

Chapter PC 1

PLEADINGS AND PREHEARING PRACTICE

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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.

(2) **FORM.** Appeals shall be in writing and need not conform to any technical requirements, but should contain the information set forth in sub. (3).

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

(4) **TIME AND MANNER OF FILING.** Appeals shall be filed with the State Personnel Commission, 131 West Wilson Street, Madison, Wisconsin 53702. In accordance with s. 230.44 (3), Stats., appeals must be received by the commission within 30 calendar days after the effective date of the decision appealed, or within 30 calendar days after the appellant is notified of such decision, whichever is later; except that if the appeal alleges discrimination under subch. II, ch. 111, Stats., the time limit for that part of the appeal alleging such discrimination shall be 300 calendar days after that alleged discrimination occurred.

(5) **SERVICE.** The commission will serve copies of the appeal on the agency or agencies apparently involved in the appeal.

(6) **POSTING OF PROCEDURES.** Every department and agency of the state of Wisconsin shall post and keep posted in conspicuous places on its premises, including all personnel offices, the information contained in PC 1.01. Posters prepared and made available by the department of employment relations may be used for this purpose..

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 1.02 Answers. (1) **ANSWERS OPTIONAL.** Respondents may serve and file written answers within 15 calendar days after service of the appeal. Answers are particularly encouraged where a respondent has not

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already taken a position on the subject matter of an appeal prior to its filing.

(2) **CONTENT.** Answers should set forth the position of the agency on the appeal and a statement of its version of the underlying facts, if different from those state in the appeal.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 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.

(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 commission does not have jurisdiction of the subject matter of the appeal.

Note: Since the appeal normally will be dismissed if the motion is granted, such motion should be made as soon as basis for it is apparent.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 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, March, 1980, No. 291, eff. 4-1-80.

PC 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 commission's performance of its duties. Within the discretion of the commission, conferences may be conducted by telephone conference call.

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

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 1.06 Representation. A party is entitled to appear in person or by or with counsel or other agent of the party's choice in any proceeding before the commission.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 1.07 Filing of papers. All papers to be submitted to the commission shall be filed with the State Personnel Commission, 131 West Wilson Street, Madison, Wisconsin 53702.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.
Register, March, 1980, No. 291

PC 1.08 Service of papers. With the exception of the initial appeal which will be served by the commission pursuant to section PC 1.01 (5), Wis. Adm. Code, all subsequent papers filed by a party with the commission shall be served by that party on all parties appearing in a proceeding. Service means providing copies of papers filed with the commission to the other parties or their attorneys or agents. If a party is represented by an attorney or other agent, service shall be made upon that person unless service upon the party is ordered by the commission. Service shall be made by delivering a copy or by mailing it to the last known address, or, if no address is known, by leaving it with the commission. Delivery of a copy within this section means: handing it to the attorney or agent or to the party; or leaving it at such person's office with the 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 the person's 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 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 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 commission.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 1.09 Time. Unless otherwise provided by these rules, orders of the commission setting forth time periods shall be expressed in terms of working days, which include every day except Saturdays, Sundays, and statewide legal holidays provided in s. 230.35 (4) (a), 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 commission shall be resolved by reference to s. 801.15 (1), Stats.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

PC 1.10 Attendance of witnesses and parties. (1) **SUBPOENAS; REQUESTS TO APPEAR.** Subpoenas may be issued by the commission at the request of a party or on its own motion, or may be issued by an attorney of record in a commission proceeding in the same manner as provided in s. 805.07, Stats. The commission may, at the request of a party or on its own motion, issue requests for state employees to attend and testify at commission proceedings.

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

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

(4) **PAY STATUS OF STATE EMPLOYEE AGENTS AND INTERVIEWEES.** A party or party's representative shall be permitted to interview parties and po-

tential witnesses during regular working hours upon reasonable notice and for reasonable periods of time without loss of salary.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.