

## **MERIT APPEALS BOARD**

### **General Information on Appeals to the Board**

The Merit Appeals Board (MAB) exists to hear appeals on personnel and employment actions taken by State officials.

By law, the Board can hear appeals only from specific individuals who wish to contest certain types of actions. Please refer to MAB Fact Sheet B to ensure that the action you wish to appeal is within the jurisdiction of the Board and that you are eligible to file an appeal. This table will also tell you how long you have to file the appeal.

The purpose of the Board is to assure that:

- appellants have not been deprived of a right by an action of the State and
- all actions taken by the State meet legal and regulatory requirements.

The Board will not hear appeals or change employment actions simply because the individual is unhappy with the situation or the action taken.

The Board cannot hear appeals from persons who have filed, or will file, a grievance on the same matter through the collective bargaining grievance procedure.

The Board also can only hear appeals from persons who have already pursued their complaint through the appropriate "Internal Complaint Process" and are dissatisfied with the action taken on that complaint. If you have not filed a complaint through the "Internal Complaint Process" you must do so before you can submit an appeal to the Merit Appeals Board. MAB Fact Sheet C shows where you can get a form to file an Internal Complaint.

All appeals filed with the Board must be submitted on the proper form (MAB -1 "Appeal to the Merit Appeals Board"). You must also attach copies of all required documents (e.g., the letter or other notice informing you of the original action and the documents from the Internal Complaint process, etc.).

The Board will check your appeal when it is received to ensure that:

- you have provided all of the necessary information and
- the action you wish to contest can legally be heard by the Board.

The Board will notify you within 45 days that your appeal was received and whether it is in order.

If the appeal is in order, the Board will schedule a hearing of your case at a later date. Since hearings are generally scheduled on a first in-first out basis, it may be some time before your case is heard. You will be notified by certified mail when the Board is ready to schedule your case. You will also be provided, at that time, with additional material describing the hearing process so that you will know what to expect at the hearing and informing you of any additional information needed by the Board.

In hearing appeals, the Board will usually limit its review to deciding whether the action taken was done properly, in accordance with laws and rules governing employer actions. You should also be aware that for most appeals, you will be expected to demonstrate that the action taken was not correct or not done correctly (i.e., the burden of proof lies with the person appealing the action and not on the person who took the action). However, in cases involving suspensions, demotions and dismissals, the burden of proof lies with the employer.

You may choose to be assisted or represented by another individual or, if you are a State employee, by your union or employee organization, in filing your appeal and/or presenting your case to the Board.

If you need help in filling out the appeal form "Appeal to the Merit Appeals Board" you may call 587-1104.

If the action you wish to appeal was taken by the Judiciary or the Hawaii Health System Corporation, please contact them for appeal forms since appeals on such actions are not heard by the Merit Appeals Board.