



Milwaukee County Personnel Review Board

DATE: May 30, 2025

TO: Supervisor Patti Logsdon, Chair, Personnel Committee
Supervisor Kathleen Vincent, Vice Chair, Personnel Committee
Personnel Committee Members

FROM: Adam Gilmore, Administrator, Personnel Review Board

RE: Informational Report on the Duties of the Personnel Review Board

Dear Members of the Milwaukee County Personnel Committee,

Following your May 6, 2025, meeting, Personnel Committee Chair Logsdon contacted my office requesting an informational report be submitted so that the Committee may better understand the duties of Milwaukee County's Personnel Review Board ("PRB").

BACKGROUND

In 1978, the Milwaukee County Board of Supervisors established the PRB through codification of Chapter 33 of the Milwaukee County General Ordinance ("MCGO"). The intent in creating the PRB was to address the perceived conflict arising from what were meant to be two distinct functions of the county's Civil Service Commission ("CSC") – providing input on the content of the County Civil Service Rules (the "CSRs") and providing the quasi-judicial function of reviewing the application of those same rules by county management when departments took disciplinary actions against employees. Having a separate body like the PRB to conduct hearings on such matters in a neutral environment also helps assure both the individual and the community that the discipline is not influenced by political considerations, nepotism, personal friendship or animosity, race, creed, color, ancestry or national origin, sex, sexual orientation, gender identity and expression, disability, age or representative status.

The mission of the PRB is to ensure that employees in the classified service are provided a fair and impartial due process hearing relating to certain suspensions, any demotion, or any discharge as provided by law and as prescribed under Wisconsin State Statutes ("Wis. Stat.") 63.10 and 63.12 and Chapters 33 and 17.207 of the MCGO.

COURTHOUSE, SUITE 308 • 901 NORTH 9TH STREET • MILWAUKEE, WISCONSIN 53233 • PRB@MILWAUKEECOUNTYWI.GOV •
TELEPHONE (414) 278-4218 • FAX (414) 223-1897

Board Members
DAVID KERN - President
PHOEBE WILLIAMS - Vice President
GREG RENZ • EMIL OVBIAGELE • PEGGY SCHNEIDER

BOARD MEMBERSHIP

The PRB consists of five members appointed by the County Executive and confirmed by the Milwaukee County Personnel Committee and full County Board of Supervisors.¹ All members must be residents of Milwaukee County. Appointments are made based on recognized and demonstrated interest in and knowledge of personnel procedures. Individuals who hold elective or appointed public positions or office of any sort in county government are ineligible to serve. The typical term length is five years and there is no limit to the number of terms an individual can serve on the PRB. PRB members each receive an annual salary of \$3,486.50 in the form of bi-weekly stipends.

The current membership of the PRB is as follows:

- David Kern, Chair
2nd Term – Term Expires 3/28/28
Practiced in the area of labor and employment law for over 40 years
- Phoebe Williams, Vice Chair
3rd Term – Term Expires 12/12/2027
Associate Professor of Law Emerita at Marquette University Law School
Over 30 years of experience in the field of labor and employment law
- Greg Renz
3rd Term – Term Expires 10/31/2028
Practiced in the area of employee retirement benefits for over 40 years
- Emil Ovbiagele
1st Term – Term Expires 9/28/2028
Practicing attorney and Marquette University Law School adjunct professor
Current Milwaukee Bar Association President
- Peggy Schneider
1st Term – Term Expires 3/20/2030
Retired Milwaukee County Human Resources Business Partner

BOARD RESPONSIBILITIES

- Hold disciplinary proceedings. Hear all charges filed by appointing authorities (or others) that allege an officer or employee in the classified service of Milwaukee County merits discipline or discharge. *See* Wis. Stat. §63.10 and §63.12, MCGO Chapter 33.
- Adopt rules and regulations as necessary to properly conduct hearings and protect an individual's right to due process during such hearings. *See* PRB Rules of Procedure.

¹ While five members constitutes a full board, the PRB has been known to subsist on as few as three members at points in its history.

- Hear all appeals of non-represented Milwaukee County employees in the final step of the County's established grievance procedure. *See* MCGO §17.207.

PRB must exercise extreme flexibility in handling its responsibilities, as some meetings can take as little as ten minutes while others have featured disciplinary hearings that ultimately took over eight hours to complete. To properly carry out their hearing duties, members will often spend considerable personal time considering submitted evidentiary materials as well.

ADMINISTRATION STAFF

The PRB's office consists of three full time employees. In addition to working with the PRB, this office is also responsible for carrying out important administrative functions for the CSC and Ethics Board. The office assists a wide customer base from citizens with questions to employees facing discipline to officials seeking advisement.

- Adam Gilmore
Administrator, June 2019 to present (with office since 2017)
- Alisha Terry
Paralegal, October 2022 to present (with office since 2015)
- Jenny Kasza
Administrative Assistant, February 2023 to present

BUDGET

The 2025 combined budget for the PRB, CSC, and Ethics Board is \$278,090. The office and its Boards have a relatively small footprint that boils down to three categories: personnel, outside legal contracts, and all other costs. Personnel costs cover the salaries of our 3 FTEs and stipends for CSC and PRB members.

PRB/CSC/Ethics Board 2025 Budget

Category	Amount	Percentage
Personnel	\$231,775	83.35%
Outside Legal Contracts	\$39,885	14.34%
All Other Costs (supplies, etc.)	\$6,430	2.31%

These bodies serve administrative functions for the County and do not generate any revenue worth mentioning.

BOARD MEETINGS

The PRB regularly meets every other Tuesday to consider submitted charges and handle matters scheduled before it in an efficient manner. All meetings are announced in advance and open to the public. The minutes of meetings are posted on the PRB's website and thereby available publicly.

Board Member Attendance Data 2022 – 2024

2022		2023		2024	
MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED	MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED	MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED
Daniel Dennehy	29 of 29 = 100%	David Kern	22 of 24 = 92%	David Kern	21 of 24 = 88%
David Kern	26 of 29 = 90%	Phoebe Williams	22 of 24 = 92%	Phoebe Williams	19 of 24 = 79%
Greg Renz	28 of 29 = 97%	Greg Renz	23 of 24 = 96%	Greg Renz	24 of 24 = 100%
Phoebe Williams	26 of 29 = 90%	Yovira Moroney	10 of 24 = 42%	Yovira Moroney	11 of 24 = 46%
Yovira Moroney	18 of 29 = 62%	Daniel Dennehy	18 of 18 = 100%	Emil Ovbiagele	17 of 24 = 71%
Average Attendance	= 88%	Emil Ovbiagele	3 of 5 = 60%	Average Attendance	= 77%
		Average Attendance	= 80%		

DISCIPLINARY PROCEEDINGS

The PRB receives, in writing, alleged charges of violations of CSR VII, Section 4 of the MCGO by employees in the classified service who are not on probation at the time of discipline. Charges most often come from the employee's appointing authority (department) though they can be filed by any citizen in the form of a citizen complaint that seeks the discharge of an employee.

The PRB has the jurisdiction to hear charges for discipline in the following circumstances:

- An employee has received a disciplinary notice of suspension for 11 days or more,
- An employee has received a second disciplinary notice of suspension within six months of receiving a first disciplinary notice of suspension (both regardless of length), or
- An employee has received a disciplinary notice for demotion or discharge.

Once filed with the PRB, the PRB's office will contact the employee by certified mail with a copy of their charges and information about their first scheduled appearance before the PRB (including notification of their right under Wis. Stat. §63.10 to have a hearing before the PRB within 21 days of the issuance of the charges if they so choose). Employees may represent themselves, utilize representation provided by their union, or seek private legal counsel at their own cost for their appearances before the PRB. If an employee or their representative is appearing before the PRB for the first time, the Chair advises them on the hearing process, including the order of events and expectations throughout the hearing, and lets them know they

are welcome to ask the Chair any questions they may have during the hearing. Following the opportunity for opening statements, testimony is taken, evidence is submitted, and any final statements from parties are given to close out the hearing. The PRB then goes into closed session to deliberate on their decision as to whether the alleged violations occurred and, if so, whether the discipline recommended by the appointing authority is appropriate or merits revision. For sworn law enforcement officers facing discipline (those holding the title Deputy Sheriff I), the PRB must also consider the just cause factors set forth in Wis. Stat. §59.52(8)(c) when making its final decision. A decision letter is issued following the hearing. Later, a full Findings of Fact, Conclusions of Law, and Order document is issued by the PRB on the employee's matter.

PRB Activity Data 2022 – 2024

Activity	2022	2023	2024
# of Meetings	29	24	24
# of Cases Filed	54	53	78
# of Cases Closed	52	54	78
# of Hearings	14	10	18
# of Findings Issued	16	9	19
# of Determinations Appealed	1	0	0
# of Appellate Decisions Issued	0	0	1
Average # of Days to Resolve a Case	31	48	29
% of Cases Closed in 90 Days	81	98	99
Average # of Days between Hearing and Findings Issued	20	17	23
Total Hours Spent In Session	95.3	38.8	45.4

PUBLIC RECORDS REQUESTS

The PRB received four requests from citizens and organizations for records pursuant to Wisconsin Public Records Laws in 2024 and 2025. The Board's office provided copies of personnel records in response to three of the four requests.

ATTACHMENTS

Copies of the statutory references are attached to this report, including:

- Wis. Stats. §§63.10, 63.12, and 59.52(8)
- MCGO §§17.207, 33, and Appendix A, Rule VII
- The PRB Rules of Procedure

63.10 Demotion; dismissal; procedure.

- (1) Whenever a person possessing appointing power in the county, the chief executive officer of a department, board or institution, the county park commission, county election commission, civil service commission, and county board of welfare as to officers and employees under their respective jurisdictions, believes that an officer or employee in the classified service in that person's, commission's or board's department has acted in such a manner as to show the officer or employee to be incompetent to perform the officer's or employee's duties or to have merited demotion or dismissal, the person, commission or board shall report in writing to the civil service commission setting forth specifically the complaint against the officer or employee, and may suspend the officer or employee at the time such complaint is filed. It is the duty of the director of personnel to file charges against any officer or employee in the classified service upon receipt of evidence showing cause for demotion or discharge of the officer or employee in cases where a department head or appointing authority neglects or refuses to file charges. Charges may be filed by any citizen against an officer or employee in the classified service where in the judgment of the commission the facts alleged under oath by the citizen and supported by affidavit of one or more witnesses would if charged and established amount to cause for the discharge of the officer or employee. The commission shall forthwith notify the accused officer or employee of the filing of the charges and on request provide the officer or employee with a copy of the same. Nothing in this subsection shall limit the power of the department head to suspend a subordinate for a reasonable period not exceeding 10 days. In case an employee is again suspended within 6 months for any period whatever, the employee so suspended shall have the right of hearing by the commission on the second suspension or any subsequent suspension within said period the same as herein provided for in demotion or dismissal proceedings.
- (2) The commission shall appoint a time and place for the hearing of said charges, the time to be within 3 weeks after the filing of the same, and notify the person possessing the appointing power and the accused of the time and place of such hearing. At the termination of the hearing the commission shall determine whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement, as it may deem requisite and proper under the circumstances and as its rules may provide. The decision of the commission shall be final. Neither the person possessing the appointing power nor the accused shall have the right to be represented by counsel at said hearing, but the commission may in its discretion permit the accused to be represented by counsel and may request the presence of an assistant district attorney to act with the commission in an advisory capacity.
- (3) If the county and a labor organization representing employees of the county enter into a collective bargaining agreement under subch. IV of ch. 111, the agreement may provide that the provisions of the agreement relating to dismissal, demotion and suspension shall supersede this section with respect to employees covered by the agreement while the agreement is in effect. This subsection does not apply to any action under sub. (1) to suspend an employee with pay.

History: 1983 a. 148 s. 8; 1987 a. 153; 1991 a. 316; 1993 a. 213.

The ten day suspension under sub. (1) applies only to minor cases warranting intradepartmental discipline, not to serious charges referred to the civil service commission. *State ex rel. Messner v. Milwaukee County Civil Service Commission*, 56 Wis. 2d 438, 202 N.W.2d 13 (1972).

The time limitation under sub. (2) is mandatory. *Karow v. Milwaukee County Civil Service Commission*, 82 Wis. 2d 565, 263 N.W.2d 214 (1978).

When an employee resigns and adequately alleges that the resignation is coerced, a timely demand for reinstatement or a hearing requires the commission to schedule a hearing. *Watkins v. Milwaukee County Civil Service Commission*, 88 Wis. 2d 411, 276 N.W.2d 775 (1979).

Review of an order under this section shall be by certiorari. *State ex rel. Iushewitz v. Milwaukee County Personnel Review Board*, 176 Wis. 2d 706, 500 N.W.2d 634 (1993).

A county rule that allowed the imposition of a reevaluation period after suspension of an employee did not conflict with sub. (2) or s. 59.52 (8). The legislative decision in sub. (2) to permit a local government to impose discipline as its rules provide was dispositive in this case. When there had been a just cause determination and hearing for the conduct at issue, the county could impose a reevaluation period with consequences for another instance of that conduct without running afoul of the requirements of the statutes. However, the reevaluation period was required to conform to the county rule's requirements for specificity and relationship to the employee's violations. *State ex rel. Miller v. Milwaukee County Personnel Review Board*, 2016 WI App 83, 372 Wis. 2d 440, 887 N.W.2d 919, 15-2118.

63.12 Investigations; testimonial powers; witnesses.

- (1)** Each member of the commission may subpoena witnesses, administer oaths, examine witnesses and compel the production of documents, records, and papers of all sorts in conducting such investigations as the commission may deem necessary or proper in order to ascertain whether or not the provisions of ss. 63.01 to 63.16 are being carried into effect. The commission may examine such public records as it requires in relation to any such investigation. All officers and other persons in the civil service of the county shall attend and testify when required to do so by the commission.
- (2)** In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which the person may be lawfully interrogated, the circuit court of the county or the judge thereof, on application of any one of the commissioners, shall issue an order requiring such person to comply with such subpoena and to testify, or either, and any failure to obey such order of the court may be punished by the court as a contempt thereof.
- (3)** Each person, not in the civil service of the county, who appears before the commission by its order shall receive for attendance the fees and mileage provided for witnesses in civil actions in courts of record which shall be paid out of the appropriation to the commission. But no witness subpoenaed at the instance of parties other than the commission shall be entitled to witness fees or mileage unless the commission certifies that the testimony of the witness was relevant and material to the matter investigated.

History: 1991 a. 316.

(8) CIVIL SERVICE SYSTEM.

- (a)** The board may establish a civil service system of selection, tenure and status, and the system may be made applicable to all county personnel, except the members of the board, constitutional officers and members of boards and commissions. The system may also include uniform provisions in respect to classification of positions and salary ranges, payroll certification, attendance, vacations, sick leave, competitive examinations, hours of work, tours of duty or assignments according to earned seniority, employee grievance procedure, disciplinary actions, layoffs and separations for just cause, as described in par. (b), subject to approval of a civil service commission or the board. The board may request the assistance of the department of administration and pay for such services, under s. 16.58.
- (b)** A law enforcement employee of the county may not be suspended, demoted, dismissed or suspended and demoted by the civil service commission or by the board, based either on its own investigation or on charges filed by the sheriff, unless the commission or board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the commission or the board shall apply the following standards, to the extent applicable:
1. Whether the employee could reasonably be expected to have had knowledge of the probable consequences of his or her alleged conduct.
 2. Whether the rule or order that the employee allegedly violated is reasonable.
 3. Whether the sheriff, before filing a charge against the employee, made a reasonable effort to discover whether the employee did in fact violate a rule or order.
 4. Whether the effort described under subd. 3. was fair and objective.
 5. Whether the sheriff discovered substantial evidence that the employee violated the rule or order as described in the charges filed against the employee.
 6. Whether the sheriff is applying the rule or order fairly and without discrimination to the employee.
 7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the employee's record of service with the sheriff's department.
- (c)** If a law enforcement employee of the county is dismissed, demoted, suspended or suspended and demoted by the civil service commission or the board under the system established under par. (a), the person dismissed, demoted, suspended or suspended and demoted may appeal from the order of the civil service commission or the board to the circuit court by serving written notice of the appeal on the secretary of the commission or the board within 10 days after the order is filed. Within 5 days after receiving written notice of the appeal, the commission or the board shall certify to the clerk of the circuit court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall upon application of the accused or of the board or the commission fix a date of trial which shall not be later than 15 days after the application except by agreement. The trial shall be by the court and upon the return of the board or the commission, except that the court may require further return or the taking and return of further evidence by the board or the commission. The question to be determined by the court shall be: Upon the evidence is there just cause, as described in par. (b), to sustain the charges against the employee? No cost shall be allowed either party and the clerk's fees shall be paid by the county. If the order of the board or the commission is reversed, the accused shall be immediately reinstated and entitled to pay as though in continuous service. If the order of the board or the commission is sustained, it shall be final and conclusive.

17.207. - Grievance procedure.

- (1) *Application; exceptions.* A grievance shall mean any controversy which exists as a result of an unsatisfactory adjustment or failure to adjust a claim or dispute by a non-represented employee or group of non-represented employees concerning the application of wage schedules and provisions relating to hours of work and working conditions and non-represented employees as well as students of county-operated or affiliated training programs or county employees in the unclassified service concerning discrimination based on race, sex, sexual orientation, gender identity and expression, age, ancestry or nationality, political or religious affiliation, creed, or disability. The grievance procedure shall not be used to change existing wage schedules, hours of work, working conditions, fringe benefits and position classifications established by ordinances and rules which are matters processed under existing procedures.
- (2) *Representatives.* An employee may choose to be represented at any step in the procedure by representatives (not to exceed three (3)) of his/her choice, except that as to the first step, the choice shall be limited to employee representatives.
- (3) *Time of handling.* Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.
- (4) *Time limitations.* If it is impossible to comply with the time limits specified in the procedure because of work schedules, illness, vacations, etc., these limits may be extended by mutual consent in writing. If one (1) of the parties requests an extension not mutually acceptable, the request with the reason therefor, may be submitted to the personnel review board. After consideration and within eight (8) working hours after receipt of the request, they will notify both parties in writing of their decision to grant or deny the extension. If an extension is not requested within the time limits herein provided, or a reply to the grievance is not received within time limits provided herein, the grievance may be appealed directly to the next step of the procedure.
- (5) *Settlement of grievances.* Any grievance shall be considered settled at the completion of any step in the procedure, if all parties concerned are mutually satisfied. Dissatisfaction is implied in recourse from one step to the next.
- (6) *Forms.* There are three (3) separate forms used in processing a grievance: the grievance initiation form, the grievance disposition form and the grievance appeal form. All forms are to be prepared in quadruplicate except at the county institutions, park commission, and department of public works, where five (5) copies are to be prepared. Two (2) copies are to be retained by the person originating the form: one (1) copy will be sent to the other person involved in the procedure at that step, for example, immediate supervisor, and one (1) copy will be forwarded to the personnel review board. At the county institutions, one (1) copy will be forwarded to the office of the director; in the park commission, one (1) copy will be forwarded to the office of the general

manager; and public works, one (1) copy will be forwarded to the office of the director. The forms are available in the office of the personnel review board and in any county department or institution. Each department or institution shall have forms readily available to all employees.

Editor's note—The park commission referenced in this subsection is obsolete. The responsibilities of the park commission have been assigned to the committee on parks, energy and environment and the director of parks, energy and environment.

(7) *Steps in the procedure.*

(a) *Step 1.*

1. The employee alone or with his/her representative shall explain the grievance verbally to his/her immediate supervisor designated to respond to employee grievances.
2. The supervisor designated in paragraph 1 shall within three (3) working days verbally inform the employee of his/her decision on the grievance presented.

(b) *Step 2.*

1. If the grievance is not settled at the first step, the employee or his/her representative shall prepare the grievance in writing on the grievance initiation form and shall present such form to the immediate supervisor designated in step 1 to initial as confirmation of his/her verbal response.
2. The employee or his/her representative after receiving confirmation shall forward the grievance to his/her appointing authority or to the person designated by him/her to receive grievances within ten (10) working days of the verbal decision. Failure of the supervisor to provide confirmation shall not impede the timeliness of the appeal.
3. The person designated in step 2, paragraph 2 will schedule a hearing with the person concerned and within ten (10) working days from date of service of the grievance initiation form, the hearing officer shall inform the aggrieved employee in writing of his/her decision.
4. Those grievances which would become moot if unanswered before the expiration of the established time limits will be answered as soon as possible after the conclusion of the hearing.
5. The second step of the grievance procedure may be waived by mutual consent of the employee and the department.

If the grievance is not resolved at step 2 as provided, the employee or the department may appeal such grievance within ten (10) working days to step 3 if applicable or to step 5.

(c) *Step 3.*

1. (Applicable only to department of public works, department of parks, recreation and culture, and department of human services.) If the grievance is not settled at the second step, the employee and/or his/her representative will write up the grievance appeal form

and the employee shall present it to the employee's division or district head in his/her department, or in the case of the department of human services, to the employee's institution or department head or his/her duly designated representative, within five (5) days after receiving the written decision as provided in step 2.

2. The person designated in subsection (c)1 will review the record and interview the persons concerned and inform the aggrieved employee in writing of his/her decision within five (5) days after the grievance appeal form.

(d) *Step 4.*

1. If the grievance is not settled at the second step or at the third step in the department of public works, the department of parks, recreation and culture or the department of human services, the employee and/or his/her representative will write up the grievance appeal form and the employee shall serve it to the employee's department head or his/her duly designated representative, or in the case of the department of human services, the person designated by the director of the department of human services to receive grievance appeals, within five (5) days after receiving the written decision as provided in step 2 or 3.
2. The person designated in subsection (d)1 will review the record and interview the persons concerned and inform the aggrieved employee in writing of his/her decision within five (5) days after receiving the grievance appeal form.

(e) *Step 5.*

1. If the grievance is not settled at the second step or if applicable the fourth step, the employee and/or his/her representative may appeal to the personnel review board, within five (5) working days after receiving the written decision provided in step 2 or if applicable step 4. The board will review the record of the case, hold a hearing thereon as soon as practical, notify all interested persons of the time and place of the hearing, and notify all interested persons of its decision in writing within ten (10) days after the completion of the hearing.

Chapter 33 - PERSONNEL REVIEW BOARD

33.01. - Enactment.

- (1) *Legislative intent.* For the purpose of separating the personnel administrative functions of the existing civil service commission from the quasi judicial functions vested in such commission, and to assure that the discipline or discharge of county employees is not influenced by political considerations, nepotism, personal friendship or animosity, race, creed, color, ancestry or national origin, sex, sexual orientation, gender identity and expression, disability, age or representative status except as provided by law, it is the intent of the county, acting under the authority of chapter 118, Laws of 1973, relating to county reorganization, to establish a personnel review board, and to transfer the duties and responsibilities as prescribed in ss. 63.10 and 63.12, Wis. Stats., as far as they relate to the discipline and discharge of employees and all of the duties and responsibilities prescribed in section 17.207 of the Code.
- (2) *Enactment.* A personnel review board is hereby established and the duties and responsibilities of the county civil service commission as set forth in ss. 63.10 and 63.12, Wis. Stats., and section 17.207 of the Code as they relate to the discipline and discharge of employees, are hereby transferred to such personnel review board.

33.02. - Created; membership; terms; oath; staff.

- (1) *Members.* A personnel review board is hereby created to consist of five members to be appointed by the county executive and confirmed by the county board. All of the members shall be residents of the county. Appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of personnel procedures. No person shall be appointed who holds any elective or appointed public position or office of any sort in county government.
- (2) *Terms.* Of the persons first appointed to the board, one (1) shall hold office for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. All appointments made after the initial terms have expired shall be for a term of five (5) years.
- (3) *Oath.* Every person appointed shall take and file the official oath.
- (4)

Staff. The staff of the board shall consist of a secretary and such additional clerical positions as the secretary may require to perform the duties. The secretary shall be appointed by the personnel review board. The secretary shall cause the minutes of the meetings and proceedings of the board to be taken. The original copies shall be the official minutes of its hearings and proceedings, and shall be open and available for public inspection.

33.03. - Functions of the personnel review board.

The personnel review board shall:

- (1) *Discipline and discharge.* Hear all charges filed by appointing authorities or other persons authorized to file charges under s. 63.10, Wis. Stats., alleging that an officer or employee in the classified service of the county has acted in such a manner as to show that individual to be incompetent to perform his/her duties or to have merited discipline or discharge. Hear all charges filed by the ethics board alleging that an officer or employee of the county has violated chapter 9 of the Code.
- (2) *Rules and regulations.* Adopt such rules and regulations as are necessary to properly conduct hearings before the board and to protect an individual's right to due process under the state constitution and the United States Constitution.
- (3) *Meetings.* All meetings of the board shall be announced in advance, shall be open to the public subject to the limitations of s. 19.85, Wis. Stats., and minutes of such meetings, except those portions covering hearings on charges against employees, shall be submitted to the director of human resources, the civil service commission, the county executive, chairperson of the county board and chairperson of the committee on personnel within two (2) weeks following the meeting.

33.04. - Investigations.

- (1) *Subpoena power.* The personnel review board may subpoena witnesses, administer oaths, examine witnesses and compel the production of documents, records and papers of all sorts in conducting such investigations as the board may deem necessary or proper in carrying out its duties, including hearings on complaints and charges filed against employees. The board may examine such public records as it requires in relation to any such investigation or hearing. All officers or other persons in the employ of the county shall attend and testify when requested to do so by the board. In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he/she may be lawfully interrogated, the circuit court of the county or the judge thereof, on application of the board, shall issue an order requiring such person to comply with such subpoena and to testify, or either, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

- (2) *Witness fees.* Each person not in the employ of the county who appears before the board by its order shall receive for his/her attendance the fees and mileage provided for witnesses in civil actions in courts of record, which shall be paid out of the appropriation of the board, but no witness subpoenaed at the instance of parties other than the board shall be entitled to witness fees or mileage unless the board certifies that his/her testimony was relevant and material to the matter investigated.

33.05. - Review by the county board.

- (1) *New rules.* All new civil service rules and modifications or amendments to existing civil service rules shall be referred to the county board by the director of human resources prior to consideration by the civil service commission. No new civil service rule or modification or amendment to an existing civil service rule shall be submitted by the director of human resources, or other department head or employee, to the civil service commission for consideration until after the county board has completed a review of the new rule or amendment, and the county executive has acted on the county board action.
- (2) *Existing rules.* All existing rules of the civil service commission shall be reviewed by the county board within one hundred eighty (180) days of the effective date of this chapter. Thereafter, all existing rules shall be referred to the county board for review every four (4) years on April 1, 1982, and every four (4) years thereafter. The county board may, within ninety (90) days after reference as set forth above, rescind any rules of the civil service commission.

LEGISLATIVE HISTORY

All sections effective upon passage and publications unless otherwise indicated.

Ch. 33. Created - March 21, 1978, J. Proc. p. 673—77, published April 13, 1978.

33.01(1). Amended - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979; Apr. 24, 2014, J. Proc.

33.01(2). Amended - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979.

33.03. Amended - June 22, 2023, J. Proc.

33.03(2). Repealed and new (2) renumbered from (3) - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979; **Amended** - July 19, 1990, J. Proc. p. 1635—54, published Sept. 12, 1990.

33.03(3). Renumbered (2) and new (3) renumbered from (4) - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979.

33.03(4). Renumbered (3) and new (4) renumbered from (5) - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979; **Amended** - May 24, 2012, J. Proc.; May 26, 2016, J. Proc.

33.03(5). Renumbered (4) - Dec. 11, 1979, J. Proc. p. 2623—27, published Dec. 27, 1979.

33.05(1). Repealed and recreated - July 21, 1988, J. Proc. p. 1138—39 [as printed June 16, 1988, J. Proc. p. 1115—16], published Sept. 8, 1988.

33.05(2). Amended - Dec. 12, 1978, J. Proc. p. 2740—41, published Dec. 28, 1978.

HISTORY NOTE

(Ord. No. 12-12, § 6, 5-24-12; Ord. No. 14-10, § 7, 4-24-14; Ord. No. 16-9, § 6, 5-26-16; Ord. No. 23-7, 6-22-23)

RULE VII. - SEPARATIONS; SUSPENSIONS

Section 1. - Demotion and dismissal; suspensions; procedures.

Whenever a person possessing appointing power in the county, as to employes under their respective jurisdictions, believes that an employe in the classified service in his department has acted in such a manner as to show him to be incompetent to perform his duties or have merited demotion or discharge, he shall report in writing to the civil service commission, setting forth specifically his complaint, and may suspend the officer or employe without pay at the time such complaint is filed. Nothing in this section shall limit the power of the department head to suspend a subordinate for a reasonable period not exceeding ten (10) days. In case an employe is again suspended within six (6) months for any period whatever, the employe so suspended shall have the right of hearing by the commission on the second suspension or any subsequent suspension within said period the same as herein provided for in demotion or dismissal proceedings. All suspensions shall be immediately reported in writing to the commission. The commission may, in its discretion, investigate any such suspension and in the case of its disapproval the suspended employe shall be immediately reinstated, and any part or all of the pay which he may have lost may be restored to him by order of the commission.

Section 2. - Who shall or may file charges.

- (1) It shall be the duty of the superior officer to file charges against any officer or employe subordinate to him and in the classified service if there be cause for demotion or discharge of such officer or employe.
- (2) It is the duty of the director of human resources to file charges against any officer or employe in the classified service upon receipt of evidence showing cause for demotion or discharge of such officer or employe in cases where a department head or appointing authority neglects or refuses to file such charges.
- (3) Charges may be filed by any citizen against an officer or employe in the classified service where in the judgment of the commission, the facts alleged under oath by such citizen and supported by affidavit of one (1) or more witnesses would if charged and established amount to cause for the discharge of such officer or employe.
- (4) The commission shall forthwith notify the accused officer or employe of the filing of such charges and on request provide him with a copy of the same.
- (5) An officer or employe against whom formal charges for discharge or demotion have been filed may be suspended from duty without pay pending a hearing on such charges before the commission and the commission's decision thereon.

Section 3. - Filing; notice; hearing.

- (1) In cases involving the filing of charges for discharge or demotion, the commission shall appoint a time and place for the hearing of said charges, the time to be within three (3) weeks after the filing of the same, unless further time be granted by the commission for cause shown, either upon the application of the complainant, the employee or his attorney before the expiration of said three (3) weeks. Notice shall be given the complainant and the employee or his attorney of the time and place of said hearing. In cases where an employee is suspended a second time within six (6) months for any period whatever, the employee so suspended shall have the right of a hearing by the commission on the second suspension or any subsequent suspensions within the said period, the same as herein above provided for in demotion or dismissal proceedings.
- (2) The complaint shall state specifically the facts alleged to constitute cause for suspension, demotion or discharge, and shall refer to the paragraph(s) in section 4 of this rule under which said charges are brought.
- (3) Neither the complainant nor the accused shall have the right to be represented by counsel at said hearing, but the commission may, in its discretion, permit the accused to be so represented and may request the presence of a member of the corporation counsel's staff for the examination and cross examination of witnesses and to advise the commission on legal questions arising at the trial.
- (4) At the termination of the hearing, the commission shall determine whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement as it may deem requisite and proper under the circumstances and as its rules may provide. Such decision shall be final and shall be certified to the appointing authority and be forthwith enforced by him.

Section 4. - Causes for discharge, suspension or demotion and/or reevaluation.

- (1) The following are declared to be cause for discharge, suspension or demotion and/or the approval of or the imposition of an employee reevaluation period as provided in rule VI, section 8, of the rules of the Milwaukee County personnel review board, of any officer or employee from the classified service of the County of Milwaukee, though charges may be based upon causes and complaints other than those here enumerated, namely:
 - (a) Theft of private or county property.
 - (b) Unauthorized use, misuse, destruction of or damage to any property including vehicles, said damage occurring because of neglect while on county business.
 - (c) Unauthorized use of county premises.
 - (d) Violation of rules or practices relating to security of county property or county premises.
 - (e)

Unauthorized use, duplication or possession of county keys, or electronically controlled access cards.

- (f) Distributing or posting handbills, pamphlets or other written or printed material in any work area without authorization.
- (g) Posting, removing or tampering with county bulletin board material without authorization.
- (h) Failure to observe parking or traffic regulations as established by ordinance, statutes or departmental rules while on county business.
- (i) Violation of rules or practices relating to safety.
- (j) Littering, creating or contributing to unsanitary or unsafe conditions on county premises.
- (k) Refusing or failing to obey orders of supervisor whether written or oral.
- (l) Refusing or failing to comply with departmental work rules, policies or procedures.
- (m) Threatening, intimidating, coercing or harassing employees or supervision at any time.
- (n) Making false or malicious statements, either oral or written, concerning any employee, the county or its policies.
- (o) Unexcused, unauthorized, or excessive absence.
- (p) Unexcused, unauthorized, or excessive tardiness.
- (q) Leaving early and/or failure to be at assigned work area at the start or end of shifts, breaks and/or meal periods.
- (r) Leaving place of work during working hours without authorization, wasting time or loitering.
- (s) Stopping work before designated quitting time.
- (t) Failure or inability to perform the duties of assigned position.
- (u) Substandard or careless job performance.
- (v) Restricting output or engaging in any intentional slowdown, work stoppage or strike.
- (w) Engaging in any unauthorized activity which distracts or disrupts employees in the performance of their duties.
- (x) Interference with normal work flow or departmental procedures.
- (y) Falsification, modification or unauthorized alteration of any county record or report.
- (z) Knowingly punching or marking another employee's time card, having one's time card punched or marked by another, altering time card for any unauthorized reason or inaccurately recording time worked.
- (aa) Unauthorized obtaining or disclosure of confidential or privileged information.
- (bb) Commission of a criminal act which meets the nondiscriminatory practices in conformance with state statutes.
- (cc)

Reporting to work or working while under the influence of intoxicating beverages and/or narcotics or other drugs or having unauthorized possession of same on county premises during working hours.

- (dd) Indecent, criminal or inappropriate conduct on county premises or during working hours.
- (ee) Abusive or improper treatment toward an inmate or patient of any county facility or to a person in custody; provided the act committed was not necessarily or lawfully done in self-defense or to protect the lives of others or to prevent the escape of a person lawfully in custody.
- (ff) Offensive conduct or language toward the public or toward county officers or employees.
- (gg) Sleeping, dozing or lack of attentiveness during working hours.
- (hh) Possession of unauthorized weapons on county premises or during working hours.
 - (ii) Provoking or instigating a fight or fighting during working hours or on county premises.
 - (jj) Engaging in horseplay or scuffling on county premises during working hours.
 - (kk) Engaging in personal activities during working hours.
 - (ll) Gambling on county premises or during working hours.
- (mm) Vending, soliciting or collecting contributions for any purpose without authorization on county premises.
- (nn) Inducing or attempting to induce any officer or employee in the county service to commit an illegal act or to act in violation of any departmental or official regulation or order, or the rules of the commission.
- (oo) Soliciting or receiving from any person or participating in any fee, gift or other thing of value in the course of one's work, when such fee, gift or other thing of value is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
- (pp) Threatening or attempting to use or using political influence, or giving or being in any way involved in giving any money or any other thing of value in return for appointment, promotion, transfer, leave of absence or change in appropriation or pay.
- (qq) Engaging in pernicious political activity by making use of one's position to further the candidacy of any person or engaging in political work during regular working hours. Nothing in this section shall be construed to interfere with the right of any employee in the classified service to become a member of a political club, to attend political meetings, to express his/her opinion on all political subjects, and to enjoy freedom from all interference in casting his/her vote.
- (rr) Removal of permanent residence to some place outside of Milwaukee County, except as specifically authorized by the commission or failure to establish permanent residence in Milwaukee County within the time limited by the commission.
- (ss)

Willful violation of any of the provisions of the county Civil Service Act or of the rules of the commission or ordinances of Milwaukee County.

- (tt) Knowingly discriminating against anyone for employment or delivery of services, because of such individual's age, race, color, handicap, sex, creed, national origin or ancestry.
 - (uu) When any officer or employe engages with a disorderly person or attempts to issue a lawful arrest, the officer or employe will first attempt to deescalate the situation and gain voluntary compliance from the person if at all possible.
 - (vv) Officers, subject to Wisconsin Law Enforcement Standards Board (LESB) certification, shall not perform chokeholds or cause any form of asphyxia unless the officer reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or others.
 - (ww) Employes shall not perform chokeholds or cause any form of asphyxia unless the employe reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or others.
 - (xx) Officers, subject to Wisconsin Law Enforcement Standards Board (LESB) certification, shall not perform carotid holds, carotid restraints, or otherwise apply vascular pressure to cut off blood flow to the brain unless the officer reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or others.
 - (yy) Employes shall not perform carotid holds, carotid restraints, or otherwise apply vascular pressure to cut off blood flow to the brain unless the employe reasonably believes that such force is necessary to prevent imminent death or great bodily to himself or others.
- (2) When used in this section, these words or terms shall have the following meaning and import:
- (a) *Property*: Anything of value.
 - (b) *County property*: Any property owned or leased by or in the custody or control of the county.
 - (c) *County premises*: Any building or structure or part thereof or any lands owned, leased or in the custody or control of the county or devoted to use by the county.
 - (d) *County*: Milwaukee County, a municipal body corporate, and all of its agencies, boards, commissions, institutions, departments and divisions.
 - (e) *Chokehold or choke hold*: The application of any pressure to the throat or windpipe which may prevent or hinder breathing or reduce intake of air.
 - (f) *Asphyxia*: A lack of oxygen or excess of carbon dioxide in the body which may cause unconsciousness or death.
 - (g) *Carotid hold or carotid restraint*: The application of any pressure to the throat which may prevent or hinder blood flow to the brain.

(3)

A copy of this section, with any amendments thereto, shall be submitted to the head of every department to be posted by him or her in such manner as to bring it to the attention of all employees of such department.

Section 5. - Rehearing.

Petitions for rehearing of persons discharged or demoted must be filed with the commission within two (2) weeks after the order of discharge has been entered. Such petition shall be granted only where it is shown and established that evidence can be presented which the petitioner could not by the exercise of diligence have discovered and submitted at the original hearing or investigation, which evidence would have been sufficient if there presented to have changed the findings of the investigating officer or board. The petition shall state the grounds upon which it is based, verified by affidavit.

Section 6. - Merit system violations.

- (1) Any supervisor, employee or member of the public may file a complaint with the commission alleging a violation of the merit system at any time within ninety (90) days of the alleged violation or within ninety (90) days after the party knows or should reasonably have known of the alleged violation. The complaint shall state with specificity the alleged merit system violation.
- (2) The commission, shall, within twenty-one (21) calendar days after receipt of the complaint, schedule and conduct a prehearing giving notice of the time and place thereof to the complainant and the person or persons against whom the violation is alleged. At the prehearing conference, dates shall be set for the hearing of any motions and further, the scheduling of a hearing date. The hearing may be adjourned from time to time for cause shown.
- (3) At the termination of the hearing, if the commission determines that the allegations have not been proved, the complaint shall be dismissed. If the commission finds that the allegations have been proved, the commission shall take action as it deems necessary and proper to remedy the effects of the violation and shall issue findings of fact and conclusions of law.
- (4) The decision of the commission shall be final and binding.
- (5) This rule shall not be used for the purpose of replacing or circumventing ordinances, procedures or contractual provisions for the adjustment of employee grievances.

MILWAUKEE COUNTY PERSONNEL REVIEW BOARD

RULES OF PROCEDURE

(Pursuant to Milwaukee County Code of General Ordinances Section 33.03(3))

Effective: April 4, 2023

TABLE OF CONTENTS

PREAMBLE	iii
STATUTORY REFERENCE	iii
RULE I.....	1
OFFICERS AND DUTIES	1
RULE II	1
QUORUM.....	1
RULE III	1
MEETINGS AND NOTICES.....	1
Section 1 Notice of all Meetings	1
Section 2 Accessibility of Meetings.....	1
Section 3 Other Business for PRB Consideration	2
Section 4 Notices Relating to Proposed Closed Sessions	2
Section 5 Disqualification of PRB Members	2
RULE IV	2
CONDUCT, PROCEDURES OF MEETINGS, AND MINUTES OF MEETINGS	2
Section 1 Public Comment Before a Vote Is Taken.....	2
Section 2 Voting.....	2
A. Voting Procedure	2
B. PRB Actions Involving a Tie Vote.....	2
Section 3 Minutes and Recordings of All Meetings	3
RULE V	3
PROCESSING OF DISCIPLINARY CHARGES AND HEARINGS.....	3
Section 1 Who Can File Charges	3
Section 2 Contents of Charges	4
A. Format.....	4
B. Time Limits for Filing/Suspension Pending Hearing.....	4
C. Limits of Jurisdiction/Waiver of Hearing.....	4
Section 3 Scheduling of Hearings	5
A. Hearing Within 21 Days Unless Continued/Adjourned	5
B. Waiver of Right to Hearing Within 21 Days.....	5
C. Continuations/Adjournments Must Be for Good Cause.....	5
D. Notice to Parties of Hearing and Adjournments.....	5
E. Notice to Witnesses	6
Section 4 Charges of Off-Duty Criminal Activity	6
Section 5 Representation of Parties.....	6
Section 6 Adjournments	6
Section 7 Petition for Rehearing	6
Section 8 Amendments to Charges	6
RULE VI.....	7
CONDUCT OF HEARINGS	7
Section 1 Admissibility of Evidence.....	7
Section 2 Time Limits to Hearings	7
Section 3 Examination of Witness	7
Section 4 Exhibits.....	7

Section 5 Order of Testimony	8
Section 6 Subpoena and Witness Fees	8
Section 7 Legal Briefs	8
Section 8 Burden of Proof.....	8
Section 9 Employee Reevaluation Period	8
Section 10 Motions.....	9
A. Motions to Dismiss Based on Lack of Subject Matter Jurisdiction	9
B. Other Motions.....	9
Section 11 Withdrawal of Charges.....	9
A. When Charges May Be Withdrawn.....	9
B. Reinstatement of Employee upon Withdrawal of Charges	9
Section 12 Dismissal of Charges.....	10
Section 13 Employee Grievances.....	10
RULE VII.....	10
ADMINISTRATIVE BUDGETARY FUNCTIONS	10
RULE VIII	10
AMENDMENTS TO RULES	10
RULE IX.....	10
PROVISIONS FOR TRANSCRIPTS.....	10
RULE X	10
SERVICE UPON THE PRB OF LEGAL PROCESS	10
CODE REVISIONS.....	11

PREAMBLE

STATUTORY REFERENCE

WHEREAS, pursuant to Chapter 33 of the Milwaukee County Code of General Ordinances, the Milwaukee County Personnel Review Board (“PRB”) was established to administer the quasi-judicial duties formerly performed by the Milwaukee County Civil Service Commission as they relate to the discipline and discharge of County employees and the hearing of appeals of certain grievance in a fair and impartial manner; and,

WHEREAS, in accordance with the establishment of the Personnel Review Board, the duties and responsibilities set forth in Wisconsin Statutes Sections 63.10 and 63.12 and 17.207 of the Milwaukee County Code of General Ordinances relating to the discipline, discharge and grievance matters of employees have been delegated to the Personnel Review Board; and,

WHEREAS, pursuant to Section 33.03(3) of the Milwaukee County Code of General Ordinances, the Personnel Review Board has been given authority to adopt rules and regulations enabling it to properly conduct its hearings and to insure compliance with the due process rights of individuals as set forth in the Wisconsin Constitution and that of the United States of America; now, therefore,

BE IT RESOLVED that, pursuant to this grant of authority, the Personnel Review Board issues the following rules and regulations.

RULE I

OFFICERS AND DUTIES

The Personnel Review Board (“PRB”) shall annually elect a president and vice-president in November. The president, or vice-president in the absence of the president, shall act as chairperson of all meetings of the PRB. If both the president and vice-president are absent from a meeting, the PRB members present shall designate a PRB member to act as chairperson and preside over the meeting. The chairperson shall make rulings on the admission of evidence, legal objections, legal motions, and procedural questions that may arise. The chairperson’s ruling on procedural aspects of any meeting or hearing shall be final, except that any member of the PRB present at such meeting or hearing may request a vote by the PRB on the chairperson’s ruling. The chairperson’s decision may be overridden by a majority vote of the PRB members present at the meeting.

RULE II

QUORUM

A majority of PRB members shall constitute a quorum for the transaction of business of the PRB. All decisions of the PRB must be concurred in by at least a majority of those present at the hearing or meeting unless otherwise provided by these rules. If such a majority of the quorum is not reached with respect to the result of a disciplinary hearing, any member not present at a meeting during which any portion of a disciplinary hearing is heard may participate in any discussion surrounding or decision relating to such hearing if the missing member(s) listen to all recordings of the evidentiary hearing, review all exhibits admitted into evidence, confer with PRB members who were present as needed, and read all briefs submitted by the parties.

Meetings and hearings may be conducted via teleconference and/or videoconference. If a hearing is held in person, one or more of the Board members may appear virtually.

RULE III

MEETINGS AND NOTICES

Section 1 Notice of all Meetings

The PRB Administrator shall give notice of all meetings in conformity with the Wisconsin Statutes governing “Open Meetings of Governmental Bodies” (Wis. Stat. §§ 19.81–19.88). Notice of all meetings shall be furnished to the Courthouse Building Superintendent for public posting within the Courthouse, the County Board of Supervisors, and any other person or organization who requests such notice. The public meeting notice must list all locations where the meeting will be held, including the approximate time of when the PRB will be in each location. The PRB may cancel a scheduled or noticed meeting if no disciplinary matters are scheduled for the meeting.

Section 2 Accessibility of Meetings

All public meetings must be held in forums either real or virtual that are reasonably accessible to members of the public and shall be open to all citizens at all times the PRB meets in open session.

Section 3 Other Business for PRB Consideration

All agendas will include notice that the PRB will consider “Communications and/or comments from the public.” The purpose of this entry is to allow the public to raise any matters related to the work of the PRB not known at the time the agenda is drafted by the Administrator. Absent a showing of urgency, PRB action on any topics not specifically noticed in the agenda shall be considered by the PRB at an appropriate later meeting.

Section 4 Notices Relating to Proposed Closed Sessions

All notices relating to proposed closed sessions shall be reviewed by the PRB Administrator prior to publication to determine compliance with the Wisconsin Statutes Section 19.85(1).

Section 5 Disqualification of PRB Members

If a PRB member has a conflict of interest or bias related to a specific proceeding or matter, the PRB member shall not participate in the PRB’s consideration of that case. If a party believes a PRB member to have a conflict of interest or bias, the party may move for disqualification of that member. The remaining members of the PRB will vote as to whether the PRB member should be disqualified for that matter. A majority vote of the remaining members is required to disqualify a PRB member.

RULE IV

CONDUCT, PROCEDURES OF MEETINGS, AND MINUTES OF MEETINGS

Section 1 Public Comment Before a Vote Is Taken

Public comment may be allowed before any vote is taken on any agenda item discussed in open meetings. The chairperson may allocate an appropriate length of time for such comment.

Section 2 Voting

A. Voting Procedure

All votes by members of the PRB when the PRB is in open meeting shall be by voice, excepting a vote on whether the PRB should go into closed session. A roll call vote is required when requested by any PRB member. All motions made and carried to go into closed session shall be recorded in the minutes in such a manner that the vote of each member can be ascertained and recorded. All votes while in closed session shall be by voice vote, except if requested by a PRB member.

B. PRB Actions Involving a Tie Vote

In the event of a tie vote, the matter fails, and the case may be scheduled for a rehearing as provided in these rules.

Section 3 Minutes and Recordings of All Meetings

The minutes of all meetings shall be a summary of the events of such meeting and shall include those significant points brought to the PRB's attention by the public. The original minutes shall be recorded by the PRB's Administrator or designee.

Copies of approved minutes of every meeting, except those portions covering hearings of charges against employees, shall be submitted to the Chief Human Resources Officer; County Executive; Chair of the County Board; Chairs of the Finance, Personnel, and Audit Committees of the County Board; the Civil Service Commission; and any other persons requesting copies of said minutes. Submission of the copies shall be within two weeks following the meeting during which the PRB approves said minutes.

An audio recording of the open session of each meeting shall be made and retained by the PRB for at least seven (7) years. In addition, a video recording of the open session of each meeting may be generated by the virtual meeting software used by the PRB from time to time. If a video recording is generated, it will be retained under the default settings of the virtual meeting software unless otherwise determined by the PRB.

RULE V

PROCESSING OF DISCIPLINARY CHARGES AND HEARINGS

Section 1 Who Can File Charges

- A. It shall be the duty of the superior officer¹ to file charges against any person in the classified service and subordinate to that superior officer if, in that officer's opinion, there is cause for demotion, suspension, or discharge.
- B. If a superior officer neglects or refuses to file charges, it shall be the duty of the Chief Human Resources Officer to file charges if the Chief Human Resources Officer believes that there is cause to file charges against any person in the classified service.
- C. Any citizen, excepting parties mentioned in A and B above or an individual acting in a representative capacity for any group or organization, may file charges against any person in the classified service pursuant to the Wisconsin Statutes Section 63.10(1) as long as:
 - 1. The allegations contained in the charge are made under oath and formally notarized;
 - 2. Such allegations are supported by the affidavit of one or more witnesses who are alleged to have first-hand knowledge of the facts underlying the allegations; and
 - 3. The allegations and facts, if charged and established, would amount to cause for discharge of the officer or employee in the judgment of the PRB.

¹ Superior Officer, as used in this rule, shall include a person possessing appointing authority with the County, a department head, board chair, the County Election Commission, or the County Civil Service Commission.

Upon the filing of such charge, the Administrator shall verify compliance of such charge with C1 and C2 above; and, when so verified, the Administrator shall place said charge on the agenda for the PRB's determination as to whether the charges are grave enough to warrant a hearing.

Section 2 Contents of Charges

A. Format

Whenever a superior officer or the Chief Human Resources Officer has decided to charge any person in the classified service as acting in such a manner as to show him/herself to be incompetent to perform his/her duties or to have merited demotion, suspension or discharge or any citizen has decided to charge any person in the classified service as acting in such a manner as to merit discharge, that charging party shall file a complaint which sets forth:

1. The name of the person complained against;
2. A description of the act or omission complained of;
3. The date or dates such act or omission occurred;
4. The location where such act or omission occurred if relevant; and
5. A specific recitation of that portion of the rule or regulation allegedly violated by the person complained of.

B. Time Limits for Filing/Suspension Pending Hearing

All written charges or notices of suspension must be filed with the PRB within three business days² after the superior officer or Director of Human Resources takes disciplinary action within the jurisdiction of the PRB. All written charges or notices of suspension shall be filed at the PRB office during regular business hours.

For written charges of discharge, the superior officer or Director of Human Resources may suspend a person in the classified service pending review of the charges, provided that the complaint indicates that such a suspension has been imposed. Such suspension will be in full effect until the matter is decided by the PRB.

If written charges are not timely and properly filed with the PRB, the PRB will dismiss the charges and reinstate the employee with back pay.

C. Limits of Jurisdiction/Waiver of Hearing

Nothing in this section shall limit the power of a superior officer to suspend a person in the classified service for a reasonable period not to exceed ten days. If the person is suspended more than once within any six-month period for any length of time whatsoever, that person

² A "business day," as used in these rules, is defined as a day that the PRB staff office is open for business. If any deadline falls on a non-business day, the deadline rolls to the next business day. When calculating time periods stated in days under these rules, exclude the day of the event that triggers the period.

shall have the right to a hearing before the PRB for any suspensions subsequent to the first suspension within the six-month period, unless the employee so suspended, freely and in writing, gives notice to the PRB that he/she waives the right to such hearing.

Section 3 Scheduling of Hearings

A. Hearing Within 21 Days Unless Continued/Adjourned

Upon receipt by the PRB Administrator of a complaint or request for rehearing under Rule V, Section 7, of these rules, the PRB shall set a time and place for a hearing. Said hearing shall be held within 21 days of the receipt of the complaint or request, unless the hearing is:

1. Laid over by stipulation of all parties.
2. Laid over in the interest of fairness upon the PRB's own motion.
3. Laid over upon motion of the charged party.

B. Waiver of Right to Hearing Within 21 Days

Should the charged party, and/or their representative, request to lay over the hearing more than 21 days after the PRB's receipt of the complaint or request for rehearing, they must waive the right they have to a hearing within 21 days. Requests and notices of waiver can be made:

1. To the office of the PRB until the end-of-business the Friday before the charged party's initial hearing date. Such requests shall include a proposed date for the rescheduled hearing.
2. To the PRB at the charged party's initial hearing date.

The PRB accepts waivers at their own discretion. If the PRB's office does not confirm receipt of a waiver to a charged party and that party does not attend their initial hearing date, the PRB will determine whether the hearing shall proceed as scheduled.

C. Continuations/Adjournments Must Be for Good Cause

If a continuation/adjournment is not agreed to by all parties, the PRB may, upon presentation of a good cause, make a decision to continue/adjourn the matter. For adjournments of hearings beyond the initial hearing, refer to Section 6.

D. Notice to Parties of Hearing and Adjournments

Notice of hearing date and any adjournments thereof shall be given to the person filing the charges and the employee. If a representative appears on behalf of the employee, notices shall be given to the representative who shall have the responsibility to convey notice to the employee. Failure of the employee's representative to convey notice to the employee shall not constitute grounds for delay of any PRB action.

E. Notice to Witnesses

Each party is responsible for advising the party's own witnesses of any continuance or adjournment.

Section 4 Charges of Off-Duty Criminal Activity

Where charges filed by a superior officer, Chief Human Resources Officer, or a citizen contain allegations that an employee was involved in off-duty criminal activity, it is preferred that such complaint include a statement showing a substantial relationship between the employee's job and the alleged off-duty criminal activity. It is required of the charging party that such relationship is shown at the time of the hearing. If, at the time of hearing, a substantial relationship between the alleged off-duty criminal activity and the employee's job is not shown, the PRB will not sustain discharge and shall dismiss all charges against said employee and reinstate the employee with back pay.

Section 5 Representation of Parties

The superior officer, Chief Human Resources Officer, or citizen who files a complaint with the PRB may be represented at any PRB proceedings by counsel or other person authorized by the charging party. The person against whom charges are filed may appear in person and/or be represented by an attorney or other person authorized by the charged party. Failure of any party to appear at a hearing shall not preclude the PRB from proceeding with a hearing on any matter where notice was properly served upon all parties.

Section 6 Adjournments

Adjournment of any hearing other than the initial hearing may be granted upon written request which is received by the PRB Administrator at least three business days before the scheduled hearing date. Such written request must specify the reasons for the adjournment and shall contain a date when the person making such request will be ready to proceed. The Administrator will notify the PRB of the request. If the PRB approves such request, it shall set another date for the hearing. If it does not agree to the adjournment, the hearing shall proceed as scheduled. Any request for adjournment not made in compliance with this section will generally not be granted; however, the PRB may grant an untimely request for good cause.

Section 7 Petition for Rehearing

The petition for a rehearing of any PRB action must be made in writing and filed with the PRB Administrator within 30 days after the decision of the PRB has been made public. A rehearing by petition may be sought by any party to the action and shall only be granted when the petitioner demonstrates, by way of specific affidavit, to the PRB's satisfaction that the evidence petitioner expects to present at the rehearing could not, by the exercise of due diligence, have been discovered and submitted at the original hearing. Further it must be shown that such evidence is of such magnitude that, if proven at the hearing, it could have changed the findings of those PRB members who attended the hearing in question and participated in making the decision on same. The petition for rehearing shall include such affidavits as are necessary to describe the evidence expected to be presented at said rehearing and why such evidence was not presented at the original hearing.

Section 8 Amendments to Charges

Amended charges must be submitted to the PRB in writing and the employee may be given an opportunity to object to their submission. If the objection is sustained by the PRB, the Party requesting to amend the

charges may file them as new charges. Charges may be amended to cure technical defects; to clarify or amplify allegations in the charges; or to set forth additional facts or allegations related to the subject matter of the original charges. Amended charges, with the exception of technical defects, must be submitted at least 10 business days prior to the scheduled hearing.

RULE VI

CONDUCT OF HEARINGS

Section 1 Admissibility of Evidence

The PRB is not bound by the rules of evidence as contained within the Wisconsin Statutes. Irrelevant, immaterial, or unduly repetitious evidence will be excluded. Hearsay evidence will be admissible and given whatever weight or credence the PRB members wish such evidence to have. However, the PRB will not rely on uncorroborated hearsay evidence alone to sustain a finding. Summaries of records shall not be admissible as evidence unless the records from which the summaries are compiled are available for examination by opposing parties and the PRB members. A hearing may be delayed for purposes of allowing opposing parties to view the records upon which the summaries are compiled

Section 2 Time Limits to Hearings

Although each hearing is unique and may require longer or shorter sessions, the PRB expects that it will allot four hours or less (two hours for each side) for discharges and two hours or less (one hour for each side) for suspensions. Should either side believe that the hearing will require more time than what the PRB generally allocates, the party should notify the PRB or its office of the potential for a longer hearing prior to the meeting. The chairperson of the meeting has the right to ensure efficient conduct of hearings and provide opportunities for both parties to set forth their positions except to the extent that matters may be delaying or interfering with the efficiency of proceedings.

Section 3 Examination of Witness

A witness shall be examined first by the party who calls the witness. Witnesses generally testify by answering questions; however, an unrepresented party may testify in the narrative form to provide evidence on his or her own behalf. Generally, cross-examination of a witness is not limited to those matters to which a witness testified on direct examination. Direct and cross-examination shall not be interspersed with argument or commentary by the questioner. Parties may conduct redirect and recross-examinations to clarify witness testimony or address subject matter introduced during cross-examination. One party's witness may be called to testify again by the other party so long as the other party seeks new and relevant testimony not duplicative of the information already provided by the witness. A party shall not make statements relating to the admission of evidence while examining a witness.

Section 4 Exhibits

Copies of all proposed exhibits shall be provided to the Administrator to be marked appropriately and made available to the PRB, the opposing party, and the witness stand before being shown to any witness. Exhibits entered into record are to remain in the custody of the PRB's Administrator or designees unless withdrawn. In the event such exhibits are withdrawn, copies of such exhibits shall be submitted to the Administrator to be maintained in the file.

Section 5 Order of Testimony

In all cases, excepting a petition for rehearing or a grievance, the charging party shall proceed first with its evidence. The person charged in the complaint shall then have an opportunity to present evidence in defense of any charges. Further evidence, the nature of rebuttal, shall be allowed by the PRB upon motion of the party requesting the opportunity to present such evidence. In the case of a rehearing or a grievance, the petitioning party shall proceed first. The opposing party shall then respond, and any further evidence in the nature of rebuttal may be allowed at the discretion of the PRB.

Section 6 Subpoena and Witness Fees

Each party is entitled to call witnesses on his/her behalf. If requested by a party, the PRB shall supply the party with necessary subpoenas to compel the testimony of any witness. All officers and County employees shall attend and testify when requested to do so by the PRB. In the case of a refusal of any person to comply with a subpoena issued under this rule or to testify to any matter regarding which the person may lawfully be compelled to testify, the PRB may direct its legal counsel to begin proceedings in the Circuit Court of Milwaukee County to compel the person's attendance and/or testimony. The PRB may compel the production of documents consistent with Section 33.04(1) of the Milwaukee County Code of General Ordinances.

Pursuant to the Wisconsin Statutes Section 63.12(3), any person who is not in the civil service of Milwaukee County and appears before the PRB by order of the PRB shall receive witness fees and mileage as provided for a witness in a civil action in Milwaukee County Circuit Courts, and such fees will be paid by the PRB. No witness subpoenaed by the PRB at the insistence of any party other than the PRB will be entitled to witness fees or mileage unless the PRB certifies on the record that the witness's testimony was both relevant and material to the matter heard by the PRB. In cases where the PRB does not pay witness fees or mileage, the party who subpoenaed the witness is responsible for payment of such fees.

Section 7 Legal Briefs

The PRB, on its own motion or upon the request of any party, may allow parties to submit legal briefs or memoranda in support of their respective positions. When such briefs or memoranda are requested, copies shall be submitted to the PRB Administrator and to each opposing party. At the time legal briefs or memoranda are requested, the PRB may set a schedule for filing of same.

Section 8 Burden of Proof

The party who brings charges or petitions for a rehearing shall have the burden of proving the allegations by a preponderance of evidence on all complaints or petitions, other than allegations that the employee complained of engaged in criminal activity. In order to sustain a complaint or petition alleging criminal activity as the basis for the charges, the allegations of criminal activity must be proven by clear and convincing evidence.

Section 9 Employee Reevaluation Period

In addition to those sanctions authorized by Wisconsin Statutes Section 63.10(2), the PRB, at its option, may provide for an employee reevaluation period imposed upon the party(ies) following the PRB's post-hearing findings that charges filed against the employee were well-founded and the facts and circumstances of the case dictate the remedy's use.

The length of the employee reevaluation period and the employee conduct to be rectified during that period will be decided, identified, set forth, and disclosed to the parties by order of the PRB upon approval or imposition of the employee reevaluation period. A decision detailing the conduct for which an employee may be separated without recourse to the PRB will be made in each case where the PRB approves or imposes a reevaluation period in accordance with this rule. The employee reevaluation period shall provide the employee an opportunity to rectify the conduct delineated by the PRB so as to conform to the standards required by county management for such conduct, and the employee shall be on notice from the time of approval or imposition of the employee reevaluation period that failure to rectify said conduct to the satisfaction of county management may result in the employee's being separated from county employment by the appointing authority at any time during the employee reevaluation period. Such separation during the employee reevaluation period shall be without further review by the PRB. In the event the appointing authority does separate the employee prior to completion of the employee reevaluation period, it shall submit to the PRB, on a form provided, a written statement giving the date and reasons for such separation.

The employee reevaluation period shall not affect the employee's status as it relates to working conditions, employee benefits, or those protections afforded under the Wisconsin Statutes Section 63.10 that are unrelated to the conduct for which the PRB has approved or imposed the employee reevaluation period.

The above Reevaluation Period differs from a Last Chance Agreement, which is negotiated between the parties, with a copy of the Agreement being provided to the PRB to be acknowledged and placed on file.

Section 10 Motions

A. Motions to Dismiss Based on Lack of Subject Matter Jurisdiction

A party may move at any time to dismiss the charges because the PRB does not have subject matter jurisdiction. The PRB may also raise issues on its own motion relating to its jurisdiction to hear the charges. Each party shall be afforded an opportunity to make oral arguments regarding such a motion. The PRB may request written arguments/further briefing on the issue at its discretion.

B. Other Motions

All other motions to the PRB, unless made during a hearing, shall be made in writing, state with particularity the grounds therefor, and set forth the relief or order sought. The PRB shall set a time for the opposing party to respond.

Section 11 Withdrawal of Charges

A. When Charges May Be Withdrawn

The charging authority or his/her representative may withdraw a case at any time prior to a matter proceeding to hearing.

B. Reinstatement of Employee upon Withdrawal of Charges

If an employee was suspended without pay prior to the withdrawal, said employee shall be reinstated as of the date of suspension.

Section 12 Dismissal of Charges

Any dismissal order issued by the PRB shall be on the merits unless otherwise expressly stated. The PRB may request the filing of a copy of any settlement prior to dismissing a case.

Section 13 Employee Grievances

Pursuant to Section 17.207(7)(e)(1) of the Milwaukee County Code of General Ordinances, the PRB shall hear appeals of grievances as they are defined in the Ordinances that have reached step five of the County's grievance procedure. The PRB will first determine whether the appeal fits the definition of a grievance under Section 17.207(1) and whether the employee has correctly followed the previous steps in the grievance procedure. The PRB will review the record of the case, hold a hearing thereon as soon as practical, and notify all interested parties of its decision within ten business days following the completion of the hearing.

RULE VII

ADMINISTRATIVE BUDGETARY FUNCTIONS

The PRB shall authorize by formal vote the PRB's annual budget and any subsequent requests for additional funds to that budget or requests for carrying over of funds to the following year to complete unfinished business. The Administrator shall administer all lawful payments from the authorized budget as set forth by the PRB.

RULE VIII

AMENDMENTS TO RULES

These rules may be amended, modified, or repealed by a majority of the members present at a meeting of the PRB. Advance notice of an intended rule change will be made at least one PRB meeting prior to any action taken by the PRB.

RULE IX

PROVISIONS FOR TRANSCRIPTS

The official record of a PRB hearing is the audio recording of the meeting. The parties, courts, or others may request copies of the recordings to prepare a written transcript of a hearing; however, both the recording and the written transcript must be obtained by the requester at its own cost. The original of such transcript ordered shall be filed with the PRB Administrator. The PRB will only bear the cost of any transcripts ordered for its own purposes.

RULE X

SERVICE UPON THE PRB OF LEGAL PROCESS

Service of legal process shall be deemed effective when made upon the Administrator or upon the president or vice-president of the PRB in accordance with the Wisconsin Statutes Section 801.11(4)(a)(7).

Effective as approved this 4th day of April, 2023.

MILWAUKEE COUNTY PERSONNEL REVIEW BOARD

CODE REVISIONS

- | | | |
|----|--------------------|---|
| 1. | April 4, 2023 | Revised Rule IV, Section 3. |
| 2. | October 18, 2022 | Removed Provisions Created July 19, 2005; Revised Rule II; Created Rule V, Section 3B – Waiver of Right to Hearing Within 21 Days; Created Rule VI, Section 13 – Employee Grievances; General Revisions Throughout. |
| 3. | January 30, 2018 | Added Telephonic Meeting Provision to Rule II. |
| 4. | February 3, 2015 | Created Rule III, Section 2 – Accessibility of Meetings, Rule VI, Section 2 – Time Limits to Hearings; General Revisions Throughout. |
| 5. | July 19, 2005 | Created Rule V, Section 1. D filing of Ethics charges; amended by adding Rule V, Section 2 A. what must be filed on Ethics charges; created Rule VI, Section 12 – Hearing Examiner for Ethics Charges. |
| 6. | February 3, 2004 | Created Rule III, Section 4 – Disqualification of PRB members, relating to recusal. |
| 7. | May 6, 1997 | Created Rule VI, Section 9 – Motions |
| 8. | February 28, 1988: | Created Rule VI, Section 8 – Employee Reevaluation Period |