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decision.
The Appointing Authority may elect to respond at the appeal hearing and provide a recommended alternative disciplinary action. In such instance, the Board may render its final decision at that time, or postpone its final decision until a later date. Otherwise, the Appointing Authority shall respond to a request to provide a recommended alternative disciplinary action in writing, not later than 15 calendar days following the appeal hearing. The Board shall then render its final decision at the next regularly scheduled Board meeting.

10-3 In rendering its findings and decision regarding grievance appeals, the Board shall decide the following issues:

a. Has the Appellant shown that the action complained of should be modified or revoked?

In the event of a tie vote, the action is upheld.

b. If the evidence supports the modification of the action complained of, what modification should take place?

Notwithstanding any of the above, the Board shall be without jurisdiction to hear a grievance appeal from an individual who is no longer in the Classified Service at the time of his/her scheduled appeal hearing.

Section 11. Request For Reconsideration

11-1 In the case of an appeal hearing under Personnel Rule 6 or 7, either Party may, within 15 calendar days of receipt of the Board’s decision, file a motion requesting it to reconsider, modify, or amend its findings and/or decision. However, such a request will only be granted if:

a. The proposed modification or amendment is based upon evidence previously presented or is based upon newly discovered evidence which, by due diligence, could not have been discovered prior to the appeal hearing; and

b. A showing is made that the Board’s decision was made through or based upon fraud, collusion, deceit, or mistake of fact or law.

Some examples of appropriate cases for reconsideration are:

a. The Board has overlooked or misinterpreted points of law or fact;

b. There was a misrepresentation or misconduct at the appeal hearing by the Opposing Party; or
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c. There is a showing that false testimony or evidence was submitted.

11-2 The Motion for Reconsideration may be made by a formal motion or in letter form (see Appendix F) and addressed to the Director. It should contain a brief summary of the reasons for the reconsideration, modification, or amendment. The Motion for Reconsideration may be amended or supplemented at any time prior to 10 calendar days before the hearing at which it is scheduled to be heard.

11-3 The Motion for Reconsideration should be heard at the next available Board meeting but may be continued by the Chair at the request of either Party. The Motion for Reconsideration must be heard within 90 calendar days of the Finding and Decision of the Board. The burden shall be on the movant to prove that a reconsideration is necessary and must be supported by references to the transcript or other evidence as allowed in §11-1. Such new evidence or copies of the relevant portion of the transcript must be provided to the Director no later than 10 calendar days prior to the hearing.

Section 12. Classification Appeals

12-1 Classified employees who have had their positions downgraded as a result of a classification and/or pay grade review have the right to a reasonable opportunity to be heard by the Board.

12-2 If, after an informal hearing before the Director, in a manner and form to be determined by the Director, an Employee is still not satisfied with the position reclassification or pay grade determination, he or she may, within 15 calendar days request an opportunity to be heard by the Board.

12-3 Classification appeals shall be subject to scheduling as determined by the Director, but shall be heard within 120 days of the Employee’s request to be heard.

12-4 The classification appeal shall be a review of the evidence and materials which were presented and considered during the informal hearing process before the Director. The parties shall exchange written materials to be considered by the Board not later than 14 calendar days prior to the hearing date, and such materials shall not exceed 50 pages in length. At a minimum, the package submitted by the Human Resources Department shall include the Job Assessment Tool completed by the affected Employee, a copy of the Employee’s completed appeal form, and the response from the Director to the Employee’s appeal form.

12-5 During the appeal hearing, the Employee making the appeal will be allowed up to 30 minutes to present his or her arguments. The Human Resources Department staff will then be allowed up to 30 minutes to present their
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arguments. Each Party, in the same order, shall be permitted up to 10 minutes to rebut the other side’s argument.

12-6 Following the presentation of arguments and rebuttal, the Board will decide the following issues:

a. Do the arguments and documentary evidence submitted show the classification or pay grade decision by the Director should be changed?

In the event of a tie vote, the action is upheld.

b. If the evidence submitted shows that the classification or pay grade decision should be changed, what should that decision be changed to?

12-7 The Board’s decision regarding classification appeals shall be final.

12-8 The burden shall be on the Appellant to show by a preponderance of the evidence that the action taken by the Director should be changed.

Section 13. Waiver/Withdrawal of Appeals

13-1 Failure of an individual to file an appeal within the time frame specified under the respective Personnel Rule shall constitute a waiver of the individual's right to an appeal, unless there is a showing, by a preponderance of evidence, that such failure to comply was due to fraud, mistake of fact, or excusable neglect. When an appellant has failed to comply with the time frame requirement, the Board shall conduct a separate hearing to make a determination as to whether the appellant should be treated as having waived his/her appeal rights. In any event, the Board shall be without jurisdiction to hear any appeal which has not been filed within 30 days of the effective date of the disciplinary or aggrieved action.

13-2 Parties to an appeal are expected to appear at noticed pre-hearing conferences and appeal hearings. Upon motion and a showing that an appellant had notice of and failed to appear at a scheduled pre-hearing conference or appeal hearing, the Board may treat such failure to appear as a voluntary withdrawal of the appeal. Notice of the motion shall be provided by the Moving Party via regular U.S. Mail to the Non-Moving Party at his or her last known address. The Human Resources Department will notify both parties of the date and time of the meeting where it will be heard by the Board.

Section 14. Waiver of Procedure for Good Cause

Except as set forth in Section 13, upon motion of a Party the Board may waive the application of any part of the Appeal Procedures upon a showing of good cause and lack of unfair prejudice to the Opposing Party.
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Section 15. Quorum

Quorum for appeal hearings shall consist of five Board members. Appeals shall be decided by a majority vote.
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