

**BREVARD COUNTY
MERIT SYSTEM PROCEDURES
PROCEDURE XIII**

Title: **EMPLOYEE GRIEVANCES AND APPEALS**

I. PURPOSE AND SCOPE

To implement the Disciplinary Actions Policy.

II. DEFINITIONS AND REFERENCES

Merit System Policy XIII, Employee Grievances and Appeals

III. GRIEVANCES

A. General Provisions:

1. A Career Service employee may file a grievance concerning a suspension without pay, placement on disciplinary probation, demotion or involuntary reduction in pay before the grievance committee if the grievance is not satisfactorily resolved at the supervisory level up to and including the Administrative Officer IV. In the event the Office of Human Resources Director determines that the Grievance Committee does not have jurisdiction to hear a particular grievance, and in the event the employee disagrees with that determination, the Office of Human Resources Director shall submit the proposed grievance to the Grievance Committee for a decision on whether the Grievance Committee has jurisdiction to hear that particular grievance matter.
2. Employees serving a probationary period are ineligible to file grievances.
3. Performance Evaluations shall not be subject to this grievance procedure.
4. A grievance not submitted within the time limits prescribed for each step shall be considered untimely and deemed null and void. A grievance not advanced to the next step within established time limits shall be considered as settled on the basis of the last answer provided by management. A grievance not answered within the time limits prescribed for the appropriate management representative shall entitle the employee to advance the grievance to the next step. Such advancement must be made no later than ten (10) working days following the date an answer was due.
5. The time limits set forth in each step may be extended for good and sufficient reason by management due to illness, vacation, work schedule, emergencies, or other unusual circumstances, or when deemed in the best interest for assessment of all available information to arrive at an equitable solution to the grievance. Should a time limit be extended the employee will be so advised and be notified of a date as to when a reply will be provided.

EMPLOYEE GRIEVANCES & APPEALS PROCEDURE (continued)

6. When a grievance is submitted in writing in accordance with section C of the grievance procedure it shall contain the following minimum information:
 - a. a complete statement of the grievance and the facts upon which it is based;
 - b. the names of any witnesses who can provide supportive or relative information;
 - c. the specific rule, policy or procedure alleged to have been violated, or the reason a disciplinary action is considered to be unjust;
 - d. and, the desired remedy or solution requested.
 7. In the event the written grievance does not contain all of the above information the appropriate supervisor has the right to return it to the grievant to supply the required information. The grievant would then have seven (7) working days to return the written grievance with the completed information.
- B. Grievance Committee:**
1. Grievance Committee members shall be selected and serve in accordance with the following procedure:
 - a. Each Administrative Officer V shall appoint one (1) supervisory and two (2) non-supervisory employees from their department/office to serve as a grievance committee member.
 - b. Regular grievance committee members will be selected by lot drawing for each grievance as required. The remaining appointees shall serve as alternate committee members. Members of the grievance committee will not be from the same office.
 - c. No member of the grievance committee may be from the same department or division as the employee filing the grievance.
 - d. New appointees shall be selected in the same manner, during the month of December, for the new year's term.
 2. The Office of Human Resources Director, or his designee, shall act as permanent secretary to the Grievance Committee and be responsible for notifications of interested parties, the keeping of official files and rendering advice on personnel policies and procedures.
 3. All meetings, investigations and hearings related to grievance reviews shall be conducted during normal working hours, whenever possible. All participants in Grievance Committee activities shall be granted administrative leave with pay. Members of the Grievance Committee shall be granted reasonable travel allowances when grievance hearings require travel outside the member's official duty station.

EMPLOYEE GRIEVANCES & APPEALS PROCEDURE (continued)

C. Grievance Procedure Steps:

1. For a grievance concerning terms or conditions of employment or discipline up to a written reprimand:

Step 1: Within ten (10) working days of the occurrence of the incident from which the grievance arose, the employee shall discuss the complaint with his/her immediate supervisor. Discussions will be informal for the purpose of settling the problem in the simplest and most direct manner. The immediate supervisor shall make appropriate inquiries and take appropriate actions to resolve the problem, when indicated, or provide the employee with a verbal answer within seven (7) working days.

Step 2: If the grievance is not settled at the first step, or a reply has not been received within seven (7) working days, the employee may submit a written grievance to the Administrative Officer IV/V (working title: department/office director) within seven (7) working days.

The Administrative Officer IV/V shall conduct a hearing on the grievance within ten (10) working days of receipt of the written grievance and provide the employee a written reply no later than ten (10) working days following the hearing. The decision rendered by the Administrative Officer is final and non-appealable.

2. For a grievance concerning suspension without pay, demotion or involuntary reduction in pay:

Step 1: Within ten (10) working days of the occurrence of the incident from which the grievance arose, the employee shall discuss the complaint with his/her immediate supervisor. Discussions will be informal for the purpose of settling the problem in the simplest and most direct manner. The immediate supervisor shall make appropriate inquiries and take appropriate actions to resolve the problem, when indicated, or provide the employee with a verbal answer within seven (7) working days.

Step 2: If the grievance is not settled at the first step, or a reply has not been received within seven (7) working days, the employee may submit a written grievance to the Administrative Officer IV/V within seven (7) working days.

The Administrative Officer IV/V shall conduct a hearing on the grievance within ten (10) working days of receipt of the written grievance and provide the employee a written reply no later than ten (10) working days following the hearing.

If the matter is resolved at Step 2, it will be so acknowledged by the employee on the written grievance form.

Step 3: If the grievance is not settled by the Administrative Officer, the employee may request in writing to the Office of Human Resources Director for the grievance to be reviewed by the Grievance Committee within seven (7) working days of receiving the written reply. Such requests shall be accompanied by all facts and information concerned with the grievance and the written replies given thereto.

EMPLOYEE GRIEVANCES & APPEALS PROCEDURE (continued)

Within 30 days after receipt of a written request for review, the Office of Human Resources Director shall present the grievance before the Grievance Committee. Postponements of a hearing before the Grievance Committee will be allowed only for cause. The Grievance Committee shall, within ten (10) working days, following a review or hearing, render its findings and advisory recommendations to the County Manager.

The County Manager will weigh the findings and recommendations of the Grievance Committee, and within ten (10) working days, notify the parties, through the Office of Human Resources Director, as to his decision. The decision of the County Manager shall be final. When the County Manager disregards the advisory recommendations of the Grievance Committee, he shall provide his reasoning in writing to the grievant.

3. For a grievance concerning disciplinary probation:

Step 1: Within ten (10) working days of the occurrence of the incident from which the grievance arose, the employee shall submit a written grievance to the Administrative Officer IV/V.

The Administrative Officer shall conduct a hearing on the grievance within ten (10) working days of receipt of the written grievance and provide the employee a written reply no later than ten (10) working days following the hearing.

If the matter is resolved at Step 1, it will be so acknowledged by the employee on the written grievance form.

Step 2: If the grievance is not settled by the Administrative Officer, the employee may appeal the grievance in writing to the Office of Human Resources Director for the grievance to be reviewed by the Grievance Committee within fifteen (15) working days of receiving the written reply.

Such requests shall be accompanied by all facts and information concerned with the grievance and the written replies given thereto.

Within thirty (30) days after receipt of a written request for review the Office of Human Resources Director shall present the grievance before the Grievance Committee. Postponements of a hearing before the Grievance Committee will be allowed only for cause. The Grievance Committee shall, within ten (10) working days, following a review or hearing, render its' findings and advisory recommendations to the County Manager.

The County Manager will weigh the findings and recommendations of the Grievance Committee, and within ten (10) working days, notify the parties, through the Office of Human Resources Director, as to his decision. When the County Manager disregards the advisory recommendations of the Grievance Committee, he shall provide his reasoning in writing to the grievant. The decision of the County Manager shall be final except if the County Manager disregards the advisory recommendations of the Grievance Committee. In such case, the grievant may appeal the County Manager's decision to the Personnel Council.

EMPLOYEE GRIEVANCES & APPEALS PROCEDURE (continued)

4. For a grievance concerning dismissal:

Any grievance regarding dismissal of a Career Service employee shall be appealed directly to the Personnel Council.

IV. APPEALS

A. Notice of Action:

1. Each employee of the Career Service shall be provided written notice by the appointing authority involving any action of dismissal.
2. Such notice shall advise the employee of his/her right of appeal as provided under this section.
3. A copy of all such notices shall be provided to the Office of Human Resources Director.

B. Right of Appeal:

1. Any employee who has achieved permanent status in the Career Service shall have the right to appeal to the Personnel Council any dismissal by the appointing authority by whom he/she is employed.
2. Any employee in the County Service who believes he/she has been suspended, demoted, denied promotion or dismissed because of political opinion or affiliation, religious beliefs, race, color, sex, gender, marital status, national origin, ancestry, age or disability which does not preclude the performance of the essential functions of the job, with reasonable accommodations provided as necessary, shall have right of appeal to the Personnel Council.
3. Any candidate for appointment to the County Service who is denied examination, certification or appointment because of political opinion or affiliation, religious beliefs, race, color, sex, national origin, age or physical disability not related to employment performance shall have the right of appeal to the Personnel Council.

C. Procedures for Filing Appeals:

1. A Career Service employee may submit an appeal directly to the Personnel Council on actions taken by management resulting dismissal. Any such notice of appeal must be in writing and received by the Office of Human Resources Director no later than ten (10) working days from the date the employee was officially notified of management's action. Official notice shall be the date the employee was provided written notice of the adverse action or the date such notice was delivered to the employee's last known address.
2. Any individual wishing to appeal to the Personnel Council incidents of alleged discrimination in their efforts to secure appointment to the County Service, shall specify in writing the desire to appeal within ten (10) business days from the date the individual was notified of the appointing authority's action. Such appeals shall include the date, time, place, name(s) of person's involved and specific act of discrimination.

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3. The notice of appeal shall be on a form as prescribed by the Office of Human Resources Director and shall contain a concise and brief statement of facts showing why the appellant is entitled to relief.
4. Upon receipt of an appeal which is found to be in order in accordance with the provisions of this section the Office of Human Resources Director shall notify the appellant and the appointing authority accordingly.
5. The Office of Human Resources Director shall make all necessary arrangements for the appeal to be heard by the Personnel Council.
6. Any Career Service employee who appeals the decision of the County Manager concerning placement on disciplinary probation, must file a notice of appeal form with the Office of Human Resources Director within ten (10) working days of receipt of the decision of the County Manager. The Office of Human Resources Director shall then forward the written record of the grievance, including the findings and recommendations of the Grievance Committee, and the written decision of the County Manager, to the Personnel Council. The Personnel Council shall then make a written decision on whether to uphold the County Manager's decision, to uphold the Grievance Committee's recommendation, or to make an order which modifies the County Manager's decision.

V. PROCEDURES FOR HEARING APPEALS

A. Hearing Dates:

The Office of Human Resources Director shall establish a time, date and place for hearings and provide appropriate written notice to the parties concerned.

B. Postponements:

1. Once the date for the proceedings has been fixed, the appellant or appointing authority may file a written request for postponement with the Chairman of the Personnel Council, through the Office of Human Resources Director, citing circumstances which prevent attendance on the scheduled date. Any request for postponement must be made at least 24 hours prior to the hearing date.
2. The Chairman of the Personnel Council shall consider the request on its merit and may grant a postponement if extenuating circumstances are present.

C. Quorum:

A quorum shall consist of no less than three (3) Personnel Council members. No hearing shall take place in the absence of a quorum.

D. Conduct of the Hearing:

1. The Chairman of the Personnel Council, or in his/her absence the Vice Chairman, shall preside at all hearings. In the absence of both, the Chairman and the Vice Chairman, the quorum shall select one (1) member of the body as Acting Chairman for the conduct of the hearing.

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2. All parties shall abide by the decisions of the chairman except in the event another member of the Personnel Council objects to a decision concerning the admission of evidence; then the issue will be settled by majority vote of the Personnel Council.
 3. The chairman shall open the hearing by;
 - a. stating the nature and purpose of the proceedings,
 - b. introducing and identifying for the record all interested parties,
 - c. defining the issue or issues, and
 - d. explaining the manner in which the hearing will be conducted.
 4. Each party shall have the right to be accompanied by or represented by counsel at their own expense.
 5. Each party shall be given an opportunity to make an opening statement if they desire. Such opening statement shall be restricted solely to the facts the party expects to prove.
 6. Any member of the Personnel Council may direct questions to any party at any time during the proceedings.
 7. Each party may object to clearly irrelevant material and shall have the right to examine or cross-examine witnesses but technical compliance with the rules of evidence will not be necessary.
 8. The chairman shall allow the appellant and the appointing authority, or their representative, to make a closing statement if they desire.
- E. Rules of Evidence:**
1. Each party shall be responsible for proving their case by competent substantial evidence.
 2. Evidence may be in the form of oral testimony of witnesses, signed affidavits or statements, or introduction of pertinent documents, materials or equipment.
 3. Testimony of witnesses may be under oath or affirmation.
 4. The chairman of the Personnel Council shall be responsible for admittance of evidence and control of testimony.
 5. The Personnel Council may request additional documentary evidence which it considers relevant or the recall of witnesses when the need for additional testimony is indicated.
 6. Documentary evidence introduced and accepted by the Personnel Council will be labeled or numbered for proper identification into the record.

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F. Record of the Hearing:

1. Stenographic notes and/or a mechanical record shall be kept of all hearing procedures.
2. A verbatim account of the hearing will not be transcribed unless requested in advance of the hearing by one of the parties, and if paid for by the requesting party.
3. Either party shall have the right to have the proceedings recorded by a court reporter at their own expense.

VI. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Procedure is reserved to the County Manager.

Effective 02/26/03