



§1142. Appeals

A.(1) Whenever action is taken against any public servant or person by order of the Board of Ethics, or panel thereof, or by a final decision of the Ethics Adjudicatory Board, or by an agency head by order of the Board of Ethics, or panel thereof, or by a final decision of the Ethics Adjudicatory Board, or whenever any public servant or person is aggrieved by any action taken by the Board of Ethics, or panel thereof, or the Ethics Adjudicatory Board, he may appeal to the Court of Appeal, First Circuit.

(a) An order of the Board of Ethics, or panel thereof, may be appealed by filing a written motion with the Board of Ethics within thirty days after the signing and transmission of the notice of the order.

(b) A final decision of the Ethics Adjudicatory Board may be appealed by filing a written motion with the Ethics Adjudicatory Board within thirty days after the signing and transmission of the notice of the final decision, or if a rehearing is requested, within thirty days after the transmission of the notice of the decision of the Ethics Adjudicatory Board on the rehearing.

(2)(a) Upon the unanimous vote of its members present and voting, the Board of Ethics may appeal a final decision of the Ethics Adjudicatory Board to the Court of Appeal, First Circuit, within thirty days after the signing and transmission of the notice of the final decision, or if a rehearing is requested, within thirty days after the transmission of the notice of the decision of the Ethics Adjudicatory Board on the rehearing. Only questions of law in a final decision may be appealed pursuant to this Paragraph, and the appeal shall be limited to the record created at the hearing before the adjudicatory panel of the Ethics Adjudicatory Board. For purposes of this Paragraph, "final decision" means the decision and order of the adjudicatory panel of the Ethics Adjudicatory Board on the final disposition of the entire matter the Ethics Adjudicatory Board was required to hear.

(b) If the Board of Ethics does not prevail in the final disposition of its appeal, the Board of Ethics shall be responsible for the payment of reasonable attorney fees and court costs of the other party inclusive of all stages of litigation and appeal.

(c) The amount of attorney fees shall be determined by the court of appeal and shall be set forth in the court's judgment.

(3) Any refusal by the Board of Ethics to issue a declaratory opinion is subject to the supervisory jurisdiction of the appellate court as provided by Article V, Section 10 of the Constitution of Louisiana. The Court of Appeal, First Circuit, shall promulgate rules of procedure to be followed in taking and lodging such appeals.

B. In the event that any public employee suspended or dismissed by order of the Board of Ethics, or panel thereof, or by a final decision of the Ethics Adjudicatory Board, or any public employee suspended or dismissed by an appointing authority by an order of the Board of Ethics, or panel thereof, or a final decision of the Ethics Adjudicatory Board expressly for violation of any provision of law within the jurisdiction of the Board of Ethics is ordered reinstated by a final court order upon appeal, the public employee shall be entitled to receive his back pay for the period of his suspension or improper dismissal less any earnings by him during the period from other sources, provided, however, that there shall be excluded from the mentioned deduction costs of court and reasonable attorney fees which shall be fixed by the court.

C. Notwithstanding the provisions of this Section, a public employee who has attained permanent status in the classified state or city service, as provided in Article X, Section 1 of the Constitution of Louisiana, may, whenever any disciplinary action is taken against him by the Board of Ethics, or panel thereof, or the Ethics Adjudicatory Board, or by an appointing authority by order of the Board of Ethics, or panel thereof, or the Ethics Adjudicatory Board, appeal to the appropriate civil service commission, if written application to the board or panel that ordered the disciplinary action is made within thirty days after the decision becomes final. Any decision of a civil service commission may be appealed to the Court of Appeal, First Circuit, either by the Board of Ethics or the public employee, if a written motion is filed with the civil service commission within thirty days after the decision of such civil service commission becomes final.

D. Notwithstanding the provisions of this Section, any tenured public employee of a public institution of higher education in this state may, whenever any disciplinary action is taken against him by the Board of Ethics, or panel thereof, or the Ethics Adjudicatory Board, or by the appointing authority by order of the Board of Ethics, or panel thereof, or the Ethics Adjudicatory Board, appeal to the appropriate higher education management board, if the tenured employee files a written appeal with the board or panel that ordered the disciplinary action within thirty days after the order or the decision becomes final. Such appeal shall be solely on the record of the hearing of the board or panel that ordered the disciplinary action and the Board of Ethics and the Ethics Adjudicatory Board shall adopt rules and regulations to effectuate the preparation of such record. If appeal is timely filed, the appropriate higher education management board shall review the record and decision shall be rendered within one hundred twenty days of the receipt of the record from the board or panel that ordered the disciplinary action. Any decision of a higher education management board may be appealed to the Court of Appeal, First Circuit, as provided in this Chapter, either by the Board of Ethics or by the tenured public employee, upon application to the appropriate higher education management board within thirty days after the decision of such higher education management board is rendered.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1999, No. 252, §1, eff. June 11, 1999; Acts 2008, 1st Ex. Sess., No. 24, §1, eff. March 14, 2008; Acts 2008, No. 595, §1; Acts 2010, No. 1002, §1, eff. July 8, 2010; Acts 2012, No. 607, §1, eff. June 7, 2012.