# Draft (09/23/14) (04/07/15)(5/28/15)

# PERSONNEL AX03.18 AP.11

-Certified Personnel-

Appeals/Hearings

Purpose

An Appeals Panel shall be established in accordance with KRS Chapter 156 and 704 KAR 3:370. Based on issues identified in an employee’s appeal documentation, the Panel shall determine whether the employee has demonstrated that a procedural violation has occurred under the District’s evaluation plan and whether the summative evaluation is supported by the evidence. The burden of proof that an employee was not fairly and/or correctly evaluated on the summative evaluation rests with the employee who appeals to the Panel.

Appeals

Pursuant to Board Policy 03.18, any certified employee who believes that s/he was not fairly evaluated on the summative evaluation may appeal to the Evaluation Appeals Panel in accordance with the following procedures:

1. Both the evaluatee and evaluator shall submit three (3) copies of any appropriate documentation to be reviewed by members of the Appeals Panel at least five (5) days in advance of the hearing and in the presence of all three (3) members. The parties will exchange copies of documentation to be presented to the local evaluation appeals panel at least five (5) days in advance of the hearing.. The members of the Appeals Panel will be the only persons to review the documentation. All documentation will be located in a secure place in the Central Office except during Appeals Panel meetings. Confidentiality will be maintained. Copies of the documentation as submitted to the Panel shall not be carried away from the established meeting by either parties involved or the Panel members.
2. The Panel will meet, review all documents, discuss, and prepare questions to be asked of each party by the Chairperson. Additional questions may be posed by Panel members during the hearing.
3. The Panel will set the time and place for the hearing, and the Chairperson will provide written notification to the appealing employee and his/her evaluator of the date, time, and place to appear before the Panel to answer questions.
4. Legal counsel and/or chosen representative may be present during the hearing to represent either or both parties.
5. The hearing will be audiotaped and a copy provided to both parties if requested in writing. The original will be maintained by the District.
6. Only Panel members, the evaluatee and evaluator, legal counsel, witnesses, and the employee’s chosen representative will be present at the hearing.
7. Witnesses may be presented, but will be called one at a time and will not be allowed to observe the proceedings.

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Appeals/Hearings

Hearings

The following procedures will be implemented during the hearings:

1. The Chairperson of the Appeals Panel will convene the hearing, review procedures, and clarify the Panel’s responsibilities.
2. Each party will be allowed to make a statement of claim. The evaluatee will begin.
3. The evaluatee may present relevant evidence in support of the appeal.
4. The evaluator may present evidence in support of the summative evaluation.
5. The Panel may question the evaluatee and evaluator.
6. The Chairperson may disallow materials and/or information to be presented or used in the hearing when s/he determines that such materials and/or information is not relevant to the appeal or when the materials were not exchanged between the parties as provided in this procedure.
7. Each party (evaluator and evaluatee) will be asked to make closing remarks.
8. The chairperson of the Panel will make closing remarks.
9. The decision of the Panel, after sufficiently reviewing all evidence, may include, but not be limited to, the following:
10. Upholding all parts of the original evaluation.
11. Voiding the original evaluation or parts of it.
12. Ordering a new evaluation by a second certified employee who shall be a trained evaluator.
13. The chairperson of the Panel shall present the Panel’s decision to the evaluatee, evaluator, and the Superintendent within fifteen (15) working days from the date the appeal is filed.
14. The Superintendent may take appropriate action consistent with the Panel’s decision.
15. The Panel’s decision and the original summative evaluation form shall be placed in the employee’s evaluation file. In the case of a new evaluation, both evaluations shall be included in the employee’s personnel file.
16. The Panel’s decision may be appealed to the Kentucky Board of Education based on grounds and procedures contained in statute and regulation.