

Existing law provides for a general right of appeal to the First Circuit Court of Appeal for any public servant or person who is aggrieved by any action taken by the Board of Ethics or panel thereof. Provides for such right of appeal when action is taken against a public servant or person by an agency head by order of the Board of Ethics or panel thereof.

Prior law additionally provided for such appeal when action was taken against a public servant or person "by" the Board of Ethics or a panel thereof. New law provides for such appeal when the action is taken against a public servant or person "by order of" the Board of Ethics or a panel thereof instead of "by" the board or panel.

Prior law provided that the right of appeal could be exercised if application to the board was made within 30 days after the decision of the board became final. New law repeals prior law. Provides that an order of the Board of Ethics or panel thereof may be appealed by filing a written motion with the Board of Ethics within 30 days after the signing and transmission of the notice of the order.

Prior law provided generally that a decision of the Ethics Adjudicatory Board or a panel thereof was a final decision that could be appealed "in the same manner" as a decision of the Board of Ethics within 30 days after the mailing of the notice of the decision, or if a rehearing was requested, within 30 days after mailing of the decision on the rehearing. New law repeals prior law. In each situation discussed above where the right to appeal applies in connection with actions and orders of the Board of Ethics, new law expressly makes the right to appeal applicable to actions and final decisions of the Ethics Adjudicatory Board. Provides that a final decision of the Ethics Adjudicatory Board may be appealed by filing a written motion with the Ethics Adjudicatory Board within 30 days after the signing and transmission of the notice of the final decision, or if a rehearing is requested, within 30 days after the transmission of the notice of the decision of the Ethics Adjudicatory Board on the rehearing.

Existing law provides for appeals to a civil service commission or higher education management board in specific situations involving disciplinary actions taken against certain employees. Provides general procedures. New law makes provisions of existing law applicable to actions and final decisions of the Ethics Adjudicatory Board.

New law authorizes the Board of Ethics, upon unanimous vote of its members present and voting, to appeal questions of law in a final decision of the Ethics Adjudicatory Board to the First Circuit Court of Appeal within 30 days after the signing and transmission of the notice of a final decision, or final decision on rehearing of the Ethics Adjudicatory Board. Defines "final decision" for this purpose as 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. Further provides that 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, inclusive of all stages of litigation and appeal, of the other party. Provides that the amount of attorney fees shall be determined by the court of appeal and set forth in its judgment.

Existing law (R.S. 42:1141.1) provides that a declaratory opinion of the board shall be considered a final decision and shall be reviewable by the First Circuit Court of Appeal as provided in existing law (R.S. 42:1142). Provides that any refusal by the Board of Ethics or a panel thereof to issue a declaratory opinion is subject to the supervisory jurisdiction of the appellate court as provided in the present constitution (Const. Art. V, §10). Prior law provided that any preliminary, procedural, or intermediate action or ruling of the Board of Ethics or a panel thereof was subject to such supervisory jurisdiction. New law repeals prior law.

Effective upon signature of governor (June 7, 2012).

(Amends R.S. 42:1142)