



## Weber County Human Resources Policy 3-700 Grievance/Appeal Procedure

### **I. Purpose**

This policy provides an equitable method of administering and resolving merit employee grievances. This policy is designed to resolve grievances in a fair and efficient manner at the lowest level possible.

### **II. Policy**

It is the policy of Weber County to provide administrative remedies for merit employees to file grievances in an environment free from harassment, discrimination or retaliation.

### **III. Procedures**

#### **A. PROCEDURE PRIOR TO HEARING**

1. A merit employee who is suspended, disciplinarily transferred, demoted, terminated, or who claims discrimination shall have the right to file a grievance and appeal to the Career Service Council.
  - a. Grievances shall not include disputes over oral or written warnings, initial probation, performance appraisal, work schedule or other factors not associated with the above list. These matters shall be handled through a formal complaint procedure through the direct supervisor or Department Director. Only the grievances presented from the above list shall be considered for appeal as the procedure progresses. To ensure this limitation, a copy of the original grievance shall be filed with the Director of Human Resources.
  - b. Such appeals shall be filed in writing using the Employee Grievance Form no later than five (5) working days after the decision of the supervisor as outlined in Policy 3-600: Discipline. Employees who are dismissed may appeal to the Career Service Council no later than five (5) working days after notice of termination is given. The Council shall hold a formal hearing no less than five (5) nor more than fifteen (15) working days after receipt of such appeal.
  - c. This five (5) day limitation may be waived by the Human Resources Director if, through no fault of the employee, the employee was unaware of the action in question before the time limit expired. However, in no case shall an employee submit a grievance more than thirty (30) days after the event giving rise to the grievance.
2. The hearing will not be scheduled unless the conditions of this paragraph are addressed in the appeal statement. The appellant shall include in the appeal

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information, statements, or claims as may lend support to the appeal. They shall advise the Director of Human Resources of any witnesses whom they expect to introduce at the hearing in support of the appeal, and whether they intend to present the case personally or through a representative. The appellant shall be responsible for notifying such witnesses of the time and place of the hearing and for any expenses incurred. If the notice of appeal does not satisfy the requirements of this paragraph, the Director shall notify the appellant. The appellant shall comply with the Director's instructions within five (5) working days.

- a. The Director of Human Resources shall notify the Administrative Officer when an appeal is received. The Administrative Officer shall advise the Director of Human Resources of any witnesses it expects to introduce at the hearing in support of its action. The Administrative Officer shall be responsible for notifying such witnesses of the time and place of the hearing.
- b. In advance of the hearing, the Director of Human Resources shall:
  - i. Notify the appellant and the department of the time and place the hearing is to be held, provide them access to the appellant's personnel file, and provide each party a copy of the other party's witness list.
  - ii. Furnish each member of the Council access to the appellant's personnel file, the department's reasons for its actions, a copy of the appellant's letter appealing such actions and a list of each party's witnesses.
  - iii. Furnish each member of the Council with a copy of these Rules and Regulations.

### **B. HEARING PROCEDURE**

1. The following procedure is intended to be a guide for the conduct of the hearing in an orderly manner. The procedures of the hearing are not set in the sense that it will interfere with the purpose of the hearing, which is to bring out all the facts. The appellant may present their case personally or through a representative of their choice. The hearing shall not be bound either by legal procedures or by legal rules of evidence. A record shall be kept of the proceedings. Reference to the hearing and the Council's decision and recommendations shall be entered in the minutes of the next Council meeting.
2. The Council Chairperson shall open the hearing by naming the parties and stating the nature of the action of the department.

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3. **Presentation of the department's case** - When requested by the Chairperson, the department representative shall read the department's letter to the employee. Upon completion of the reading, the department representative may make such other oral statements or offer such other evidence as they may consider necessary to supplement the statement.
    - a. When the department representative has finished with their oral statements or has stated that they have none to make, they may introduce witnesses or material evidence in support of the department's action. **PARTIES INTRODUCING DOCUMENTS OR OTHER MATERIAL EVIDENCE MUST SUBMIT SIX (6) COPIES.**
    - b. At the close of the department representative's oral statements and the testimony or evidence offered by department witnesses, questions may be directed to the representative and each witness by interested parties. Interested parties are as follows, and they shall raise questions in the order named and at times called upon by the Chairperson.
      - i. The department representative.
      - ii. The appellant representative. **Questions of the appellant at this point should be aimed at focusing the attention of the Council on what the representative considers to be weaknesses of the department's position or on points that the representative will make later when presenting the appellant's case. THIS IS NOT THE PROPER PLACE FOR REBUTTAL OR COUNTER ARGUMENTS.**
      - iii. The Director of Human Resources.
      - iv. Each Career Service Council member.
  4. **Presentation of the appellant's case** - The Procedure here shall be exactly the same as that for presentation of the case of the department except that the roles of the department representative and witnesses and those of the appellant and their witnesses shall be reversed.
  5. Rebuttal witnesses may be called by the department representative to address information presented by appellant. The department representative shall not be allowed to bring up new evidence which does not address appellant's arguments.
  6. Before closing the case, the Council shall allow the appellant and department representative in turn to make closing statements.
- C. DECISION OF THE CAREER SERVICE COUNCIL.** The Career Service Council shall, within fifteen (15) working days after the end of the hearing, make its decision in writing and transmit copies of such decision to the interested parties.

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1. A person adversely affected by a decision of the career service council may appeal the decision to the district court.
  - i. An appeal to the district court under [Utah Code 17-33-4](#) is barred unless it is filed within 30 days after the career service council issues its decision.
  - ii. If there is a record of the career service council proceedings, the district court review shall be limited to the record provided by the career service council.
  - iii. In reviewing a decision of the career service council, the district court shall presume that the decision is valid and may determine only whether the decision is arbitrary or capricious.

### **D. Administrative Law Judge**

1. A county legislative body may appoint one or more administrative law judges to hear appeals referred by a career service council under this section.
  - a. Each administrative law judge shall be trained and experienced in personnel matters.
2. A career service council may refer an appeal to an administrative law judge appointed under Subsection (1) if the career service council determines that the referral is in the parties' best interest.
  - a. After holding a hearing on an appeal described in Subsection (2), the administrative law judge shall make findings of fact and a recommendation to the career service council.
  - b. After receiving the administrative law judge's recommendation, the career service council may request the administrative law judge to hold a further factual hearing before the career service council issues a decision.
  - c. The career service council may adopt or reject the administrative law judge's recommendation, whether before or after a further hearing under Subsection (2)(b).
3. A career service council shall refer an appeal to an administrative law judge appointed under Subsection (1) if the county employee or county official assigned by the governing body to manage personnel functions requests that the appeal be referred.
  - a. In an appeal described in Subsection (3), the administrative law judge, not the career service council, shall issue a final decision.