusual circumstances and on special  
10 request. The commission may consider items of special concern without  
11 regard to this rule.

12 CHAPTER PB 6, Wis. Adm. Code, is repealed.

13 CHAPTER PC 6, Wis. Adm. Code, is adopted to read:

14 PC 6.01 PURPOSE. The purpose of this rule is to implement the  
15 policy of the State of Wisconsin established by legislation and court  
16 decisions that public records are presumed open to public inspection and  
17 copying. It is the declared purpose of the commission that all officials  
18 and employes shall render whatever assistance is necessary for the  
19 achievement of this policy.

20 PC 6.02 LEGAL CUSTODIAN. "Legal custodian" of commission records  
21 is the commission. A representative of the legal custodian may be  
22 appointed to fulfill the duties of the legal custodian.

23 PC 6.03 RECORDS CLERK. "The records clerk" is the commission  
24 employe who is designated by the legal custodian as the person whom a  
25 member of the public shall first contact when requesting an agency record.

1 PC 6.04 ACCESS TO RECORDS. (1) AVAILABILITY. The records of the  
2 commission are available to be inspected or copied by any person during  
3 regular business hours. All initial requests for inspection of copying  
4 of records shall be directed to the records clerk. A person's  
5 unwillingness to be identified or to state a reason for making the  
6 request shall not be grounds for refusal. A request can be denied  
7 only on the basis of a specific exemption listed in s. PC 6.04(5).

8 (2) REQUESTS FOR COPIES. When the request is made in person, the  
9 records clerk shall locate the records and provide any requested copies.  
10 Mail or telephone requests for copies of records, within the commission's  
11 files, shall be answered within 10 working days of receipt. A request is  
12 sufficient if it reasonably describes the requested record.

13 (3) CERTIFIED COPIES. The legal custodian of any record which a  
14 person has a right to inspect shall give that person, upon request, a  
15 certified copy of the record.

16 (4) OPEN RECORDS. The following records are open to the public.

17 (a) Administrative staff manuals and instructions to staff that  
18 affect a member of the public

19 (b) Final opinions, including concurring and dissenting opinions,  
20 as well as orders, made in the adjudication of cases

21 (c) Tape recordings and transcripts of quasi-judicial proceedings

22 (d) Statements of policy and interpretations of policy, statute  
23 and the constitution which have been adopted by the agency

24 (e) Planning policies and goals, and interim and final planning  
25 decisions

1 (f) Staff reports and studies, consultant's reports and studies,  
2 scientific reports and studies and other information derived from tests,  
3 by public employes or others

4 (g) Correspondence and materials referred to therein

5 (h) Information in any account, voucher, or contract dealing with  
6 the receipt or expenditure of public or other funds by the agency

7 (i) Working papers, research material, and information used to  
8 make estimates of the need for, or expenditure of, public funds or  
9 taxes by the agency, upon completion of such estimates.

10 (5) EXEMPTED MATERIAL. The following material may be exempt from  
11 disclosure under the provisions of this rule if the commission determines  
12 that nondisclosure outweighs the benefits of open access:

13 (a) Matters ordered sealed in the public interest by the commission

14 (b) Matters containing the advice of counsel rendered to the  
15 commission members that falls within the lawyer-client privilege defined  
16 by s. 905.03, Stats.

17 (c) The identity of complainants under subch. II, ch. 111, Stats.

18 (d) Matters containing the mental impressions of the commission  
19 members with regard to the consideration of cases before the commission,  
20 such as draft opinions and memoranda, for a period no longer than five  
21 years

22 (e) Investigatory files and reports, informants names, and  
23 information which would be privileged under ss. 905.09 and 905.10, Stats.

24 (f) Other material specifically exempt by statute or rule

25 PC 6.05 DENIAL OF ACCESS. (1) APPEALS OF REFUSALS TO GRANT ACCESS.

1 If the records clerk refuses a request for records, the person whose  
2 request has been denied may request in writing that the legal custodian  
3 review the records clerk's denial. The written request shall set forth  
4 the basis for believing the denial was not consistent with the provisions  
5 of this chapter.

6 (2) DISPOSITION OF APPEALS. Within 20 working days of receipt of  
7 an appeal, the legal custodian shall give written notice to the person  
8 making the appeal of the determination and the reasons therefore.

9 PC 6.06 FEES. (1) TRANSCRIPTS AND TAPES. Copies of transcripts  
10 and tape recordings will be provided at cost of production to the  
11 commission. Cost may be prorated among the parties if more than one  
12 party makes the request.

13 (2) OTHER DOCUMENTS. There is no fee for requests of single copies  
14 or for searches requiring less than one-half hour. Otherwise, a charge  
15 of \$.10 per page and \$5.00 per hour will be made for documents requested  
16 under this chapter.

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1 The rules, amendments and repeals contained herein shall take effect  
2 on the first day of the month following publication in the Wisconsin  
3 Administrative Register as set forth in §227.026(1), Wis. Stats.

4  
5 Dated: January 18, 1980. STATE PERSONNEL COMMISSION  
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9 Charlotte M. Higbee  
10 Charlotte M. Higbee  
11 Commissioner and Acting Chairperson  
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