

NORTH SLOPE BOROUGH PERSONNEL BOARD

RULES OF PROCEDURE

(Revised April 7, 2015 Pursuant to North Slope Borough Resolution Serial No. 15-2015)

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# NORTH SLOPE BOROUGH PERSONNEL BOARD

## RULES OF PROCEDURE

(Revised April 7, 2015 Pursuant to North Slope Borough Resolution Serial No. 15-2015)

### SECTION I. GENERAL PROVISIONS.

**Rule 1. Purpose.** It is the purpose of these rules to prescribe uniform rules of procedure for the hearing of appeals from North Slope Borough employees in the classified service as provided in North Slope Borough Code §2.20.180.

**Rule 2. Authority for rules.** These rules are established under the authority granted to the Board by North Slope Borough Code §2.20.070(A)(2) and are effective upon approval by the Mayor and the Borough Assembly.

**Rule 3. Jurisdiction.** The jurisdiction of the North Slope Borough Personnel Board extends to hear the appeals of non-probationary classified Borough employees from disciplinary actions resulting in a suspension without pay for more than 15 working days in a twelve-month period, a demotion or discharge from Borough employment.

**Rule 4. Composition of the Board.** (a) The Board is comprised of three regular members and two alternate members appointed by the Mayor and approved by the Assembly.

(b) Members of the Board are qualified electors of the North Slope Borough, but are not employees or officers of Borough government.

(c) An alternate member of the Board may serve in place of a regular member in the event a regular member has elected to disqualify himself or herself from hearing a case.

(d) A regular member of the Board elected by the Board from its membership, serves as chairperson and presides over hearings and other sessions of the Board.

(e) The authority of the Board chairperson may be delegated to another member of the board during such periods the chairperson is absent from the Borough.

**Rule 5. Quorum.** Two members of the Board constitute a quorum for the transaction of business and two affirmative votes are required for final action on matters acted upon by the Board.

**Rule 6. Personnel Board secretary.** (a) The Director of Human Resources will designate an employee within the department to serve as Personnel Board secretary.

(b) The Personnel Board secretary will establish and maintain the permanent record of all Board proceedings and must make the arrangements necessary to facilitate the appeal process. The duties of the secretary are similar to the duties of a clerk of court.

(c) The Personnel Board secretary is authorized to contact and confirm any matter with either party to an appeal when to do so would expedite the business of the Board.

(d) The Personnel Board secretary may request clarification of duties assigned by these

procedural rules from the Board chairperson or, if so directed by the Board chairperson, may request clarification from the Borough Law Department.

**Rule 7. Alternate Personnel Board secretary.** The Human Resources Director will name another appropriate Borough employee to serve as an alternate Board secretary when the regular Board secretary is otherwise unable to serve due to conflict of interest or other reason.

## SECTION II. COMMENCEMENT OF ACTION.

**Rule 8. Commencement of action.** An appeal of a disciplinary action to the Personnel Board is commenced by filing a written Notice of Appeal with the Director of Human Resources. A copy of the notice must be served on the Borough Law Department.

**Rule 9. Notice of appeal.** The notice of appeal must include an appropriate caption identifying the action, the names of the parties and the place and means whereby service may be accomplished on the employee or employee's counsel. The notice must also state the date and nature of the disciplinary action appealed from, the basis of the Personnel Board's jurisdiction, the ordinance or personnel rule alleged to have been violated by the action, a brief statement describing the issues presented by the appeal and the remedy sought.

**Rule 10. Filing and service of documents by fax or electronic mail.** (a) Any document required or allowed to be filed with the Board or served on a party may be filed or served by means of a telephonic facsimile device or electronic mail.

(b) Filings with the Board by facsimile or electronic mail are subject to the following conditions:

(1) A filing must conform with all applicable rules, except that only one copy of a document need be transmitted even when multiple copies would otherwise be required.

(2) The transmitted document will be deemed the original and the Board secretary will make any required copies at a charge of \$0.50 per page to the filing party for any document in excess of five pages.

(3) When reception of a document begins after 5:00 p.m., the date of filing of that document will be the date of the next regular workday.

**Rule 11. Considerations of employee appealing without counsel.** When an employee appeals without counsel, the Board will take this status into account and will relax the rules as to the technical requirements or extend time limits for the filing of documents when justice requires. In no event will the employee's status of appearing without counsel excuse the employee from substantial compliance with the rules.

**Rule 12. Scheduling considerations for out-of-town counsel.** It is the duty of out-of-town counsel engaged to represent an appealing employee to notify the Board, at the time the Notice of Appeal is filed, of any potential scheduling conflicts. The Board will, to the extent possible and practical, take into consideration the date and time preferences of the employee's attorney in

scheduling the hearing. When the hearing is delayed to accommodate the employee or employee's counsel, the employee loses any right or remedy related to the delay.

**Rule 13. Timeliness of notice of appeal.** An appeal is deemed commenced on the date the Notice of Appeal is filed with the Director of Human Resources. Notice must be filed in accordance with the time limitations established in Borough Code §2.20.178(H) and failure to comply with this section is grounds for dismissal of the appeal.

**Rule 14. Transmittal of notice to Personnel Board secretary.** The Human Resources Director, upon receiving the Notice of Appeal, will transmit the notice and all documents filed therewith to the Personnel Board secretary or alternate with directions to establish a case file and proceed in accordance with these rules.

**Rule 15. Entry of appearance by Borough Law Department.** (a) Immediately upon receipt of the Notice of Appeal, the Borough Law Department must file and serve an Entry of Appearance that identifies the member of the Borough Attorney's staff who will represent the involved department during the course of the appeal, and the name of the attorney who will serve as counsel for the Personnel Board on procedural matters and matters of law.

(b) The attorney assigned to act as counsel for the Board must:

- (1) have had no material involvement in the disciplinary action appealed from;
- (2) have access to all documents presented to the Board as soon as practicable after their receipt by the Board;
- (3) offer assistance and advice to the Board on procedural matters and matters of law as required to facilitate the conduct of business;
- (4) be fair and impartial to all parties; and
- (5) not participate, in any manner whatsoever, in the Board's deliberations.

(c) If the Borough Attorney determines that under the circumstances of a particular appeal it would be inappropriate for any member of the Law Department staff to serve as counsel to the Board, the Borough Attorney will so advise the Board.

**Rule 16. Employment of outside counsel by the Board.** The Board may, in its discretion, employ outside counsel to advise it on procedural issues or matters of law during the pendency of an appeal. Outside counsel will have the same duties, rights and obligations as set forth for the Law Department counsel in Rule 15(b).

### SECTION III. PRELIMINARY MOTIONS.

**Rule 17. Motion to accept late-filed notice of appeal.** (a) If an employee fails to comply with the time limitations in Borough Code §2.20.178(H) for filing a Notice of Appeal, the employee or employee's counsel must, simultaneously with the Notice of Appeal, file and serve a motion requesting that the untimely notice be accepted and setting forth the reasons for the late notice.

(b) The motion may be supported by affidavit or other documentary evidence.

(c) Within two days of the filing of such a motion, the Borough may file and serve an opposition. No further responses are permitted.

**Rule 18. Motion to dismiss on grounds of waiver or lack of jurisdiction.** (a) Within two days of the filing of the Notice of Appeal, the Borough may move to dismiss the appeal if it appears the Personnel Board lacks jurisdiction over the appeal or the employee has waived Personnel Board appeal rights under NSBMC §2.20.178(E) or NSBMC §2.20.179(D).

(b) Either motion may be supported by affidavit or other documentary evidence.

(c) Within two days of the filing of either motion, the employee may file and serve an opposition. No further responses are permitted.

**Rule 19. Notification to Board Chairperson.** Within five days of the date the Director of Human Resources receives the Notice of Appeal, the Board secretary will notify the Board chairperson or the chairperson's designee of the appeal, any preliminary motions filed by the parties, any scheduling considerations requested by the parties, the name of the attorney who will serve as counsel to the Board and any other relevant matters.

**Rule 20. Board action on preliminary motions.** (a) Upon notification from the Board secretary that preliminary motions have been filed, the Board chairperson will convene the Board as soon as practical for a preliminary hearing to decide the motions.

(b) Board action may be taken on the motions as filed or the Board chairperson may order the parties to present oral argument.

(c) Oral argument may be made telephonically.

(d) If oral argument is ordered, the Board secretary will distribute an appropriate notice and order to the parties at least three days in advance of the date and time of the preliminary hearing.

**Rule 21. Conduct of preliminary hearing.** (a) The Board chairperson will open the preliminary hearing with a brief statement identifying the parties and the motions before the Board for decision.

(b) If oral argument has been ordered, the moving party will be heard first followed by the opposing party.

(c) Each party will be allowed a maximum of ten minutes for argument and the moving party may reserve time to present a rebuttal argument.

(d) During and following argument, the Board may address questions to either party.

(e) At the appropriate time, the chairperson will declare the preliminary hearing to be in recess to permit the Board to deliberate.

(f) Upon completion of deliberations, the Board chairperson will reconvene the preliminary hearing to issue the decision.

(g) The findings, conclusions and decision of the Board will be reduced to writing, signed by each participating Board member and a copy served on each party.

(h) If the decision of the Board dismisses the appeal, the decision must state it is the final judgment of the Board and reference the employee's right to appeal the Board's decision to the superior court in Barrow.

**Rule 22. Standards for granting or denying preliminary motions.** (a) The Personnel Board will deny an employee's motion to accept a late-filed notice of appeal and dismiss the appeal if the notice of disciplinary action adequately informed the employee of the time limitations of NSBMC §2.20.178(H) and the employee was not prevented by extraordinary circumstances beyond the employee's control from filing the notice of appeal. The Board may, in its discretion, grant the employee's motion if extraordinary circumstances such as incapacity due to illness or injury prevented the employee from filing the notice of appeal and, in such cases, only where strict adherence to the time limitations would work an injustice.

(b) The Board will grant a motion to dismiss for lack of jurisdiction if the employee's appeal is from a disciplinary action for which appeal rights to the Personnel Board are not provided under the Borough Code.

(c) The Board will grant a motion to dismiss on the grounds the employee has waived his rights to appeal if it is shown that the employee failed to follow pre-disciplinary procedures as set forth in NSBMC §2.20.178(E) or by the acceptance of the alternative disciplinary process set forth in NSBMC §2.20.179.

#### SECTION IV. NOTICE OF HEARING AND PRE-HEARING PROCEDURES.

**Rule 23. Notice of Hearing.** (a) If decisions on preliminary motions are not dispositive or in the absence of such motions, the Board chairperson will set a date for the hearing and prescribe the dates for the filing and serving of pre-hearing documents.

(b) The Board will immediately issue and the Board secretary will distribute a Notice of Hearing to the parties. The notice must be in substantially the following form:

You are hereby notified that a hearing will be held before the North Slope Borough Personnel Board at \_\_\_\_\_ in Barrow, Alaska on the \_\_\_\_ day of \_\_\_\_\_, 201 \_\_, at the hour of \_\_\_\_\_ upon the Notice of Appeal filed by \_\_\_\_\_.

No later than the \_\_\_\_ day of \_\_\_\_\_, 201 \_\_, the parties to this appeal must file and serve upon each other a List of Witnesses expected to be called to testify at the hearing, a List of Exhibits expected to be introduced into evidence and any optional pre-trial brief.

(c) The date assigned for the filing and serving of the witness lists, exhibit lists and optional briefs must not be less than five days before the date set for the hearing.

**Rule 24. Witness lists and exhibit lists.** (a) On or before the date specified in the Notice of Hearing, each party must file and serve the Board secretary and the opposing party with a List of Witnesses expected to be called to testify at the hearing and a List of Exhibits expected to be introduced into evidence.

(b) Each party is responsible for ensuring the attendance of the witnesses named on their List of Witnesses, except that an appealing employee need not separately ensure the attendance of witnesses that appear on both lists.

(c) Upon receipt, each party must immediately forward a copy of any exhibit that does not appear on the List of Exhibits furnished by the opposing party.

**Rule 25. Optional pre-hearing briefs.** (a) If a party elects to file a brief, it must be appropriately captioned, typewritten or printed with at least 12-point type, double-spaced and on letter-sized paper.

(b) Briefs should substantially comply with the following format and contain:

(1) a brief statement of pertinent facts;

(2) a statement and discussion of disputed issues with appropriate citation to authority; and

(3) a summary of reasons for granting the relief requested.

(c) Briefs must not exceed a total of 20 pages including attachments.

(d) The date designated for the filing of briefs may be changed by stipulation of the parties and Board approval is not required, but the briefs must be filed no later than seven calendar days prior to the hearing.

**Rule 26. Postponement of hearing.** On the motion of a party or upon its own motion, the Board chairperson may postpone the hearing for good cause shown. When a postponement is ordered, the Board chairperson may set the new date and time for the hearing in the order or by later written notice to the parties.

**Rule 27. Stipulation as to facts.** When parties to an appeal agree upon the facts or any portion thereof involved in the controversy, they may file a statement of stipulated facts at any time prior to the hearing. The stipulation must be signed by both parties; will be binding upon both parties; and may be regarded and used as evidence at the hearing.

**Rule 28. Stipulation as to admissibility of documentary evidence.** When the parties to an appeal agree upon the admissibility of certain documents into evidence, they may file a statement stipulating same at any time prior to the hearing. The stipulation must be signed by both parties and be binding upon both parties. The stipulation must be accompanied by all exhibits to which the stipulation applies.

**Rule 29. Subpoenas.** (a) Subpoenas for the attendance of witnesses at the hearing or subpoenas for the production of records or other documents prior to the hearing may be issued only upon application in writing and a showing of general relevance and reasonable scope of the testimony of the witness or the records and documents sought.

(b) The application must bear the appropriate case caption, name the specific witnesses, records or other documents for which a subpoena is requested, and describe the general relevance or reasonable scope thereof. Proposed subpoenas must be prepared by the requesting party in a form ready for the signature of the Board chairperson and must be lodged with the application.

(c) Upon a proper application, the Board chairperson will issue the subpoenas and direct they be forwarded immediately to the requesting party.

(d) The requesting party is responsible for serving the subpoena and must do so within a reasonable time prior to the hearing or the date designated for the production of records or



documents.

(e) With the exception of witnesses who are acting in their capacity as Borough employees, subpoenaed witnesses will receive fees and mileage as prescribed by law for witnesses in civil proceedings. The party who subpoenaed the witness will pay the fees and mileage.

(f) In the case of a subpoena issued for the production of records or documents, the party who subpoenas same must pay reasonable copying charges to the producing party. Copying charges must not exceed \$.50 per page.

**Rule 30. Motion to quash subpoena.** (a) Any party desiring to contest a subpoena may do so by filing a motion to quash.

(b) The Board chairperson will consider the assertions stated in the original application for the subpoena and the assertions in the motion to quash in determining whether to grant or deny the motion.

(c) If the Board chairperson finds that the subpoena will lead only to the production of irrelevant, immaterial or unduly repetitious testimony or documentary evidence, the chairperson will grant the motion to quash.

(d) If the Board chairperson finds that the subpoena for the production of records or documents is unduly burdensome, the motion to quash may be granted in whole or in part. The Board chairperson may issue an order limiting the records or documents required to be produced.

**Rule 31. Withdrawal of appeal.** At any time prior to the commencement of the hearing, the employee may file and serve a notice of withdrawal of appeal. The Board secretary will immediately notify the Board chairperson who will issue an order vacating the notice of hearing and dismissing the appeal.

## SECTION V. HEARING.

**Rule 32. Conduct of hearing.** (a) The Board chairperson will open the hearing with a statement identifying the members of the Board, the parties, other persons present and the nature of the appeal before the Board.

(b) The Board chairperson will next ask if there are any preliminary matters the parties wish to raise to the Board and if so, the Board will address them.

(c) The parties will then be allowed to make opening statements. The Borough's representative is first, followed by the appealing employee or the employee's counsel. Each party is allowed a maximum of 15 minutes for opening statements.

(d) Following opening statements, the Board chairperson will read into the record any statement of facts stipulated to by the parties or any stipulation as to the admissibility of documentary evidence and order that the documents be entered into evidence.

(e) The Borough is first to present evidence by testimony followed by the appealing employee. All oral testimony must be on oath or affirmation. The Board will allow direct examination, cross-examination, re-direct and re-cross for each witness. A Board member may question a witness.

(f) At the close of evidence, the parties may make closing statements. Each side has a

maximum of 15 minutes and the Borough may reserve time for rebuttal following the employee's statement.

(g) Following closing statements, the Board chairperson will recess the hearing to permit deliberation. Upon completion of deliberations, the Board chairperson may reconvene the hearing to issue a decision.

**Rule 33. Evidence.** (a) At a hearing before the Personnel Board, each party may

(1) call and examine witnesses;  
(2) introduce exhibits;  
(3) cross-examine opposing witnesses on matters relevant to the issues, even though the matter was not covered in direct examination;  
(4) impeach a witness regardless of which party first called the witness to testify;  
and

(5) rebut any adverse evidence.

(b) Oral evidence may be taken only on oath or affirmation.

**Rule 34. Admissibility of evidence.** (a) The technical rules pertaining to the admissibility of evidence do not apply to hearings before the Board.

(b) Relevant evidence will be admitted if it is the sort of evidence that responsible persons would customarily rely upon in the conduct of serious affairs, regardless of the existence of a common law or evidentiary rule that would make the admission of such evidence improper in a civil action.

(c) Hearsay evidence may be used to supplement or explain direct evidence but hearsay evidence alone is not sufficient to support a finding.

(d) All objections to the admissibility of evidence must be made orally and in the context of the hearing. No motions in limine are permitted.

(e) The rules of privilege apply in the same manner as in other civil proceedings.

(f) Irrelevant, immaterial and unduly repetitious evidence will be excluded.

**Rule 35. Telephonic participation by witnesses.** (a) When required to expedite the appeal process, witnesses may appear and give testimony telephonically.

(b) It is the responsibility of the party calling a witness participating by telephone to ensure the witness is immediately available and has copies of all documentary evidence that may be relevant to the witness's testimony.

(c) Where possible, the witness should be situated in a place where a facsimile machine or computer is available for transmittal of copies of any other documentary evidence the witness may be asked to review and to offer testimony.

**Rule 36. Burden of proof and persuasion.** (a) The Borough bears the burden of proof in the appeal proceeding and the proof required is preponderance of the evidence.

(b) In accordance with NSBMC §2.20.180(C), the Borough must prove by a preponderance of the evidence that just cause exists to support the disciplinary action imposed on the employee.

**Rule 37. Remedies.** (a) If the Borough's burden of proof is not met, the Board is empowered by NSBMC §2.20.180(D) to award reinstatement, with or without loss of pay or leave benefit for the period of the demotion, suspension or discharge, or the Board may modify the discipline as it deems appropriate.

(b) If the Borough meets the burden of proof, the Board will affirm the disciplinary action.

**Rule 38. Witnesses.** (a) Each witness appearing before the Board, prior to giving testimony, must answer affirmatively to the following:

Do you swear or affirm that the testimony you are about to give in this proceeding is the truth, the whole truth, and nothing but the truth?

(b) Refusal by a witness to answer any question ruled to be proper will, in the discretion of the Board, be grounds for striking all of the testimony given by the witness.

**Rule 39. Conduct at hearings.** All parties to the hearing, their counsel, witnesses and spectators must conduct themselves in a respectful manner. Failure to comply with orders of the Board chairperson regarding improper conduct may result in removal from the hearing.

## SECTION VI. FINAL DECISION AND ORDER OF THE BOARD.

**Rule 40. Final decision and order of the Board.** (a) The findings, conclusions and decision of the Board must be reduced to writing, signed by each participating Board member and a copy served on each party within 10 business days following the close of the hearing. The Board may in its discretion serve the decision by mail. The Board counsel will draft proposed findings, conclusions and a proposed decision for the Board's consideration.

(b) If the decision is entirely dispositive, the decision will state it is the final judgment of the Board and will reference the right to appeal the Board's decision to the superior court in Barrow.

**Rule 41. Request for clarification of final decision and order of the Board.** (a) Within ten days of the date of service of the Final Decision and Order of the Board, either party may file a request for clarification of any matter contained in the final decision.

(b) The Board secretary will notify the Board chairperson of the request and the Board chairperson may issue the clarification.

(c) In the discretion of the Board chairperson, the Board may reconvene to consider the request for clarification and issue an amended final decision and order.

**Rule 42. Compliance with order of the Board.** (a) If the final decision and order of the Board directs either party to take certain action, the party required to take such action must file a notice of compliance that states the date and means of compliance. Notice of compliance must be filed with the Board secretary within 15 days of the deadline set by the Board for compliance.

(b) If the decision of the Board is appealed to the superior court, the party will have complied with this rule by filing a notice indicating that a stay has been issued.

SECTION VII. DEFINITIONS.

**Rule 43. Definition of terms.** The following definitions apply to these rules unless the context clearly indicates or requires a different meaning.

- (a) "Board" means the North Slope Borough Personnel Board.
- (b) "burden of proof" means the duty of affirmatively proving a fact or facts that are in dispute on an issue raised between the parties to the appeal.
- (c) "filed" means received by the Director of Human Resources or the Director of Human Resources' designee.
- (d) "legal holiday" includes all federal, state and Borough holidays.
- (e) "preponderance of the evidence" means evidence that is of a greater weight or more convincing than the evidence offered in opposition to it; evidence that as a whole shows that the fact sought to be proved is more probable than not.
- (f) "rules of privilege" include the rules pertaining to privileged communications between an attorney and client, a patient and doctor, a priest and penitent, a wife and husband.
- (g) "served" means delivered to the intended recipient.
- (h) "stay" means an order of the court that suspends a case or some designated proceeding or action within it; a stay will foreclose a judgment-creditor from seeking enforcement of a judgment.

SECTION VIII. MISCELLANEOUS PROVISIONS.

**Rule 44. Addresses, telephone numbers and fax numbers.** (a) The Director of Human Resources may be contacted as follows:

Director of Human Resources  
North Slope Borough Human Resources Department  
P. O. Box 69  
Barrow, Alaska 99723  
Telephone No. (907) 852-0364  
Fax No. (907) 852-4286

b. The Personnel Board secretary may be contacted as follows:

Secretary to North Slope Borough Personnel Board  
c/o North Slope Borough Human Resources Department  
P. O. Box 69  
Barrow, Alaska 99723  
Telephone No. (907) 852-0364  
Fax No. (907) 852-4286

c. The North Slope Borough Law Department may be contacted as follows:

North Slope Borough Law Department  
P. O. Box 69  
Barrow, Alaska 99723  
Telephone No. (907) 852-0300  
Fax No. (907) 852-5678

**Rule 45. Computation of time.** Unless otherwise specifically provided in these rules, time will be computed by excluding the first day and including the last day unless the last day falls on a legal holiday, Saturday or Sunday, in which case the last day will be the next following weekday.

**Rule 46. Requirements pertaining to notices, motions and other papers filed with the Board.**

(a) Except as otherwise provided, any filing made in a Personnel Board appeal proceeding consists of the original and three copies. If a document is filed by fax machine or electronic mail, it is considered the original. The Board secretary will copy the document and charge in accordance with Rule 10 of these procedures.

(b) All filings must contain a certificate of service showing the date and method whereby the document was served on the opposing party.

**Rule 47. Record of proceedings.** The record of any proceeding before the Personnel Board will contain the original documents filed in the appeal, recordings of any hearing, and the documents entered into evidence. The record will be in substantially the following order:

- a. Notice of Appeal
- b. Motion to Accept Late-filed Notice of Appeal, if any.
- c. Entry of Appearance by Borough Law Department.
- d. Opposition to Motion to Accept Late-filed Notice, if any.
- e. Any motions to dismiss and responses in the order received.
- f. Notice of Preliminary Hearing, if any.
- g. Tape recording of preliminary hearing, if held.
- h. Board decision and order from preliminary hearing, if held.
- i. Notice of Hearing.
- j. The following pre-hearing documents in the order received.
  - Motions to postpone hearing, if any.
  - Revised Notice of Hearing, if any.
  - Witness Lists filed by both parties.
  - Exhibit Lists filed by both parties.
  - Optional pre-hearing briefs of the parties, if any.
  - Stipulations as to facts, if any.
  - Stipulations as to admissibility of evidence, if any.
  - Applications for subpoenas, if any.
  - Subpoenas issued, if any.
  - Motions to Quash Subpoenas, if any.

Decision and Order on Motions to Quash Subpoenas, if any.

- k. Tape recording of entire hearing.
- l. All exhibits entered into evidence during the hearing.
- m. Board decision and order from the hearing.
- n. Motions for clarification of decision and order, if any.
- o. Clarification of or amended decision and order, if any.
- p. Notice of Compliance with Order of the Board, if any.

**Rule 48. Severability.** If any provision contained in these rules or any application thereof to any person or circumstance is held to be invalid, the remainder of these rules and the application to other persons and circumstances will not be affected.

**Rule 49. Hearing Officers.** When the Borough Mayor, in his or her discretion, appoints a hearing officer to hear an appeal in place of the Board, these rules are applicable to the proceedings. The hearing officer must exercise all the powers and discretion vested in the Board by the Borough Code, the Personnel Rules and Regulations and these rules.

**Rule 50. Rules superseded by changes to personnel ordinance and personnel rules and regulations.** (a) These procedural rules reflect the North Slope Borough personnel ordinance and the Borough's Personnel Rules and Regulations as of the date of adoption.

(b) Changes to the personnel ordinance or changes to the Personnel Rules and Regulations that affect any provision of these rules will replace, supersede or be incorporated into that provision immediately upon adoption or approval by the Borough Assembly and be given prospective effect. Thereafter, the Board will, as soon as practical, amend and republish these rules to conform to existing law.

(c) For the purposes of this rule, prospective effect means the changed provision is applicable to disciplinary actions commenced and appeals filed after the date the change to the personnel ordinance or Personnel Rules and Regulations is adopted or approved by the Borough Assembly.