

## **SECTION 16**

### **EMPLOYEE GRIEVANCE PROCEDURES**

#### **A. Definition**

A grievance is a complaint, dispute, or disagreement on the part of any regular County employee that arises from working relationships, working conditions, or employment practices between such employee and the County. An employee presenting a grievance in good faith need not fear retaliation for filing a grievance. Excluded from this policy are: (1) complaints concerning performance-related dismissals during the initial orientation period and Administrative Separations, (2) complaints regarding wages and salaries, as these are not negotiable issues, and (3) complaints of harassment, sexual harassment and discrimination based on race, color, national origin, sex, age, religion, disability, veteran status (disabled), sexual orientation, gender identity or expression, or political affiliation for which a specific policy and complaint procedure exists.

**Note:** Any Elected Official (or Department Head not appointed by Commissioners' Court) may choose to participate in this process by sending a letter to the Human Resources Director stating their willingness to participate. Conversely, they may also elect to suspend participation at any time by informing the Human Resources Director in writing. If there is no letter on file stating a department's intent to participate, it is assumed that department is not a participant in this process.

#### **B. Category I**

This includes grievances that do not involve terminations, demotions or suspensions.

##### **Process:**

The specifics of the grievance and the date it occurred shall be submitted on a County Grievance Form to the employee's immediate supervisor within five (5) working days from the date of the occurrence giving rise to the dispute. The supervisor shall meet with the employee within ten working days of receiving the complaint and shall attempt to resolve the grievance and provide a written answer within ten (10) working days from the date of the meeting. If the supervisor is also the department head, the process ends with the determination of the department head. If the immediate supervisor is not the department head, and is a party to the dispute and/or prior verbal discussion regarding the complaint has yielded no resolution, the written complaint may be submitted to the Department Head for a final determination.

Grievances in this category may also be submitted for mediation, if both the grievant and the Department Head agree to this option. If both parties do agree, the grievant should complete the "Employee Mediation Request Form," and turn it in to Human Resources.

## **C. Category II**

### **Process:**

If the grievance involves a suspension, demotion or termination, it may be submitted by the grieving employee in writing on the “Employee Mediation Request Form,” with specific details, to the Human Resources Department within five (5) working days from the date of the action. Any grievance presented after five (5) working days will not be accepted. The Human Resources Department will then inform the Department Head/Elected Official of the grievance and will refer the complaint to the Dispute Resolution Center.

The Dispute Resolution Center will assign the case to mediators and set the case on a date that is mutually acceptable to both parties. If an agreement is not reached during mediation, the previous decision of the Department Head/Elected Official will stand.

## **D. Guidelines for Dispute Resolution Process/Mediation**

1. **Definition.** Mediation is a process under which an impartial person, the Mediator, facilitates communication between parties to promote reconciliation, resolution, or understanding among them. The Mediator may suggest ways of resolving the dispute, but may not impose his/her own judgment on the issues for that of the parties. Any agreement reached will be mutually decided upon by all parties.
2. **Purpose.** The purpose of mediation is to provide an informal forum through which both parties can attempt to resolve the problem at hand through the mediation process. Mediation is not a means of effecting or averting disciplinary action for either party.
3. **Dispute Resolution Center (DRC) Process.** The DRC staff will initially interview both the employee and the manager separately to try and determine if the problem can be resolved. If it is determined that mediation may resolve the issue, a hearing will be set for approximately one week after the interviews. If a mutually acceptable agreement is reached, the mediator assists in documenting the agreement in writing. If no agreement is reached, the DRC will so document and send the grievant and the manager a memo to that effect within ten (10) working days following the meeting.
4. **Commitment to Participate in Good Faith.** While no one is asked to commit to resolve their case in advance of mediation, all parties commit to participate in the proceedings in good faith with the intention of resolution, if at all possible.
5. **Privacy.** Mediation sessions are private. Only the parties involved and their representatives may attend mediation sessions (closed sessions).

6. **Limitations of Representatives or Legal Counsel.** Successful mediation depends upon free flow or communication between the parties involved in a non-adversarial and confidential environment: to deter communication would defeat the purpose of the mediation. To that end, representatives and/or attorneys may advise clients during mediation, but will not be allowed to ask questions and/or cross-examine the opposing party. In addition, the process does not follow rules of evidence, nor is it to be used as a vehicle for discovery. If either party chooses to have an attorney present, the Dispute Resolution Center must be notified 24 hours in advance of the hearing.
7. **Confidentiality.** Confidential information disclosed to a Mediator by the parties in the course of the mediation shall not be divulged by the Mediator. All records, reports or other documents received by a mediator while serving in that capacity shall be confidential. The Mediator shall not be compelled to divulge such records or to testify in regard to the mediation.
8. **No Stenographic Record.** There shall be no stenographic record of the mediation process and no person shall tape record any portion of the mediation session. Notes taken by all parties and the Mediator will be collected at the end of the session and destroyed.
9. **Termination of Mediation.** The mediation shall be terminated: a) by the execution of a resolution agreement by the parties, b) by declaration of the Mediator to the effect that further efforts at mediation are no longer worthwhile, or c) after the completion of one full mediation session, by a written declaration of a party or parties to the effect that the mediation proceedings are terminated.
10. **Exclusion of Liability.** The Mediator is not a necessary or proper party in judicial proceedings relating to the mediation. Neither the Mediator nor the Dispute Resolution Center shall be liable to any party for any act or omission in connection with mediation conducted under these rules.

#### **E. Employee Mediation Request Process**

Attachment A is a copy of the form you must complete if you are requesting mediation. Prior to completing and submitting this form, it is suggested that you try and resolve the issue with your immediate supervisor (if applicable) up through your Department Head/Elected Official. At any point in this process, you or your manager may request mediation but your Department Head/Elected Official is to be made aware of this request either by you or your immediate supervisor.

If the issue has not been resolved or cannot be resolved within your management team, then complete this form. Forward the completed form to the Director of Human Resources at Annex 1, 1225 Pearl, Suite 201, Beaumont, Texas 77701. The Director of Human Resources will review your request with the Department Head/Elected Official for possible resolution. If the issue is not resolved, a determination will be made as to whether your disagreement can be mediated. The Director of Human Resources will follow-up with you to discuss the next step.

**F. Employee Grievance Process**

Attachment B is a copy of the form you must complete if you are filing a grievance. Prior to completing and submitting this form, it is suggested that you try and resolve the grievance with your immediate supervisor (if applicable) up through your Department Head/Elected Official. If your grievance involves anything other than a suspension, demotion, or termination, the decision of your Department Head/Elected Official is final.

If the grievance involves a suspension, demotion, or termination, you must complete an Employee Mediation Request Form, and submit it to the Human Resources Department within five working days of the disciplinary action.

If no agreement is reached during mediation, the previous decision of the Department Head/Elected Official is final.