

Union Steward and Management Rights, Roles & Responsibilities

The primary goal of the GEAC, as set forth in the 2008 Executive Order and Master Agreement, is to establish a constructive, cooperative relationship among employees, their Employee Organizations, and the Commonwealth to improve employee morale and satisfaction. The Commonwealth and employees place high value on the services the GEAC stewards can provide at employee/management meetings as the employees' elected representatives.

In light of the recent clarification from the KBA regarding tribunals, the Commonwealth deems it appropriate to permit union assistance in the following employee/management meetings.¹ The following information clarifies the roles and protocols for each party in these limited contexts:

General Guidelines

- When desired by an employee, a union steward may attend and participate in certain employee/management meetings. The employee must also be present and participate.
- Unless otherwise limited, union stewards may participate in the discussion, ask questions, speak to the employee, and act as the employee's advisor.
- All administrative requirements, regulations and statutes remain in full force and effect.
- Agencies are strictly prohibited from retaliating or discriminating against an employee due to participation with an employee organization.

All parties are expected to behave professionally and courteously toward each other. Any party has the right, as always, to end any meeting that becomes disruptive or confrontational. A supervisor or agency management has the right to end any meeting which becomes unproductive due to lack of participation by the classified employee.

Union Stewards MAY Attend and Participate in the Following:²

Investigations:

Union stewards may participate in an investigation meeting as follows:

- When at the request of the employee;
- When the investigation involves an employment-related matter; and,
- When the employee is the subject of the investigation.

Union stewards may not hinder the investigation, as these investigations may be conducted pursuant to administrative, state or federal law. During these meetings, the primary conversation must take place with the employee. Union stewards may not attend on behalf of employees who are merely participants in an investigation and not the subject of an investigation.

¹Union stewards are not permitted to engage in the unauthorized practice of law, as defined and interpreted by the Supreme Court of Kentucky. None of these employee/management meetings represent an administrative or adjudicative tribunal where binding judgments are made before a neutral official.

² Union stewards may have to satisfy specific agency confidentiality requirements.

Evaluations:

The Employee Performance Evaluation System is set forth in KRS 18A.110 and 101 KAR 2:180. A union steward may participate in the reconsideration process for an annual performance evaluation with an initial overall rating in either of the two (2) lowest ratings. This includes the following:

- assistance with preparation of the initial request for reconsideration which is signed and submitted by the employee;
- assistance with the preparation of the written request for reconsideration of the evaluation by the next line supervisor which is signed and submitted by the employee;
- assistance with the written statement signed and submitted by the employee; and attendance at the meeting with the employee and the next line supervisor.

Grievances:

Union stewards may assist and participate in the grievance process pursuant to the Master Agreement. The grievance process is set forth in 101 KAR 1:375 and all parties shall adhere to the requirements contained within that regulation. A union steward may assist in the completion of the Grievance Form, which must be signed and submitted by the employee. The steward may attend and participate in all meetings held with management related to the grievance.

Mediations:

Union stewards may participate in mediations conducted by the Kentucky Employee Mediation Program (KEMP), per Article 17 of the Master Agreement. KEMP is a voluntary program available for state employees as a mechanism to resolve workplace conflicts. Union stewards may participate and assist employees during the mediation process, which includes the following:

- assistance in the preparation of the Request to Mediate Form which is signed and submitted by the employee;
- speaking with the KEMP program coordinator or mediator while in the presence of the employee, and,
- during the mediation the steward may speak, ask questions, and otherwise participate in the mediation.

The GEAC Mediation Subcommittee will convene and prepare the additional Mediation Terms of Agreement to establish additional protocol, including a training schedule and implementation date when GEAC stewards may begin utilizing the program.

Disciplinary Meetings:

Pursuant to the Master Agreement, union stewards may attend all meetings to which the employee is summoned by the agency that are likely to result in disciplinary action.³

³ Please note, meetings on the following are not likely to result in disciplinary action and union stewards may not attend:

- Verbal and written reprimands;
- Meetings regarding employee evaluations, performance improvement plans or annual performance plans (except as noted below); and
- Transfers, temporary assignments, or voluntary demotions not resulting from discipline.

The following actions are deemed likely to result in disciplinary action, and union stewards may attend and participate:

- Meetings held after an intent to discipline is issued (pre-deprivation meeting);
- Placement on special investigative leave (if likely to result in discipline); and
- Any meeting in which discipline action will be taken.

**Union Stewards MAY Attend but not
Participate as an Employee Representative in the Following:**

Pretermination hearings:

Union stewards may attend pretermination hearings, which are conducted pursuant to KRS 18A.095. However, their role is limited by virtue of KRS 18A.095(1)(b), which states that an employee “may appear with counsel” to reply to any allegations at a pretermination hearing. Therefore, while a union steward may attend a pretermination hearing, the role is limited to that of a “witness” during this meeting and the steward cannot participate.

Personnel Board hearings:

The Personnel Board is a separate administrative body created by KRS Chapter 18A. Employees have specific statutory appeal rights to the Board, and the GEAC does not have any control over this autonomous hearing tribunal. The GEAC has no authority to establish any protocols regarding union steward participation.