

PROCEDURE 412-1
DISPUTE RESOLUTION PROCESS
Effective 05-01-2021, Resolution No. 014-21

General Information

Information concerning an employee complaint or dispute is confidential. Persons investigating, responding to, or deciding a dispute may discuss it only with those individuals who have a business need to know or who are needed to supply background information or advice.

No dispute resolution meeting or hearing may be recorded as recording is not conducive to resolution.

Time spent by employees in dispute resolution meetings with management or dispute resolution hearings will be considered hours worked for pay purposes.

Employees and officials are prohibited from retaliating against an employee who properly uses the dispute resolution procedure. Raising complaints in bad faith or solely for the purposes of delay or harassment, or repeatedly raising meritless disputes is not proper use of the dispute resolution process. Employees who engage in such conduct may be subject to corrective action and/or denied access to the dispute resolution process.

If the dispute involves claims of discrimination, harassment, or retaliation in violation of the Equal Opportunity in Employment Policy, supervisory and management-level employees must notify the Department of Human Resources or other proper individual identified in Human Resources Procedure 105-3. Depending upon the circumstances, the dispute resolution process may be postponed until an investigation of the alleged policy violation has been completed.

The Department of Human Resources may extend the time limits discussed in this procedure for good cause at any time.

This procedure is offered as a benefit to employees and does not alter the employment-at-will relationship in any way and does not create legal or property rights for any employee.

Procedure for Complaints of Unfair Working Conditions or Unjust Corrective Action That Does Not Immediately Affect Pay (counseling, performance improvement plan, or written reprimand)

- **Step 1: Department/Agency/Office Review (Skip to Step 2 if the dispute is with the department/agency/office leader.)**
 - The employee must first attempt to resolve the matter with their immediate supervisor. A written statement is not required.
 - If the issue is not resolved with the employee's immediate supervisor, the employee may request review by their division head. The employee must submit a Dispute Resolution Form (DRF) to the division head within three business days of the incident that is the subject of the dispute. Within three business days, the division head will contact the employee to schedule a meeting. The

division head will provide a written response to the employee within three business days after the meeting.

- If the employee is not satisfied with the response of the division head, the employee may request review by their department/agency/office leader by submitting the DRF to the department/agency/office leader within three business days of receipt of the division head's response. Within three business days, the department/agency/office leader will contact the employee to schedule a meeting. The department/agency/office leader will provide a written response to the employee within three business days after the meeting. Unless the employee is contesting a decision or corrective action originating with the department/agency/office leader, the decision of the department/agency/office leader will be final.

- **Step 2: Review by the County Manager**

- If the employee is contesting unfair working conditions or corrective action originating with the department/agency/office leader, the employee may submit a Dispute Resolution Form (DRF) to the Department of Human Resources requesting review of the complaint by the County Manager. The employee must submit the DRF within three business days of the incident that is the subject of the dispute. The County Manager or the County Manager's designee will review the complaint.
- The Department of Human Resources will facilitate the review process and schedule a meeting with the County Manager or the County Manager's designee, the employee, the department/agency/office leader, and the Department of Human Resources to determine if there was a legitimate business reason for the action and whether the action was reasonable under the circumstances and consistent with County policies and procedures.
- The County Manager or designee may uphold, modify, or reverse the department/agency/office's action. That decision will be final.
- If the employee works in the County Manager's Office, the matter will be reviewed by another department/agency/office leader or an external party.

Procedure for Complaints Involving Involuntary Separation from Employment, Suspension without Pay, Demotion, or Loss of Pay Due to Reclassification

- **Review of Qualifying Adverse Employment Action by an Administrative Review Panel**

- Employees who believe that they have been unfairly separated from employment, suspended without pay, demoted, or suffered a reduction in pay due to reclassification may request review of the action by submitting a Dispute Resolution Form (DRF) to the Department of Human Resources stating the basis for their belief. The employee must submit the DRF to the Department of Human Resources within three business days of notice of the adverse action.
- The Department of Human Resources will facilitate the review process and schedule a hearing before an Administrative Review Panel. The hearing should be scheduled as quickly as possible, generally within ten days.

- The Administrative Review Panel may uphold, modify, or reverse the department/agency/office's action. The Panel may not substitute its judgment for that of the decisionmaker, but must only decide if there was a legitimate business reason for the action and whether the action was reasonable under the circumstances and consistent with County policies and procedures.
- The decision of the Administrative Review Panel will be final.

- **Hearing Procedure**

- The hearings will be of an informal nature.
- The Administrative Review Panel will conduct a fair and impartial hearing.
- A representative of the Legal Department and a representative of the Department of Human Resources will attend hearings to advise and assist the Panel and facilitate the presentation and exchange of information.
- Subject to the discretion of the facilitators, the participants may present any relevant information, statements, documents, witnesses, or evidence that they wish the Panel to consider; however, employees on leave generally will not be required to return from leave to participate as a witness. Cumulative information generally will not be allowed.
- Where the employee maintains that the corrective action was motivated by Protected Activity or Protected Status, as defined in the Equal Opportunity in Employment Policy, the Panel's inquiry will be limited to determining whether the allegations of unlawful motive has been investigated by the Human Resources Department or other person authorized under Human Resources Procedure 105-3 and whether they were substantiated. If the allegations have not been investigated, the Legal Department facilitator will determine whether to suspend the hearing pending investigation.
- The Panel, department/agency/office representative, employee, and the representatives of the Legal and Human Resources Departments may ask questions of any of the participants to clarify the issues.
- At the discretion of the Panel, the department/agency/office and the employee may make a brief final statement summarizing their respective positions.
- The employee and the department/agency/office may be represented by legal counsel at the hearing. The employee must notify the Department of Human Resources at least three business days prior to the hearing if the employee will be represented by counsel or the request for legal counsel may be denied.
- The parties are expected to be honest and respectful at all times during the hearing.
- The hearing is a confidential personnel matter. Participants may not disclose information learned in the hearing process. Neither party may record the hearing.

- The hearing is not an open meeting. The employee may have one person, in addition to a legal representative, present at the hearing for support provided that such person is not an employee or witness, is not disruptive, and abides by the hearing rules. The support person may be removed at the direction of a panel member or a facilitator for failure to comply or where necessary to protect the privacy of persons who are not a party to the proceeding.
- **Administrative Review Panel**
 - The County Manager will select nine executives and/or key managers and nine supervisory employees from among the County departments/agencies/offices who will serve as Administrative Review Panel members for staggered two-year periods. Each panel will be comprised of two executives/managers and one supervisory employee from outside the employee's department/agency/office. The Director of Human Resources or the Director's designee will select the panel for each hearing.
 - The Department of Human Resources and Legal Department will provide training for all persons selected to serve as potential Administrative Review Panel members.
- **Disputes Involving the Department of Human Resources, Legal Department, or County Manager's Office**
 - Where the employee making the complaint is employed in the Department of Human Resources, the Legal Department will fulfill all of the functions in relation to the Administrative Review Panel that are normally fulfilled by the Human Resources Department. Likewise, if the employee making the complaint is employed by the Legal Department, the Department of Human Resources will fulfill all of the functions in relation to the Administrative Review Panel that are normally fulfilled by the Legal Department or an external law firm may be retained to assist with the hearing.
 - Where the employee is employed in the County Manager's Office, attempts will be made to provide panelists who do not report directly to the decisionmaker.