

Chapter PB 1

PLEADINGS AND PREHEARING PRACTICE

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PB 1.01 Appeals. (1) **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) below. Wherever possible, forms promulgated by and available from the board, or their substantial equivalents, should be used.

(2) **CONTENT.** Regardless of whether or not a printed form is used, appeals should identify the person filing the appeal (the appellant) and the employing unit (if any), as well as state the facts which form the basis of the appeal, the reason or reasons why the appellant feels the act or omission appealed was or is improper, and the relief sought.

(3) **TIME AND MANNER OF FILING.** Appeals shall be filed with the State Personnel Board, One West Wilson Street, Madison, Wisconsin 53702. In accordance with section 16.05(2), Wis. Stats., appeals must be received by the board within 15 days after the effective date of the decision appealed, or within 15 days after the appellant is notified of such decisions, whichever is later.

(4) **SERVICE.** Board staff will serve copies of the appeal on the agency or agencies apparently involved in the appeal.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.02 Answers. (1) **ANSWERS OPTIONAL.** Agencies may and are encouraged to serve and file written answers if they desire. Answers are particularly encouraged where an agency has not already taken an explicit position on the subject matter of an appeal prior to its filing.

(2) **FORM AND CONTENT.** No particular form is required. Answers should set forth in non-technical language the position of the agency on the appeal including, where appropriate, a statement of its version of the underlying facts.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.03 Motions. (1) **HOW MADE.** An application to the board for an order shall be by motion which, unless made during a hearing or prehearing conference, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Copies of the motion and supporting papers shall be served on all parties to the appeal by the party making the motion. A notice of motion is not required, notice being satisfied by service of the copy of the motion.

(2) **SUPPORTING PAPERS.** The brief and other papers in support of a motion, including affidavits and documentary evidence, shall be served and filed with the motion.

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

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.04 Captions. All pleadings and motions shall, insofar as possible, contain a caption setting forth the names of the parties and the case number of the appeal.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.05 Prehearing conferences. (1) **PURPOSE.** Prehearing conferences are intended to provide an opportunity to formulate a statement of the issue or issues presented by a proceeding, to identify and exchange lists of witnesses, to attempt to reconcile differences among the parties and promote the settlement of appeals, and to perform any other functions in aid of the board's performance of its duties.

(2) **PERSON PRESIDING.** A board member or other person designated by the board shall preside.

(3) **CONFERENCE TELEPHONE CALLS.** In order to avoid extensive travel, the conduct of prehearing conferences by conference telephone calls is permitted and encouraged where feasible.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.06 Representation. A party is entitled to appear in person or by or with counsel or other person authorized by the Wisconsin supreme court to practice law in that context at a hearing on a contested case before the board.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.07 Filing of papers. All papers to be submitted to the board shall be filed with the State Personnel Board, One West Wilson Street, Madison, Wisconsin 53702.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.08 Service of papers. With the exception of the initial appeal which will be served by board staff pursuant to section PB 1.01 (4), Wis. Adm. Code, all subsequent papers filed by a party with the board shall be served by that party on all parties appearing in a proceeding. Service means providing copies of papers filed with the board to the other parties or their attorneys. If a party is represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the board. Service upon the attorney or upon a party shall be made by delivering a copy to him or her or by mailing it to him or her at his or her last known address, or, if no address is known, by leaving it with the secretary of the board. Delivery of a copy within this section means: handing it to the attorney or to the party; or leaving it at his or her office with his or her clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. That is, for

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purposes of service, the effective date is the date of mailing, not receipt. The filing of any paper required to be served constitutes a certification by the party or attorney effecting the filing that a copy of such paper has been timely served on all parties required to be served, except as the person effecting the filing may otherwise state in writing, and no affidavit, certificate, or admission of service need be filed with the board.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.09 Time. Whenever possible, orders of the board setting forth time periods shall be expressed in terms of working days, which includes every day except Saturdays, Sundays, and statewide legal holidays provided in section 16.30 (4), Wis. Stats. The day the order is made or entered shall not count as one of the prescribed days. Any questions about time computations for procedural matters before the board shall be resolved by reference to section 801.15 (1), Wis. Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

PB 1.10 Subpoenas; requests to appear. Subpoenas may be issued by the board at the request of a party, or may be issued as provided by law for judicial proceedings. At the request of a party, the board may issue requests to attend and testify to state employes and officers pursuant to section 16.05 (3), Wis. Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.