

610
GRIEVANCE AND APPEAL

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PURPOSE

Employees and the County benefit from a procedure established for the purpose of resolving complaints on specific issues. This process allows for the free discussion of matters of concern.

SCOPE

This policy applies to career service employees and establishes: grounds for grievances; standing to file a grievance; rights and responsibilities of the employee and management when a grievance is submitted; procedures and deadlines.

CROSS REFERENCES

Employee Classification, Policy 320
Progressive Discipline, Policy 610

POLICY AND PROCEDURES

1. Eligibility
 - A. Only career service employees may submit grievances.
 - B. When several employees allege the same grievance, they may submit a joint grievance and each sign a written statement either jointly or separately. If a decision at one level of review resolves the grievance for some but not all of the grievants, those remaining unsatisfied may continue the grievance on the unresolved items.
 - C. A person who voluntarily terminates employment with the County may not submit or pursue a grievance after the date of termination.
2. Grounds for Grievance
 - A. A career service employee may file a grievance based upon a decision resulting in actual harm or condition of employment as related to discrimination of any kind, reassignments, or terminations.
 - B. A career service employee may grieve all other matters only to the employee's

Department Head.

3. Employee Rights

- A. For the purpose of submitting a grievance, an employee may: Obtain assistance by one (1) representative to act as an advocate; request a reasonable amount of time during work hours to confer with a representative to prepare the grievance and attend hearings; call employees or others as witnesses at a grievance hearing before the Career Service Board; and invoke the subpoena power of a court in the same manner as the Career Service Board to compel attendance at a hearing.
- B. Department Heads and employees shall not retaliate against any employee for the use of or participation in grievance procedures.
- C. Employees called to appear as witnesses at a grievance hearing shall be permitted to attend a hearing held during their scheduled work shift if the party calling the employee notifies the employee and the employee's supervisor at least two regular working days prior to the hearing.

4. Timelines for Submission of Grievances and Appeals

- A. The employee shall submit the grievance within 10 calendar days after the event giving rise to the grievance or within 10 calendar days after the employee knows of, or with the exercise of reasonable diligence, should have known of the event giving rise to the grievance.
- B. If the employee fails to appeal a decision on a grievance to the next level of review within the time permitted, the employee shall be deemed to have waived all right of further review, and the grievance shall be deemed disposed on the basis of the last decision.

5. Procedure for Submitting Grievances and Appeals

- A. The employee shall submit the grievance in writing to the HR Director. The HR Director shall convene a board of three (3) Department Heads. One (1) Department Head is to be chosen by the grievant, one (1) Department Head is to be chosen by the grievants' Department Head and the third board member will be chosen by the two previously selected Department Heads. The board shall review the grievance and applicable documents, and issue a written decision to the employee(s) on the grievance within ten (10) business days after the board reviews the grievance. If the decision is not issued within ten (10) business days, the grievance shall be deemed denied.
- C. If the grievance remains unresolved or if the employee is dissatisfied with the decision, the employee shall submit the grievance (to include all prior decisions) in writing to the County Commission within five (5) business days after receipt of the decision. The Commission shall issue a written decision to the employee(s) on the grievance within five (5) business days after its submission. The decision shall

include the reasons for the decision. If the decision is not issued within five (5) business days, the grievance shall be deemed denied.

- D. If the grievance remains undecided, or if the employee is dissatisfied with the decision, the employee shall submit the grievance in writing to the HR Director within five (5) business days after the receipt of the decision, asking for Career Service Board review.

6. Career Service Board

- A. A Career Service Board (Board) is in effect for the benefit of Uintah County career service employees as per U.C.A 17-33-4.
- B. A member of the Board may not otherwise be employed by the County.
- C. Each July, the Board members shall choose a Chairman from among themselves.
- D. Members of the Board shall receive a stipend of \$50 for performing official duties for up to four (4) hours in a twenty-four hour period, and a stipend of \$100 for four (4) or more hours of service within a twenty-four hour period. They also shall be reimbursed for expenses necessarily incurred in the performance of their duties.
- E. The HR Director is the secretary of the Board. Copies of documents filed with the Board shall be maintained in the HR office in a grievance file. The HR Director shall serve a copy of all orders and decisions of the Board upon the parties to the grievance. Service upon a party represented by counsel shall be made upon counsel.

7. Authority of the Career Service Review Board

- A. The Board shall serve as the final administrative body to review grievances and appeals by employees of the County. The Board has jurisdiction over appeals and grievances that have not been resolved at an earlier stage of the grievance process.
- B. Action by a majority of the Board is an action of the Board. All three members of the Board must be present for the Board to conduct business. Members of the Board may be present telephonically.
- C. The Board has no jurisdiction to review or decide personnel matters that are not grievable under the terms of this policy.
- D. A member of the Board may administer an oath or affirmation in conjunction with proceeding within the Board's jurisdiction.
- E. The Board may not issue subpoenas. The Board may petition any court with the authority to issue subpoenas to issue a subpoena on the Board's behalf. The Utah Rules of Civil Procedure regulating the issuance of a subpoena shall apply.

- F. The Board may not award costs or attorney fees to either party.
 - G. The Board may make rules governing the conduct of its proceedings on a case-by-case basis.
8. Grievance Submission to the Career Service Review Board
- A. A member of the Commission, or a designee, shall represent the interest of the County before the Board.
 - B. The Board may, at any time, confer with the parties, together or separately, in an effort to settle the grievance.
 - C. Prior to a formal hearing, the Board shall require the parties to identify:
 - 1. Admitted and disputed allegations;
 - 2. The issues to be resolved;
 - 3. Applicable laws;
 - 4. The harm suffered;
 - 5. The relief requested;
 - 6. A list of witnesses, exhibits, and other evidence to be offered at an adjudication hearing; and
 - 7. Possible dates for an adjudicative hearing, if the grievance cannot be settled.
9. Adjudicative Hearing
- A. The Board shall require either party to serve copies of documents to be presented in the hearing to the other party prior to the hearing. A list of names of witnesses that will be present at the hearing shall also be provided.
 - B. The adjudicative hearing shall be before the Board and shall be electronically recorded.
 - C. All proceedings before the Board are considered closed meetings per U.C.A. 52-4-204.
 - D. The County has the burden of proof in all grievances resulting from reassignments and terminations. The employee has the burden of proof in all other grievances. The party that brings a fact shall have the burden of persuasion for the existence and relevance of that fact.

- E. The party with the burden of proof shall prove the case by substantial evidence.
- F. The Board shall conduct the proceeding to obtain full disclosure of relevant facts and to provide all parties a reasonable opportunity to present their positions.
- G. The Board shall allow both parties the opportunity to present evidence and rebuttal evidence, conduct cross-examination, argue, and respond to arguments.
- H. The Board shall determine the order of presentation of the evidence.
- I. The Board shall consider evidence it determines to be material, relevant, credible, and reliable. The Board shall not exclude evidence solely because it is hearsay.
- J. The Board may request independent counsel for legal advice at County expense.
- K. The Board may ask questions of witnesses.
- L. All testimony shall be given under oath of affirmation.
- M. The Board shall issue a written decision within fifteen (15) calendar days after the hearing is adjourned. If the Board does not issue its decision within fifteen (15) calendar days after the hearing, the County shall not be liable for any claimed back salary or benefits between the time the decision is due and the decision is issued.
- N. The decision of the Board shall include a statement of: findings of fact; conclusions of law; the relief granted; and the reasons for the decision.
- O. The Board's initial decision is final and shall not reconsider a decision once issued.

10. Records

- A. The official record of any proceedings required by these rules to be recorded shall be maintained by an electronic recording device. The cost of transcript of the hearing shall be paid by the party requesting the transcript.
- B. The HR Director shall establish a file for the grievance which shall contain all documents related to the grievance. The employee may request a copy of any document placed in the file.
- C. The record shall consist of the agency file required by 10.B above, the transcript of any hearing required by these rules to be recorded, and any evidence submitted at a hearing.
- D. The record shall be considered private data under the Government Records Access Management Act of the State of Utah as adopted by Uintah County. The

Board may declare the record, or any part of it, to be confidential or sealed.

- E. If disciplinary action against an employee is modified as a result of the grievance process, the HR Director shall take appropriate actions to ensure the modifications are appropriately reflected in the employee's personnel file.