

**PERSONNEL BOARD OF APPEALS  
AND APPEALS THEREFROM**

**POLICY AND PROCEDURE**

**A. Personnel Board of Appeals**

**A.1** The Personnel Board of Appeals shall be comprised of three individuals and one alternate who are to be appointed by the County Board. Board members shall serve staggered terms of three years. Expiration dates for expiring terms shall be fixed by the County Board, and vacancies shall be filled by a majority vote of the County Board for the unexpired term.

The alternate shall serve when regular appointee is not able to serve. In so serving, the alternate shall have all of the rights, duties, and responsibilities in fulfilling his/her role as a member of the Personnel Board of Appeals.

**A.2** Persons appointed to the Personnel Board of Appeals must fulfill the following criteria:

- (1) Shall be a resident of the county.
- (2) Shall not hold any county office (elected or appointed) or be a candidate for any county office (elected or appointed) while serving on the Personnel Board of Appeals.
- (3) Shall not be employed by the county in any capacity or held a county position within one year of appointment.

**A.3** Forfeiture of service on the Personnel Board of Appeals shall occur if the above-mentioned criteria in 1, 2, or 3 are not met.

**A.4** Upon not less than ten (10) working days written notice, an appointee may be removed by the County Board. Before official removal is made, the appointee must receive a copy of the reasons and be given opportunity of being publicly heard before the County Board. A majority vote of the County Board shall be required for removal.

**A.5** Compensation for members of the Personnel Board of Appeals shall be set by the County Board and each member shall be paid actual and necessary expenses.

**A.6** The Personnel Board of Appeals shall organize by

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electing a chairperson and vice-chairperson and shall develop rules of procedure for matters brought before it under the provisions of Minnesota Statutes Section 375.56 to 375.71 and rules promulgated pursuant to said statutes.

**B. Jurisdiction of Personnel Board of Appeals**

**B.1** The Personnel Board of Appeals shall exercise the jurisdiction conferred by MS 375.66 with respect to an appeal by an applicant, employee, or appointing authority in the circumstances set forth hereunder. To the extent required for employees of departments and agencies paid in full or in part by federal funds, the findings of the Personnel Board of Appeals shall be final and binding if necessary to conform to a federal or state regulation affecting the department or position and hereafter known as **CATEGORY I APPEALS**. In all other cases, the Personnel Board of Appeals shall make findings and reports which shall be submitted to the County Board for consideration and action as deemed appropriate by the County Board and hereafter known as **CATEGORY II APPEALS**. The Personnel Board of Appeals shall meet and hear appeals in the following circumstances:

(1) Alleged arbitrary or capricious action on the part of the County Board with respect to final establishment of rules under Sections 375.56 to 375.71.

(2) Alleged discrimination by the Human Resources Director or the Director's employees in examination procedures or preparation of lists of eligible candidates, or discriminatory use thereof by the appointing authority under the provisions of Sections 375.56 to 375.71 or rules promulgated thereunder.

(3) Alleged misinterpretation or evasion by the Human Resources Director or the County Board of provisions of Sections 375.56 to 375.71 or the rules promulgated thereunder in a manner seriously detrimental to the party or parties bringing the appeal.

(4) Such other matters of grievance as may be provided for in rules promulgated under the authority of Sections 375.56 to 375.71.

**B.2** Procedures setting forth the methods and requisite

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timetable for appeals to this Board are set forth by this policy.

**C. Perfection of Appeal (Category I and II Appeals)**

**C.1** Notice of Appeal to the Personnel Board of Appeals shall be in writing, signed by the person making the appeal, and shall contain the appellant's name, position and department or office affected, and his/her home address and telephone number. The Notice of Appeal shall contain a statement of the action being appealed, a brief summary of the reasons for the appeal, and the remedy being requested. The Personnel Board of Appeals may, if it deems necessary, ask for a more complete statement.

**C.2** The appellant shall serve the written Notice of Appeal upon the Human Resources Department, Itasca County Courthouse, 123 4th Street NE, Grand Rapids, MN 55744-2600 within thirty 30 calendar days after the appellant's receipt of written notice of the adverse action. Appeals shall be deemed filed as of the date actually received in the Human Resources Department. Failure to file the appeal within the proper time, shall require dismissal of the appeal.

**D. Judicial Review**

**D.1** The Human Resources Director shall schedule a hearing before the Personnel Board of Appeals within ten (10) working days from the receipt of an appeal. The hearing shall be held no later than thirty (30) working days from the date of schedule.

**D.2** The hearing shall be presided over by the Chairperson of the Personnel Board of Appeals, or in his/her absence, the Vice Chairperson. Two members of the Personnel Board of Appeals shall be sufficient to hold a hearing and render a decision. The Personnel Board of Appeals may decide to uphold, reverse, or modify the action being appealed. When appropriate, the Personnel Board of Appeals may remand the case back to the respondent party for further action consistent with the Personnel Board of Appeal's decision.

**D.3** Both parties may call witnesses to testify at the hearing. All oral testimony shall be under oath or affirmation and tape recorded which shall be preserved

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at least until the time for further appeal has expired. The witnesses shall be sworn by the Personnel Board of Appeals Chairperson or as otherwise delegated. The Personnel Board of Appeals may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious shall be excluded. All evidence to be considered in the case, including all records and documents, shall be offered and made a part of the record in the hearing. No other factual information or evidence shall be considered in the determination of the case. A party may be represented by legal counsel throughout the proceedings. The appellant, as the aggrieved party, shall present testimony first. The employer may introduce testimony at the close of the appellant's case. Both parties may cross-examine witnesses. A party may present written argument. The Personnel Board of Appeals, on its own notion, may investigate the circumstances surrounding a complaint in any department for the purpose of resolving the grievance.

- D.4** Nothing in law shall be deemed to prevent resort to other means of review, redress, relief or trial de novo provided by law. The Personnel Board of Appeals does not have the right to amend, modify, nullify, ignore, add to, or subtract from the provisions of the Personnel Policy or collective bargaining agreements. The Personnel Board of Appeals considers and decides only the specific issue(s) submitted by the County and the appellant, and has no authority to make a decision on any issue not so submitted. The Personnel Board of Appeals is without power to make decisions contrary to or inconsistent with or modifying or varying in any way, the application of laws, rules, or regulations which have the force and effect of law. The findings are based solely upon the Personnel Board of Appeals' interpretation or application of the express provisions of the Personnel Policy or collective bargaining agreements and on the facts of the appeal presented. If the appeal is not covered by the express provisions of the Personnel Policy manual or applicable bargaining unit contract language, the Personnel Board of Appeals refers the appeal back to the County Board without other findings or reports.

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**D.5 Final Order on Category I Appeals.** At the close of the hearing, the decision of the Personnel Board of Appeals shall be based upon substantial and competent evidence. The Board shall make written Findings of Fact, Decision and Final Order within ten working days from the close of the hearing, and shall cause the same to be served by United States Mail upon the Appellant, the appointing authority, the County Board and the legal representatives of each of record. All records of proceedings of this Board, including exhibits, minutes and tape recordings shall be kept on file in the Office of the Human Resource Director.

**D.6 Recommendation in Category II Appeals.** At the close of the hearing, the decision of the Personnel Board of Appeals shall be based upon substantial and competent evidence. This Board shall make written Findings of Fact, Decision and Recommendation to the County Board within ten working days from the close of the hearing, and shall cause the same to be served by United States Mail upon the Appellant, the appointed authority, the County Board and legal representatives of each of record. All records of proceedings, including exhibits, minutes and tape recordings, shall be kept on file in the Office of the Human Resources Director.

**E. Post-Personnel Board of Appeals Review.**

**E.1 PROCEDURES GOVERNING CATEGORY I APPEALS.**

- A. JUDICIAL REVIEW. The employee or appointing authority who is a party to a Category I Appeal as defined in this policy and who is aggrieved by an Order of the Personnel Board of Appeals is entitled to Judicial Review of said Order under the provisions of Minn. Stat. 14.63 to 14.68, as amended.
- B. APPLICATION. A Petition for a Writ Of Certiorari by the aggrieved person must be filed with the Court of Appeals and served upon the Personnel Board of Appeals, Human Resources Department, Itasca County Courthouse, 123 NE 4th Street, Grand Rapids, MN 55744 not more than thirty (30) days after said party receives the Final Decision and Order of the Personnel Board of Appeals.
- C. PETITION; SERVICE. (1) The aggrieved party shall

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serve a Petition For A Writ Of Certiorari personally or by certified mail upon the Personnel Board of Appeals and by promptly filing the Proof of Service in the Office of the Clerk of Appellate Courts and the matter shall proceed in the manner provided by the Rules of Civil Appellate Procedure.

(2) Said aggrieved party shall serve copies of the Writ personally or by certified mail upon all parties to the proceedings before the Personnel Board of Appeals in which the Order sought to be reviewed was made. For the purpose of service, the Personnel Board of Appeals, upon request, shall certify to the Petitioner the names and addresses of all parties as disclosed by its records. The Personnel Board of Appeals certification shall be conclusive. The Personnel Board of Appeals and all parties to the proceeding before it shall have the right to participate in the proceedings for review. A copy of the Petition shall be provided to the Attorney General at the time of service of the parties.

- D. STAY OF DECISION; STAY OF OTHER APPEALS. The filing of the Writ Of Certiorari shall not stay (delay) the enforcement of the Decision of the Personnel Board of Appeals; but, said Board may do so or the Court of Appeals may order stay upon such terms as it deems proper. When review of, or an Appeal from, a Final Decision is commenced under Minn. Stat. 14.63 to 14.68 in the Court of Appeals, any other later Appeal under Sections Minn. Stat. 14.6 3 to 14.68 from the Final Decision involving the same subject matter shall be stayed until Final Decision of the first Appeal.
- E. TRANSMITTAL OF RECORD. Within thirty (30) days after service of the Writ Of Certiorari, or within any further time as the Court allows, the Personnel Board of Appeals shall transmit to the reviewing Court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the Court for the additional costs. The Court may require or permit subsequent corrections or additions to the record when deemed desirable.

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- F. NEW EVIDENCE; HEARING BY PERSONNEL BOARD OF APPEALS. If, before the date set for hearing, application is made to the Court of Appeals for leave (permission) to present additional evidence on the issues in the case, and it is shown to the satisfaction of the Court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the Personnel Board of Appeals, the Court may order that the additional evidence be taken before the Personnel Board of Appeals upon such conditions as the Court deems proper. The Personnel Board of Appeals may modify its Findings and Decision by reason of the additional evidence and shall file with the reviewing Court, to become a part of the record, the additional evidence, together with any modification or new Findings or Decision.
- G. PROCEDURE ON REVIEW. The review shall be confined to the record, except that in cases of alleged irregularities in procedure, not shown in the record, the Court of Appeals may transfer the case to the Itasca County District Court. The District Court shall have jurisdiction to take testimony and to hear and determine the alleged irregularities in procedure. Appeal from the District Court determination may be taken to the Court of Appeals as in other civil cases.
- H. SCOPE OF JUDICIAL REVIEW. In a Judicial Review hereunder, the Court of Appeals may affirm the Decision of the Personnel Board of Appeals, or remand the case for further proceedings; or, it may reverse or modify the Decision if the substantial rights of the Petitioners may have been prejudiced because the findings, inferences, conclusions or decisions are (a) in violation of constitution provisions; (b) in excess of the statutory authority or jurisdiction of the Personnel Board of Appeals; (c) made upon unlawful procedure; (d) affected by other error of law; (e) unsupported by substantial evidence in view of the entire record as submitted; or, (f) arbitrary or capricious.
- I. OTHER REVIEW. Nothing in Section XIV E.1.A-H shall be deemed to prevent resort to other means of

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judicial review, redress, relief or trial de novo  
provided by law.

**E.2 PROCEDURES GOVERNING REVIEW OF CATEGORY II APPEALS.**

- A. COUNTY BOARD REVIEW. The Findings of Fact, Reports, Decision and Recommendation of the Personnel Board of Appeals made in a Category II Appeal as defined in this policy shall be submitted to the County Board for consideration and action as deemed appropriate by the County Board.
- B. TIME OF REVIEW. County Board review shall be conducted within thirty (30) days of its receipt of the Findings and Recommendations of the Personnel Board of Appeals, or such later date as determined appropriate by the County Board.
- C. NOTICE. The Human Resources Director shall provide not less than five (5) days written notice of the date, time and location of the meeting at which the County Board shall conduct its review to each party to the Personnel Board of Appeals hearing, and their representatives, if any.
- D. PROCEDURE ON REVIEW. The County Board may limit its review to the Findings of Fact, Reports, Decision and Recommendation of the Personnel Board of Appeals, may permit additional evidence, may conduct a hearing de novo or may take such other action as it deems appropriate. Where the County Board permits additional evidence or a hearing de novo, all oral testimony shall be under oath or affirmation and tape recorded which shall be preserved. The witnesses shall be sworn by the Chair of the County Board. The County Board may admit all evidence which possesses probative value, including hearsay if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence which is incompetent, irrelevant, immaterial or unduly repetitious shall be excluded. All evidence to be considered in the case, including all records and documents, shall be offered and made a part of the record in the hearing. A party may be represented by legal counsel throughout the proceedings. The party aggrieved by the recommendation by the Personnel



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Board of Appeals shall proceed first, and the adverse party shall be permitted to respond at the close of the aggrieved party's case. Both parties may cross-examine witnesses. The County Board may permit oral arguments, written arguments or both. The County Board on its own motion may investigate the circumstances surrounding a complaint in any department for the purpose of resolving the grievance or dispute.

- E. DECISION. At the close of the County Board's meeting or hearing, the Decision of the County Board shall be based upon substantial and competent evidence. The County Board shall make written Findings of Fact, Decision and Final Order within ten (10) working days from the close of the hearing, and shall cause the same to be served by United States Mail upon each party to the County Board proceeding, their legal representatives of record, the appointing authority and the County Board. All records, minutes and tape recordings of the County Board proceedings shall be kept on file in the Office of the Human Resources Director.
  
- F. JUDICIAL REVIEW. The employee or appointing authority who is a party to a Category II Appeal and who is aggrieved by the Final Decision of the County Board is entitled to Judicial Review of said Decision under the provisions of Minn. Stat. Section 14.63 to 14.68, as amended and as hereinafter set forth. Any conflict between the provisions of this policy and Minn. Stat. 14.63 to 14.68, as amended, shall be resolved with the statute controlling.
  - 1. APPLICATION. A Petition for a Writ Of Certiorari by the aggrieved person must be filed with the Court of Appeals and served upon the County Board, Human Resources Department, Itasca County Courthouse, 123 NE 4th Street, Grand Rapids, MN 55744 not more than thirty (30) days after said party receives the Final Decision and Order of the Personnel Board of Appeals.
  
  - 2. PETITION; SERVICE. (1) The aggrieved party shall serve a Petition For A Writ Of Certiorari personally or by certified mail upon the County

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Board and by promptly filing the Proof of Service in the Office of the Clerk of Appellate Courts and the matter shall proceed in the manner provided by the Rules of Civil Appellate Procedure. (2) Said aggrieved party shall serve copies of the Writ personally or by certified mail upon all parties to the proceedings before the County Board in which the Order sought to be reviewed was made. For the purpose of service, the County Board, upon request, shall certify to the Petitioner the names and addresses of all parties as disclosed by its records. The County Board certification shall be conclusive. The County Board and all parties to the proceeding before it shall have the right to participate in the proceedings for review. A copy of the Petition shall be provided to the Attorney General at the time of service of the parties.

3. STAY OF DECISION; STAY OF OTHER APPEALS. The filing of the Writ Of Certiorari shall not stay (delay) the enforcement of the Decision of the County Board; but, said Board may do so or the Court of Appeals may order stay upon such terms as it deems proper. When review of, or an Appeal from, a Final Decision is commenced under Minn. Stat. 14.63 to 14.68 in the Court of Appeals , any other later Appeal under Sections Minn. Stat. 14.63 to 14.68 from the Final Decision involving the same subject matter shall be stayed until Final Decision of the first Appeal.
  
4. TRANSMITTAL OF RECORD. Within thirty (30) days after service of the Writ Of Certiorari, or within any further time as the Court allows, the County Board shall transmit to the reviewing Court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the Court for the additional costs. The Court may require or permit subsequent corrections or additions to the record when deemed desirable.

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5. NEW EVIDENCE; HEARING BY THE COUNTY BOARD. If, before the date set for hearing, application is made to the Court of Appeals for leave (permission) to present additional evidence on the issues in the case, and it is shown to the satisfaction of the Court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the County Board, the Court may order that the additional evidence be taken before the County Board upon such conditions as the Court deems proper. The County Board may modify its Findings and Decision by reason of the additional evidence and shall file with the reviewing Court, to become a part of the record, the additional evidence, together with any modification or new Findings or Decision.
6. PROCEDURE ON REVIEW. The review shall be confined to the record, except that in cases of alleged irregularities in procedure, not shown in the record, the Court of Appeals may transfer the case to the Itasca County District Court. The District Court shall have jurisdiction to take testimony and to hear and determine the alleged irregularities in procedure. Appeal from the District Court determination may be taken to the Court of Appeals as in other civil cases.
7. SCOPE OF JUDICIAL REVIEW. In a Judicial Review hereunder, the Court of Appeals may affirm the Decision of the County Board, or remand the case for further proceedings; or, it may reverse or modify the Decision if the substantial rights of the Petitioners may have been prejudiced because the findings, inferences, conclusions or decisions are (a) in violation of constitution provisions; (b) in excess of the statutory authority or jurisdiction of the County Board; (c) made upon unlawful procedure; (d) affected by other error of law; (e) unsupported by substantial evidence in view of the entire record as submitted; or, (f) arbitrary or capricious.
8. OTHER REVIEW. Nothing in Section XIV E.2.F.1-7 shall be deemed to prevent resort to other

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means of judicial review, redress, relief or  
trial de novo as provided by law.

**F. TIME LIMITS**

**F.1** If a grievance is not presented within the time periods herein setforth, it shall be considered waived. If a grievance is not appealed to the next step within the specified time limits, it shall be considered settled on the basis of the last answer. If the proper authority does not answer a grievance or appeal thereof within the specified time limits, the grievant shall treat the grievance as denied and may immediately appeal the grievance to the next available step. The time limit in any step may be extended by mutual agreement of the grievant and authority involved.

**G. TIME PERIODS**

**G.1** For the purpose of computing any period of time prescribed by these rules, the concept of "working day" is designated by employee's respective collective bargaining agreement or individual contract or designation of normal business hours excluding Saturdays, Sundays, or legal holidays.

**H. LIMITATIONS**

**H.1** An employee who commences a grievance proceeding under the provisions of a bargaining agreement is precluded from grieving the same issue a second time under these rules. Similarly, commencement of a grievance proceeding under these rules shall preclude the employee from grieving the same issue under the collective bargaining agreement. It is not the County Board's intention, by establishing the grievance policy and rules of procedure for the PBA, to grant an aggrieved employee a second opportunity to litigate an issue which has already been litigated in any other administrative or judicial proceeding.

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**JOB DESCRIPTION  
PERSONNEL BOARD OF APPEALS MEMBER**

**Duties:**

-Organize by electing a chair and vice-chair and shall develop rules of procedure for matters brought before it under section M.S. 375.56 to 375.71 and rules promulgated pursuant to sections 375.56 to 375.71.

Rules to be determined include:

- \*positions and roles of each
- \*procedure
- \*procedure for documenting decisions

-Meet upon the call of the Chairperson or the Human Resources Director to make findings and report to the County Board within 30 days of the filing of an appeal by an applicant, employee, or appointing authority under the circumstances outlined below:

- (a) Alleged arbitrary or capricious action on the part of the County Board with respect to final establishment of rules under sections 375.56 to 375.71.
- (b) Alleged discrimination by the Human Resources Director or the Director's employees in examination procedures or preparation of lists of eligible candidates, or discriminatory use of them by the appointing authority under sections 375.56 to 375.71 or rules promulgated under them.
- (c) Alleged misinterpretation or evasion by the Human Resources Director or the County Board of provisions of sections 375.56 to 375.71 or the rules promulgated under them in a manner seriously detrimental to the party bringing the appeal.
- (d) Other matters of grievance as provided for in rules promulgated under sections 375.56 to 375.71.

-Administer the oath of office to all witnesses providing testimony.

-Ensure each party has a chance to present their views relevant to the matter being heard.

-When a party is unrepresented, guide the unrepresented party in bringing out the facts of the case.

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- Enforce the rules.
- Determine whether the appellant knew his/her rights regarding the matter being heard.
- Determine whether the appellant knew the consequences regarding the matter being heard.
- Provide appellant written copy of the Personnel Policy, Affirmative Action Plan, and/or relevant written documents.
- Determine what policies or rules exist to govern the matter being heard.
- Determine whether the policies or rules governing the matter being heard were adhered to.
- Allow each party to present their opening statements along with the appellant stating the remedy requested.
- Keep previous settlement agreements or potential settlement agreements out of the hearing context.
- Determine what took place surrounding the grievance.
- Review the documentation and facts.
- Prepare written findings of fact, decision, and order,
- Findings and reports shall be submitted to the County Board for consideration and action as deemed appropriate by the County Board, but to the extent required for employees of departments and agencies paid in full or in part by federal funds, the findings of the Personnel Board of Appeals shall be final and binding if necessary to conform to a federal or state regulation affecting the department or position.
- Provide suggestions, concerns, etc. regarding human resources issues to the Coordinator/Human Resources Director.
- Perform other duties as necessary to fulfill the responsibility of the Personnel Board of Appeals.

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**Qualifications:**

1. Shall be a resident of the County.
2. Shall not hold any county office (elected or appointed) or be a candidate for any county office (elected or appointed) while serving on the Personnel Board of Appeals.
3. Shall not be employed by the County in any capacity or held a county position within one year of appointment.

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ITASCA COUNTY  
PERSONNEL BOARD OF APPEALS  
123 4TH ST NE  
GRAND RAPIDS, MN 55744-2600

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In re: The appeal of:

\_\_\_\_\_  
Name of appellant

FINDINGS OF  
FACT,  
DECISION,  
AND  
ORDER.

\_\_\_\_\_  
Applicable job title or other identifier

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**FINDINGS OF FACT**



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DECISION

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**ORDER**

It is the determination of the Personnel Board of Appeals  
that the appeal should be \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

ITASCA COUNTY PERSONNEL BOARD OF  
APPEALS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**COUNTY BOARD ACTION**

Findings and reports of the Personnel Board of Appeals shall be submitted to the County Board for consideration and action as deemed appropriate by the County Board, but to the extent required for employees of departments and agencies paid in full or in part by federal funds, the findings of the Personnel Board of Appeals shall be final and binding if necessary to conform to any valid federal or state regulation affecting the department or position.

**County Board Action:**

**Date:**

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