

**10810. RESOLUTION 14-11 - A RESOLUTION BY THE DELAWARE RIVER AND BAY AUTHORITY TO AUTHORIZE AN AMENDMENT TO THE AUTHORITY'S PERSONNEL MANUAL, SECTION XX. HEARINGS, AS REVISED MARCH 2000**

WHEREAS, The Delaware River and Bay Authority (the Authority) has had a Personnel Manual established and in effect since 1965; and

WHEREAS, the Authority has revised and improved its Personnel Manual to serve as a guide to employment with the Authority; and

WHEREAS, the Personnel Manual provides general descriptions and guidelines concerning the Authority's personnel policies and practices; and

WHEREAS, the Authority reviews, revises and amends the Personnel Manual as significant enhancements are made to our personnel policies and practices; and

WHEREAS, the Authority is recommending revision to the procedures for employees requesting a hearing after they have been notified of an employment action such as removal, dismissal, transfer, or demotion; and

WHEREAS, the recommended revision would ensure neutrality and an unbiased process in the best interest of the Authority and the employees; and

WHEREAS, the Personnel Committee of the Authority's Board of Commissioners has reviewed the proposed revision and recommends for consideration to the full Board the acceptance of the revision and to amend its Personnel Manual.

NOW, THEREFORE, BE IT RESOLVED that the Authority's hearings procedure contained in Section XX on Pages 72 and 73 of the Authority's Personnel Manual as revised in March 2000 is hereby amended deleting this section and replacing it in its entirety with text attached hereto.

**XX. Hearings**

Seasonal, casual, or permanent part-time employees not covered by a collective bargaining agreement may be discharged for any lawful cause or reason without notice or a hearing.

Permanent Full-time employees not covered by a collective bargaining unit who have been employed for more than six (6) months (one year for Authority Police Officers) shall receive written notice of any removal, dismissal, transfer, or demotion, including the action taken and reason.

A permanent full-time employee is not entitled to any hearing where the cause for removal, dismissal, transfer, or demotion is the reorganization of the Authority or one or more of its facilities, properties, departments, divisions or projects from the standpoint of efficiency or economy.

If the reason given is other than reorganization, the employee may request a hearing in writing ten (10) working days from the date the notice is mailed, directed to the Executive Director. If the employee does

not request a hearing within the specified time, the notice in accordance with its terms shall be final and effective the date of notification to the employee.

In the case of a dismissal, should an employee request a hearing in writing, he or she shall be considered suspended without pay until the hearing is scheduled by the Authority unless the Executive Director determines otherwise. If an employee does not request a hearing within the time specified, the dismissal shall be effective the date of notification to the employee.

If a hearing is requested by the employee in writing, the Executive Director will assign a Hearing Officer who shall be a disinterested third party within ten (10) working days after the receipt of the request.

The hearing shall be conducted by the Hearing Officer and shall be confined to the written reasons stated in the notice of disciplinary action. The hearing shall commence within 30 days of the Hearing Officer's assignment. Adjournment requests shall not be granted except in extraordinary personal circumstances.

The conduct of such hearings and the rules of procedure shall be left to the discretion of the Hearing Officer, provided that:

1. The evidence supporting the charges against the employee shall be explained;
2. The employee shall have the opportunity to present his/her side of the case;
3. The employee may be represented by counsel or a representative of his/her own choosing except that representative may not be an Authority supervisor or member of the Authority management;
4. Written notice of counsel or representative must be received by the Hearing Officer no less than five (5) business days prior to the scheduled hearing date;
5. All testimony shall be given under oath; and
6. A transcript or a summary of the hearing shall be made.

The decision of the Hearing Officer shall be submitted in writing to the employee within fifteen (15) working days following receipt of the hearing transcript or summary, unless mutually agreed to by both parties.

If the decision is upheld, the employee shall be notified in writing. In case of a dismissal, the termination of employment shall be effective the date of the initial notification of dismissal.

The decision of the Hearing Officer shall be final and binding.

When a permanent full-time employee not covered by a collective bargaining agreement is to be removed, dismissed, transferred or demoted for good and sufficient reason, the Authority may, in its sole discretion, suspend such employee with or without pay pending completion of the hearing procedures set forth herein.

A motion to approve Resolution 14-11 was made by Commissioner Murphy, seconded by Commissioner Dorn, and approved by a roll call vote of 8-0.

## **Resolution 14-11 Executive Summary Sheet**

**Resolution:** **Authorizes an Amendment to the Authority Personnel Manual, Section XX. Hearings, as revised March 2000**

**Committee:** Personnel Committee

**Committee Date:** April 15, 2014

**Board Date:** April 15, 2014

### **Purpose of Resolution:**

- (1) To revise the current procedure of conducting hearings (timelines and composition of Hearing Committee) for permanent full-time employees who are removed, dismissed, transferred or demoted for cause other than reorganization, ensuring neutrality and an unbiased process in the best interest of the Authority and the employees.

The recommended revised procedures consist of the following:

- Timeline associated with notification from the employee requesting the hearing and processing/scheduling the request for a hearing.
- Change from ten (10) days after receipt of notification of action to ten (10) working days from the date the notice is mailed.
- Appointment of Hearing Committee
- Change from appointment of internal Hearing Panel comprised of three (3) Senior Level Managers to the Executive Director appointing a Hearing Officer.

- (2) To eliminate the appeal of the decision to be heard by the Authority's Personnel Committee of the Board of Commissioners to the Hearing Officer's decision is final and binding.

### **Background for Resolution:**

The Authority's Personnel Manual has been in existence since 1965; revisions were made and a revised manual re-distributed to permanent full-time employees in 1966, 1974, 1978, 1983, 1987, 1990, 1994, and 2000.

The Personnel Manual provides general descriptions and guidelines concerning the Authority's personnel policies and practices. The provisions in the Personnel Manual are subject to change by the Authority at any time, without notice or a written revision of this Personnel Manual.

Since 1994, revisions to the Personnel Manual have followed a process by which the Executive Director and Chief Human Resources Officer presented revisions of the Personnel Manual to the Personnel Committee of the Authority's Board of Commissioners. After review and discussion of the revisions, the Personnel Committee would approve the revisions and a resolution would be drafted and presented to the full

Board of Commissioners for approval (a majority vote by the Board of Commissioners which requires four votes from each state by resolution at a regularly scheduled public meeting of the Authority) and then the resolution would be subject to veto by either Governor.