

CITY OF ALBUQUERQUE



Notice of Proposed Rulemaking - Personnel Board's Rules and Regulations

Monday, May 9, 2022 from 2:30 p.m. to 5:00 p.m.

Join Zoom Meeting:

<https://cabq.zoom.us/j/87566294582>

Meeting ID: 875 6629 4582

Find your local number: <https://cabq.zoom.us/u/kexctJVXHJ>

The purpose of this meeting is to obtain public input on two specific provisions of the City Personnel Board's Rules and Regulations following an earlier solicitation of comments and a meeting of the Personnel Board and a subcommittee. At the meeting on February 9, 2022, the Board determined further comment was necessary on two specific provisions of the rules. These provisions are discussed below.

First, the draft Board rules provide as follows:

- A. *An employee aggrieved by ~~his or her~~ **their** dismissal, demotion or suspension of more than five (5) working days, shall file a written request for a hearing with the City Clerk within ten (10) City business days. The written request for hearing shall be sent via Certified Mail- Return Receipt Requested, faxed, emailed, or hand-delivered and date stamped within ten (10)*

*City business days of the issuance of the disciplinary decision. Such request for hearing shall identify the action taken and the reasons why the action should not have been taken. **If the employee receives a suspension of more than five (5) working days but *serves* less than five (5) days due to time being held in abeyance, the employee may not appeal the action unless or until such time as the additional days are *served*, meeting the time requirements for appeal. The appeal in this case would be filed five (5) working days after *servng* at least five (5) days of suspension.***

In the meeting on February 9, 2022, there was discussion regarding when an appeal should occur regarding discipline held in abeyance: For example, if an employee receives a five-day suspension but two days are held in abeyance. Should the appeal be filed at five days after the end of the five-day suspension including the two days held in abeyance or at some other date. There was additionally discussion regarding whether the Board actually has jurisdiction in this instance because a suspension of "more than five working days" has not occurred.

Second, the draft Board rules provide as follows regarding implementation of the Board's Decision:

13. Implementation of Decision

A. *The Board order shall be implemented as follows:*

1. *~~In the event that there is no appeal of the Board's decision to reinstate an employee, the effective date of reinstatement shall be the date of the Board's vote for~~*

~~reinstatement, unless otherwise directed by the Board. The parties have thirty (30) days to appeal the Board's decision to reinstate an employee. If there is no appeal, the Board's decision shall be implemented on the thirty-first (31st) day.~~

2. Back-Pay: The City shall tender any back pay awarded to a grievant within ~~seven (7)~~ **fourteen (14)** calendar days of its receipt of the grievant's sworn statement in "B" hereunder.

B. In the event the Board's order includes any back pay, the grievant shall provide the City with a sworn statement of gross earnings and unemployment compensation received since the effective date of the disciplinary action **within seven (7) calendar days**. The City shall be entitled to offset earnings and unemployment compensation received during the period covered by the back-pay award against the back pay due.

C. The hearing officer shall retain jurisdiction of the case for the purpose of resolving any disputes regarding back pay. It is the City's position that benefits to be reinstated reasonably ought to include those benefits accrued to an employee as a function of ~~his/her~~ **their** employment with the City in a particular classification and pay grade. These include:

1. Base Pay
2. Vacation Accrual
3. Sick Leave Accrual
4. PERA Co-payments made by the City
5. Health/Life Insurance Payments made by the City
6. Contractual Based Seniority (if applicable)
7. Longevity pay (if applicable)
8. Differential Pay for Shift Assignment
9. Temporary Upgrade Pay

Other remuneration may be distinguished from the previous listing in that it is not guaranteed to employee members of a classification and pay grade, but granted to a limited number of some employees, based upon management's perception of the City's need at a specific time and place. These benefits include:

1. Overtime
2. Standby Time

These draft revisions were created in response to comments which indicated prior Board rules were causing confusion. This draft rule has attempted to address the issues identified in the comments.

The public hearing allows members of the public an opportunity to submit testimony and arguments on the Regulation. Members of the public are asked to submit comments by Friday, April 29, 2022 for consideration by the subcommittee.

Date posted: April, 22, 2022