

THE WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

HEARING PROCEDURES ORDER

The Grievance Board offices reopened to the public on May 21, 2020, and has resumed conducting proceedings. In consideration of the need to protect the health and safety of the public and in consideration of the administrative orders issued by the West Virginia Supreme Court of Appeals on May 6, 2020, and the Chief Judge of the Thirteenth Judicial Circuit, Charles E. King, Jr., on May 11, 2020, the following procedures are deemed necessary to conduct level three hearings in a safe and responsible manner. **Failure to comply with the following may result in removal from the hearing and may result in the exclusion of evidence or witnesses.**

Therefore, it is **ORDERED**:

1. Hearings may proceed in person or by videoconferencing at the discretion of the administrative law judge.
2. The Grievance Board is using private Zoom videoconferencing, which allows parties to participate using any device with an internet connection and video camera, including smartphones. Zoom also allows parties who do not have access to the internet to participate by dial-in telephone connection.
3. The administrative law judge completely controls who has access to the videoconference so that no person who is not authorized can enter. Only persons who have been provided a link to the videoconference can join the videoconference. In addition, each person attempting to join the videoconference is placed in a virtual “waiting room” and can only enter into the videoconference if approved by the administrative law judge, ensuring that the hearing remains private.

4. The administrative law judge may direct the hearing proceed by videoconferencing without the agreement of the parties but if the parties agree to conduct the hearing by videoconferencing, the parties shall submit their agreement in writing, which may be done by email, to the assigned administrative law judge for review.

5. Any individual with a concern about appearing in person at the hearing shall place their concern and requested accommodation in writing to the assigned administrative law judge for review.

6. The party calling a witness is responsible for explaining the relevant portions of this order to the witness.

7. No person may appear at the Grievance Board's offices if they have a fever or other COVID-19 symptoms or if they have been directly exposed to a known or suspected case of COVID-19.

8. All persons entering the Grievance Board offices shall wear a face covering, unless wearing a face covering is not advisable due to health concerns. Face coverings will not be provided by the Grievance Board. If any person has an objection to wearing a face covering, they shall notify the administrative law judge in writing prior to their appearance.

9. All persons entering the Grievance Board offices shall maintain appropriate social distancing of six feet.

10. For hearings to be conducted in person, witnesses shall appear by telephone unless in-person testimony is crucial.

11. For hearings to be conducted by videoconference, the party calling the witness must provide the witness with the videoconferencing link that will be provided to the parties by Grievance Board staff.

12. Witnesses who must appear in person will be required to wait in their vehicle. The witness shall report to the hearing location at the appointed time and call the Grievance Board's main number to report their presence. If the witness does not have a cell phone, they may enter the building to report their presence. Witnesses will be called into the building only when it is their time to testify.

13. The parties shall confer well in advance of the hearing to estimate the order and approximate length of testimony for witnesses and whether it is necessary for the witness to appear in person. As witnesses who are required to appear in person will be waiting in their vehicles, the party calling a witness shall provide the witness with an estimated time of their testimony to minimize wait times.

14. For hearings to be conducted in person, the parties' witness lists shall indicate whether the witness will appear in person or by telephone, including the telephone number. If there is a confidentiality concern, the party may provide the telephone number privately to the Grievance Board in a separate communication.

15. Requests for subpoenas shall indicate whether the request for testimony is by video/telephone or by person and the time at which the witness should appear.

16. Documents shall not be exchanged during the hearing.

17. All exhibits shall be provided to the Grievance Board and the opposing party no later than three business days prior to the hearing. Exhibits shall be provided by email unless the party does not have the ability to send the document by email. Employers shall permit grievants to use the employer's scanning equipment if such

equipment is available. Each party shall provide a descriptive list of exhibits and must identify each individual exhibit by number. The parties are encouraged to confer prior to the hearing and submit as joint exhibits any documents that are in common.

18. The parties shall provide copies of any document to be used in questioning a witness to the witness prior to the hearing, whether the witness will appear by telephone/video or in person. Parties will not be permitted to hand documents to witnesses during the hearing.

19. Water will not be provided. Parties may bring their own beverages in a closed container.

Entered this 29th day of June, 2020.

Billie Thacker Catlett
Chief Administrative Law Judge