

ER-2: Employee Grievance and Appeal Procedure

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1. INTENT

This procedure is adopted in accordance with the “County and Municipal Employees Grievance Procedure Act,” Section 8-17-110, et seq., Code of Laws of South Carolina, 1976, as amended.

2. GRIEVANCE PROCEDURE

- a. A grievance is defined as any complaint by an employee that has been treated unlawfully, or in violation of his/her rights under county policies, with regard to any matter pertaining to their employment by the County. This definition includes, but is not limited to, discrimination concerning any handicap, or disability as pertains to the Section 504 and the Americans with Disabilities Act, discharge, suspension, involuntary transfer, promotion, and demotion. If any employee believes that he/she has not received or been credited with or has otherwise lost wages or benefits to which he/she is entitled, they must present his/her grievance in accordance with this procedure or such wages or benefits may be forfeited.
- b. An employee who feels that he/she has a grievance must follow the following procedure:
 1. He/she must discuss the grievance with their immediate supervisor **within 10 calendar days** of the events giving rise to the grievance. If his/her supervisor is unable or unwilling to adjust the grievance to the satisfaction of the employee, the employee must take Step 2.
 2. The employee must follow the Chain of Command in his department, appealing to each successive level of supervision. **(Please see Chain of Command format on last page.)** All of Step 1 and Step 2 appeals may be oral. At each level each supervisor will have four (4) calendar days to render a decision. If no decision is made within this time, the grievance shall be considered denied. If a supervisor at a particular level is unavailable to consider the grievance, it shall be considered denied and the employee shall appeal to the next level of supervision.
 3. If the head of the department in which the employee is employed denies the grievance, this decision shall be final as to any grievance brought by a probationary employee. A new employee, or regular employee that has been placed on probation for performance or disciplinary reasons, shall be considered probationary until his probationary evaluation is completed and approved by his/her department head.

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- c. Employees other than probationary employees may appeal to the Employee Grievance Committee the denial of their grievance by department heads by filling a written request for appeal at the County's Human Resources Department. This must be done within 7 calendar days of the department head denial of the grievance. The written request for appeal must include the following information:
- (1) The purpose of the appeal and what recommendation is requested of the Grievance Committee; and
 - (2) A statement that the chain-of- command has been followed in the appeal as is required by the grievance procedure.
 - (3) The Human Resources Department staff will assist in preparing the appeal, if requested. After the appeal is prepared, a Human Resources Representative shall forward the grievance to the Chairman of the Grievance Committee within four calendar days and will retain a written acceptance.
- d. Within ten (10) calendar days of receipt of the employee's request, the Chairman of the Grievance Committee shall schedule the requested hearing and notify the Grievance Committee, the employee requesting the hearing, the affected department head and the Human Resources Department.

3. THE EMPLOYEE GRIEVANCE COMMITTEE

The County Administrator shall appoint the Committee composed of seven (7) employees to serve for terms of three (3) years, except that the members appointed initially shall be appointed so that their terms will be staggered, and approximately one-third (1/3) of the terms shall expire each year. A member shall continue to serve after the expiration of his/her term until a successor is appointed. Any interim appointment to fill a vacancy for any cause prior to the completion of a member's term shall be for the unexpired term. Any member may be reappointed for succeeding terms at the discretion of the County Administrator. All members shall be selected on a broad representation basis from among county employees. Members employed in the same department as the grieving employee and members having formed an opinion on the issue prior to the hearing shall not participate in the employee's hearing.

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- a. The Committee annually selects its own chairman from among its members. The Chairman serves as the presiding officer at all hearings which he attends but may designate some other member to serve as presiding officer in his absence. The chairman has the authority to schedule and re-schedule all hearings.
- b. A quorum consists of at least five (5) members (two-thirds of Committee), and no hearing may be held without a quorum.
- c. The presiding officer will have control of the proceedings. He/she takes whatever action is necessary to ensure an equitable, orderly, and expeditious hearing. Parties shall abide by his/her decisions, except when a Committee member objects to a decision to accept or reject evidence, in which case the majority vote of the Committee will govern.
- d. The Committee has the authority to call for files, records, and papers which are pertinent to any investigation and which are subject to the control of the County Administrator, to call for or consider affidavits of witnesses: to request and hear the testimony of witnesses, to consider the results of polygraph examinations; and to secure the services of a recording secretary in its discretion. The Committee has no authority to subpoena witnesses, documents or other evidence, nor may any county employee be compelled to attend any hearing. All proceeding shall be tape recorded. Witnesses, other than the grieving employee and the department representative are sequestered when not testifying. All witnesses testify under oath.
- e. All hearings are held in executive session unless the grieving employee requests at least 24 hours prior to the hearing that it be held in open session. The official tape recording and the official minutes of all hearings shall be subject to the control and disposition of the County Administrator.
- f. Neither the grieving employee nor the department may be assisted by advisers or by attorneys during the hearing itself. However, the Committee shall have an attorney available to it at any and all times it considers necessary and the Human Resources Department shall provide assistance in reading written materials to the Committee at the request of the grieving employee.

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- g. In disciplinary actions by department heads and their subordinate supervisors, the employee must receive in reasonable detail written notice of the nature of the acts or omissions which are the basis for the disciplinary action. The notice may be amended at any time 24 hours or more before the commencement of the hearing. The department must demonstrate that the disciplinary action is for the good of the county. The department shall make the first presentation. The Committee may base its findings and recommendations (and County Administrator or elected or appointed officials their decision) on any additional or different grounds developed from the employee's presentation.
- h. In non-disciplinary grievances the employee must establish that a right existed and that it was denied him unfairly, illegally, or in violation of a county policy. The employee shall make the first presentation.
- i. In all grievances, the grieving employee and the department shall each be limited to one (1) hour of initial presentation. The party required to make the first presentation shall be entitled to a ten (10) minute rebuttal of the other party's presentation. The chairman shall appoint themselves or another member of the Committee as timekeeper.
- j. In all grievances, presentations may be oral or in writing or both and may be supported by affidavits or unsworn signed statements from witnesses, by records, other documentary evidence, photographs, and other physical evidence. Presentations shall be made by the grieving employee (with reading assistance from a member of the Human Resources Department if the employee desires) and by a managerial employee of the affected department. Neither party may call witnesses or question the other party, or question any witness called by the Committee. Parties may request that the committee call witnesses and a list of potential witnesses should be submitted to the committee 5 days prior to the hearing.
- k. Except as provided in section m. below, the Committee shall, within 20 calendar days after hearing an appeal, make its findings and recommendation and report such findings and recommendation to the County Administrator. If the Administrator approves, the recommendation of the Committee is reported to the employee, to the head of the particular department involved, and the Human Resources Department. If however the County Administrator rejects the decision of the Committee, the Administrator shall make his own decision without further hearings, and that decision will be final. Copies of the decision shall be transmitted to the employee, the head of the department involved, and the Human Resources Department.

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1. In grievances involving the failure to promote or transfer, or the discipline or discharge or personnel employed in or seeking assignment to departments under the direction of an elected official or an official appointed by an authority outside county government, the Committee shall, within 20 calendar days after hearing an appeal, make its findings and recommendation and report such findings and recommendation to such official. If the official approves, the recommendation of the Committee shall be his/her decision and a copy of the decision shall be transmitted by the Committee to the employee. If however the official rejects the decision of the Committee, the official shall make his/her own decision without further hearings, and that decision will be final. A copy of the decision shall be transmitted to the employee and the Human Resources Department.

Chain of Command for Grievance Appeals

- Step One: Supervisor
- Step Two: Director/Department Head
- Step Three: Deputy County Administrator
- Step Four: HR Representative and Grievance Committee
- Step Five: Final Decision – County Administrator