

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.

Information on Filing Appeals with the Merit Appeals Board (MAB)

MAB cannot hear appeals on employment matters in the Hawaii Health Systems Corporation, the Judiciary, the Department of Education or any county. Please contact those agencies directly to determine their appeal procedures.

What May be Appealed	Who May Appeal ^(b)	Filing Deadlines
Recruitment Announcement and Application for Employment <ul style="list-style-type: none"> • All aspects of responding to a recruitment advertisement or a vacancy announcement, and • All aspects of filing an application for a civil service position with the State, including rejection of the application due to filing after the closing date. 	Any person who filed an application or attempted to file an application except a State employee who is eligible to file a collective bargaining grievance on the matter.	20 calendar days after the date of the action on the Internal Complaint ^(b)
Examination and Selection Actions including: A decision that you do not meet qualification requirements or suitability requirements for the position <ul style="list-style-type: none"> • Test results • Interview and/or interview results ^(a) • Non-selection for position ^(a) 	Any person who applied for the position except a State employee who is eligible to file a collective bargaining grievance on the matter.	20 calendar days after the date of the action on the Internal Complaint ^(b)
Termination during initial probationary period Only terminations for failure to successfully complete the initial probation	Any employee serving an initial probationary appointment to a civil service position.	20 calendar days after the date of the action on the Internal Complaint ^(b)
Classification and Reclassification Actions The assignment (allocation) of your position to a class of work including <ul style="list-style-type: none"> • Change in the classification title (class) • 'No Change' action that confirms the current title (class) 	Any civil service employee in the position during the period between the effective date of the classification action and the date the action was taken on the position except a State employee who is eligible to file a collective bargaining grievance on the matter.	30 calendar days after the date of the action on the Internal Complaint ^(b)
Initial Pricing Action The assignment of a new class to a pay grade	The civil service employee in the position as of the effective date of the action taken except a State employee who is eligible to file a collective bargaining grievance on the matter.	30 calendar days after the date of the action on the Internal Complaint ^(b)
Other employment action taken by the employer, such as: <ul style="list-style-type: none"> • Suspension • Demotion • Discharge or Dismissal • Other adverse actions ^(c) 	Employee who is: <ul style="list-style-type: none"> • Adversely affected or has suffered a legal wrong and • Excluded from collective bargaining coverage and • Holds a civil service position. 	30 calendar days after the date of the action on the Internal Complaint ^(b)

^(a) Matters covered by a collective bargaining grievance procedure may not be appealed to the Merit Appeals Board

^(b) The Law and Rules require that a person try to resolve their complaint through the Internal Complaint process before an appeal can be accepted by the MAB.

^(c) The Law prohibits an appeal by an employee who is returned to a former position because of inefficiency during the new probationary period.

Internal Complaint Process Procedures

Persons wishing to file an appeal with the Merit Appeals Board (MAB) must first complete the Internal Complaint process. The Internal Complaint process may result in rapid resolution of complaints, without the necessity of a formal hearing by the MAB.

Obtain a copy of the Internal Complaint form from the following agencies, and file your complaint with the same agency, if you are:

A Current State Employee:

The Personnel Office of your department (for example: Department of Health Personnel Office if you are a DOH employee, etc.)

An applicant for State employment other than a State employee:

If you filed your employment application form with the Department of Human Resources Development (HRD); you should obtain the Internal Complaint Form from HRD and file your complaint with HRD at:

Department of Human Resources Development
235 South Beretania Street, Room 1100
Honolulu, Hawaii 96813

You may call (808) 587-1100 to have a copy of the form mailed to you.

❖ ***Important Note: If you filed your application with another State Department (rather than HRD), you should obtain an Internal Complaint Form from that same office.***

Merit Appeals Board

Additional information on the Merit Appeals Board can be found on the Internet. If you do not have access to the internet at home or at your office, you may use the computers at your public library to review these materials:

Rules: <http://www.hawaii.gov/hrd/main/ecd/mab/>

Statutes: http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0076/
(Relevant statutes are found in Chapter 76, Sections 14 and 47)

Appeal to the Merit Appeals Board

Please refer to "Information on Filing Appeals with the Merit Appeals Board" for added information on what may be appealed to the Board and who is eligible to appeal

Name _____
Address _____

Phone _____
(daytime)

Instructions:

1. Complete Section A, B **or** C (check the boxes to identify the action(s) you wish to appeal).
2. Complete sections D, E, F **and** G.
3. Attach copies of all documents requested in D 1 and E.
4. Mail or deliver the **original and six copies** to the Merit Appeals Board.

A - The following types of actions can be appealed by any person applying for a civil service job in the State government

1. Recruitment/Application Actions (all aspects of responding to a vacancy announcement and filing an employment application)
 - Rejection of my application because the filing date had closed
 - Other (identify in D-1)
2. Examination Actions:
 - The ruling that I do not meet qualification requirements
 - The ruling that I do not meet suitability requirements
 - Test results (if applicable)
 - Interview and/or interview results
 - Non-selection for position
 - Other (identify in D-1)

Show the title of the job for which you applied _____

3. Termination during my initial probationary period

B - The following types of actions can only be appealed by current employees of the State who occupy a civil service position:

4. Classification action on my position (existing civil service employees only)
5. Initial pricing of the class to which my position is assigned (existing civil service employees only)

C - The following types of actions can only be appealed by employees in the employ of the State who occupy civil service positions and are excluded * from collective bargaining

6. Adverse actions taken by the employer
 - Suspension
 - Demotion
 - Dismissal/Discharge
 - Other (describe the action in Section D 1, below)

* Excluded from collective bargaining means a person who is barred from belonging to a bargaining unit by Chapter 89-6, Hawaii Revised Statutes, and therefore is not covered by a collective bargaining agreement.

D - Action you wish to appeal

1. Action taken (Attach copy of notice informing you of the action. If you did not receive a notice, identify the kind of action and the date of the action).

2. What do you believe to be incorrect or improper about this action?

3. What do you believe should have been done?

4. What action do you want the Board to take?

E - Attach a copy of the Internal Complaint form (or Request for Administrative Review) you submitted and the reply you received

F - If a union representative or other person will represent you, indicate the person's name, union or organization, mailing address and phone number

Name _____ Union/Organization _____

Address _____

Phone Number _____

G - If you are a State employee, indicate your job title and department

Title _____ Department _____

H- Signature and Date

_____ Signature

_____ Date

MAB use only

Date Rec'd _____

Notice of Receipt

Hearing Date _____

Screened by _____

To Appellant _____

Notices Sent _____

Accept

To Respondent _____

Reject