

EEO Academy

October 16, 2015





WHAT IS PBR?



A neutral, quasi-judicial body

Provides a forum for administrative
appeals and requests for investigation

BOARD MEMBERS



Terry L. Casey



J. Richard Lumpe



Dwight Tillery

JURISDICTION & DUTIES

General Jurisdiction

Whistleblower Appeals

OSHA Retaliation Appeals

General Investigation Jurisdiction





HEARING PROCESS

ADJUDICATION



Overview

PREPARE YOUR WITNESS

Work Rules

Standards of Conduct

R.C. 124.34



PREHEARING & STIPULATIONS

Prepare Parties

Define/Narrow Issues



HEARINGS

Recorded

Burden of Proof

Cross Examination

Calling Appellant to Stand

Helpful Tips



CASE STUDY

Perrie



Simpson



Jane



Shawna



Joe



Sherman



Jana



Rayvonne



William



Joe



Sherman



Rayvonne



Joe



Joe



Shawna



William



Joe



Jana



Shawna



Sherman



William



Rayvonne



Perrie



Joe



Jane



Question

Would it matter whether Joe has filed any other appeal, action, or charge in any other forum?



Answer

Joe has also filed Charges of age and disability *discrimination* with the Ohio Civil Rights Commission against DSF as well as a defamation suit in the Court of Common Pleas against William Witness.



Question

Would it matter whether DSF has established quantitative and qualitative production standards?



Answer

DSF only recently established quantitative and qualitative *production standards* for Joe's office. These are in addition to the reorientation of Joe's duties that Rayvonne recently implemented. Joe had adequate advance *notice* of both the standards and of Rayvonne's reorientation of Joe's duties.



Question

Would it matter whether Joe filed for a disability retirement benefit?



Answer

Yes, the case would most likely be stayed or held pending the decision of the pertinent retirement system.



Question

Should DSF have considered sending Joe out for an Independent Medical Examination to assess whether he was physically able to perform the essential duties of his position?



Answer

DSF considered but rejected sending Joe out for an *Independent Medical Examination*. Joe had proper and current FMLA paperwork on file with DSF. However, Joe never asked for an *accommodation* and DSF has no notice that Joe's back condition is serious enough to limit Joe's ability to perform an ADA "*major life activity*".



Question

At the merit hearing, DSFs attorney, Assistant Attorney General Jane Hancock, seeks to admit Jana Justice's Pre-Disciplinary Hearing/Conference Report. Should this report be allowed into evidence and, if so, for what purpose?



Answer

This is a fact specific question. Here, the report could be let in as background. However, such reports typically contain hearsay statements. Thus, unless the declarant is testifying at the merit hearing and is subject to cross examination, the report should be admitted only for a limited purpose.



Question

DSF wants to call William Witness as a witness for
DSF.



First Scenario

William



Second Scenario

William



Question

Would a **Pre-hearing** have helped here to sort out some of these questions, to better prepare the record for hearing, and to establish a better game plan for the hearing?



Question

Would this matter have benefited from **mediation** 1) before DSF removed Joe and/or 2) before the beginning of the merit hearing?



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For More
Information

