

PERSONNEL ADMINISTRATION BOARD
OF KENT COUNTY, DELAWARE
Duties and Responsibilities

DELAWARE CODE Title 9, Chapter 41, Subchapter IV - Personnel Administration

§ 4151. Personnel Administration Board.

The county government shall, by ordinance, establish a Personnel Board and determine the membership, terms, qualifications, compensation and duties of said Board.

KENT COUNTY CODE §68-4C– Personnel Policy: Administration.

A Personnel Administration Board is hereby established in accordance with the provisions of 9 Del. C. § 4151. The Personnel Administration Board shall consist of seven members.

- (1) The members shall be appointed for a term of four years to be served at the pleasure of a majority of the Levy Court. The names of qualified appointees shall be submitted by Levy Court Commissioners for their individual districts for consideration and confirmation by a simple majority of the Levy Court.
- (2) The term of all confirmed members shall expire with the term of the Levy Court Commissioner in whose district the appointee resides; provided, however, that in the event that no new appointment is made after expiration of the term, then the member shall continue to serve until reappointed or replaced.
- (3) During the term of the appointment, a member must maintain primary residency within the Levy Court district from which appointed.
- (4) Persons appointed to the Board shall be individuals with knowledge of and experience in dealing with personnel problems and issues.
- (5) At the time of appointment and for the duration of the term, members shall be neither County employees nor candidates for, candidates-elect for or incumbents of an elective federal, state or County office.
- (6) Vacancies shall be filled in the same manner as in the case of regular appointments.
- (7) The Levy Court shall establish a rate and the conditions under which members shall be compensated in the Board's bylaws.
- (8) One of the members of the Personnel Administration Board shall be elected Chairman and one member shall be elected Vice Chairman by the members of the Board. Meetings and other proceedings shall be in accordance with rules adopted by the Board, which shall be consistent with the provisions of this chapter. A simple majority of the constituted Board shall be required in order to conduct any hearing or carry any motion. Four members shall constitute a quorum.

KENT COUNTY CODE §68-16– Personnel Policy: Procedure of appeals.

A. A classified or unclassified employee may appeal a disciplinary demotion, a suspension of greater than three days or a termination any time within two calendar weeks after being notified that he/she is the subject of the adverse personnel action and a request by the employee for modification by the Personnel Director has been denied. The appeal is to be filed in writing with the Personnel Director, who will transmit it to the Personnel Administration Board. It should consist of an original and 10 copies (one copy to the department head, one copy to the

County Attorney, one copy to the legal counsel for the Board, and seven copies for the Personnel Administration Board), and it should set forth the facts and reasons why the demotion, suspension or termination was unwarranted.

(1) If the employee files an appeal and the Board has jurisdiction, the Personnel Director in consultation with the Chairman of the Personnel Administration Board shall schedule a hearing within 15 working days after receiving the appeal. At the discretion of the employee, the hearing may be private or open to the public. A transcript of all proceedings during the hearing may be made should the employee be willing to bear the full cost of the preparation of such transcript. Otherwise, a general record of proceedings shall be prepared by Personnel Department staff for the Board.

(2) The burden of proof in any hearing before the Board shall rest upon the department head or Personnel Director, whichever may be applicable. All testimony shall be given under oath, and each side shall have a right of cross-examination. Witnesses may be sequestered upon the request of any party to the proceeding. Witnesses shall be assured freedom from restraint, interference, coercion, discrimination and reprisal.

B. If the Board finds the adverse personnel action is erroneous as a matter of law, arbitrary and capricious or otherwise unsupported by substantial evidence, the employee shall be reinstated to his/her former position without loss of pay.

C. The Board's finding of facts and decision shall be made in writing within 10 working days after the conclusion of the hearing, and shall be forwarded to both sides promptly thereafter.

D. Unclassified employees desiring to appeal termination shall do so in the manner as provided in Delaware law.

KENT COUNTY CODE §83-14 – Retirement: Disagreement Resolution.

The Personnel Administration Board shall be responsible for settling any disagreement that may arise out of the administration of this article by the Personnel Director. The Board shall adjudicate such disagreement within 30 days of the date of receipt of a written appeal, at a time and place to be fixed by the Board, after due notice in writing to all interested parties at least 10 days prior to the date of hearing. The Board may administer oaths and conduct such acts and make such rules as it deems necessary to carry into effect the provisions of this article. The written concurring decision of any four members shall be final.

KENT COUNTY CODE §79-15– Retiree Benefits: Forfeitures for cause.

A. In the event that a covered employee resigns, is terminated, or dies before meeting his vesting requirement(s) or is determined to be ineligible for Kent County pension benefits, he shall be deemed as having agreed to forfeit any rights to retiree benefits and the Personnel Administration Board shall, as necessary, have the power to terminate all rights of an individual and all persons claiming benefits through him under this article.

KENT COUNTY POLICY §7-1– Employee grievances.

(c) If the grievant does not accept the findings of the Personnel Director (or his/her designee), the grievant may appeal, within five working days of receipt of the decision, to the Personnel Administration Board, by submitting 10 copies of a written statement requesting a review and the reasons therefore along with copies of all relevant written materials from the

previous steps in the grievance procedure to the Personnel Director. The Personnel Administration Board has 15 working days to review all written materials and respond to both parties. The Personnel Administration Board has the authority to agree with the decision of the Personnel Director and may authorize the decision as final and binding. In the event that the Personnel Administration Board schedules a hearing, the hearing shall be scheduled within 10 working days of its prior meeting. The Personnel Administration Board will render a final and binding decision in writing to both parties within 10 working days of the hearing.

KENT COUNTY POLICY § 26-1 - Kent County Medal.

E. The Personnel Administration Board shall receive nominations through the Personnel Office and after reviewing said nominations make a recommendation to the Levy Court for awards. Said recommendation should follow the satisfactory conclusion of any professional review or formal investigation of the incident leading to nomination.

H. In consultation with the Levy Court and Personnel Administration Board, the Personnel Director shall develop appropriate forms and any additional procedures necessary to effect the administration of this policy.

ARTICLE VI
GRIEVANCE PROCEDURE

6.1 Any grievance, defined as a dispute between a non-probationary full time bargaining unit employee and the County or its agent, limited to the application or interpretation of this agreement, shall be acted upon in the manner described below. The process of grieving an issue is not grounds to refuse to perform duties unless there is a real and immediate threat to life or limb, and shall not interfere with the operation of the plant. In simple terms - Work Now, Grieve Later.

6.6 Step 4. Disciplinary Matters. If, after the decision of the Personnel Director, the employee is of the opinion that the grievance has not been satisfactorily resolved, and if the grievance results from a disciplinary matter for which a suspension in excess of three days, or if there has been any prior suspension within the previous twelve month period, or if a termination was imposed, then in such event the aggrieved employee, who may be assisted by the appropriate Union Steward and the President of the Local Union, shall, within five (5) working days after the Personnel Director's response is due, appeal in writing to the Personnel Administration Board of Kent County, Delaware. The Personnel Administration Board shall schedule a hearing on the matter as soon as reasonably possible and shall render a written decision within ten (10) working days after the hearing date. The decision of the Personnel Administration Board may be appealed on the record to Superior Court pursuant to Superior Court Civil Rules, Rule 72.

6.7 Step 4. Policy Matters. If, after the decision of the Personnel Director, the employee is of the opinion that the grievance has not been satisfactorily resolved, and if the grievance alleges violation of the terms of this agreement by the County, which alleged violation constitutes a matter of general policy applicable to all similarly situated employees, the employee and/or the Local Union may within 30 days appeal the matter or seek declaratory relief thereof in any court of competent jurisdiction. The appeal shall be on the written record established through the grievance process pursuant to Superior Court Rule 72.

6.8 The written appeal in each of the above steps must be delivered to the party to which the appeal is taken within the time period prescribed. Discussions/meetings to resolve the grievance shall be scheduled by the responsible County authority at each above step.

6.9 Nothing herein shall prohibit the parties from mutually agreeing to submit a matter to Arbitration, prior to or in lieu of Court. Should there be such an agreement, the time period for filing an appeal shall be extended to allow the processing of the arbitration and the rendering of the arbitrator's decision.

6.9A If, by agreement of the parties, a matter is submitted to arbitration, the arbitrator shall be limited to the issues presented and shall have no power to add to, subtract from or modify the provisions of this agreement. The decision of the arbitrator will be binding on both parties; unless either party files a timely appeal to Superior Court.

6.9B All fees and expenses or administrative charges for the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case.

6.10 The International Union's Representative may be involved at any point in the grievance procedure, beginning at Step 2, at the request of either party.

Disciplinary Actions are resolved per KENT COUNTY CODE §68-16– **Personnel Policy: Procedure of appeals.**

ARTICLE XXXIV
DONATED LEAVE

34.1 Any employee of Kent County government may donate equal amounts of accrued sick and vacation leave (one vacation day for each sick day donated), vacation leave only, or up to three days of sick leave per calendar year (up to a total annual maximum value of \$20,000) to other donor-designated employees eligible for leave under the Family and Medical Leave Act (FMLA) policy. The donated leave will be converted into cash value at the donor's rate of pay and reconverted to equivalent hours of leave at the recipient's rate of pay and credited to the recipient's sick leave account. Sick leave may not be donated within three months of retirement.

34.2 Donated leave may be used by a recipient only for a FMLA-qualifying event, which is diagnosed and certified by a physician as rendering the employee unable to work or an eligible family member requiring the employee's personal care for a period greater than five calendar weeks. Separate periods of need resulting from the same or a related FMLA-qualifying event occurring within any 12 consecutive months shall be considered the same period of eligibility. No employee may receive more than seven months of donated leave during any twelve-month period.

34.3 Before receiving donated leave time, an employee shall have:

34.3a Been a County employee for at least six months prior to the need;

34.3b Used all of his or her sick leave and accrued vacation time (except that one week may be retained, if the employee chooses); and

34.3c Established FMLA-qualifying justification for such receipt, which must be reviewed every 30 days.

34.4 The donated leave program shall be administered by the Personnel Director, and any disputes regarding eligibility shall be resolved by the Personnel Administration Board.