

# Item 41

(9.206 - 9.250 reserved for expansion)

## **Subchapter D. The Grievance Process**

### **9.251 Purpose**

It is the intent of the Commissioners Court to allow both employees and management to resolve employee conflict internally, using the most expeditious and fairest manner possible.

### **9.252 Eligibility**

With the exception of employees-at-will, regular employees may use this Grievance Process. A regular employee is an employee who is:

- (1) Hired without a limit to the duration of his or her employment, and
- (2) Eligible for employee benefits.

### **9.253 Grievable Personnel Actions**

An employee may file a grievance on one or more of the following grounds:

- (1) Termination of employment,
- (2) Demotion, or
- (3) Suspension without pay.

### **9.254 Time Limits for Filing**

- (a) An employee who wants to file a grievance must file it with the HRMD director within five (5) working days after being notified of a grievable action.
- (b) If an employee fails to meet the filing time limits, he or she loses his or her rights to use the grievance system unless the HRMD director determines that it was beyond the reasonable control of the employee to file timely.

### **9.255 Grievance Resolution Procedures**

- (a) An employee may obtain the appropriate form to file a grievance from HRMD.
- (b) The HRMD director should make a preliminary determination whether the grievance relates to a grievable personnel action and whether the employee is eligible to use the grievance process. Within five (5) working days after receipt of the grievance, the HRMD director informs the person grieving and the persons grieved against of his or her findings in writing. The person grieving may discuss an adverse finding with the HRMD director.

- (c) After a written finding that the grievance states a grievable personnel action, the HRMD director sets a hearing date and arranges for five (5) persons to be the grievance panelists. He or she sends written notice of the date of the hearing and a copy of the grievance to all involved persons at least 15 working days before the date of the hearing.
- (d) All hearings are limited to five (5) hours on any work day with each side having 90 minutes to present his or her argument, evidence, and testimony. Grievance hearings are not judicial in nature and, therefore, rules of a court of law do not apply. The Texas Rules of Evidence are not necessarily applied in grievance hearings but presentations, evidence, and testimony should be relevant. The meetings of the panel should be conducted according to the parliamentary procedures in the current edition of Robert's Rules of Order. For a copy of grievance procedures, contact HRMD.
- (e) Loud or abusive language by any of the participants in the formal hearing process is not allowed and is grounds for removal from the hearing.
- (f) The person grieving and the person grieved against are each allowed to present documentary evidence and the testimony of witnesses at the hearing. A list of witnesses and nine (9) copies of documentary evidence should be delivered to HRMD ten (10) working days before the hearing. On the next working day, HRMD should deliver the packets to panel members, the person grieving and person grieved against. Other witnesses and documents should not be admitted.
- (g) Any person grieving or any person grieved against in a grievance should be allowed to ask all witnesses against him or her questions within the appropriate time limit.
- (h) The HRMD director or his or her designee should serve as an advisor to the panel on County policies, but does not have a vote in the panel's ultimate decision.
- (i) The formal hearing is recorded to assist the grievance panel in its deliberation and for record-keeping purposes.
- (j) The grievance panel may only uphold or overturn the department's disciplinary action. A session for discussion and deliberation by the grievance panel is held to arrive at a decision. If necessary, the deliberations may be concluded on the next working day. All panel deliberations, decisions, and hearing materials remain confidential subject to the limits of the Texas Public Information Act and the discovery process in litigation. The decision is mailed within five (5) working days to the person grieving and the persons grieved against or their representatives.
- (k) If employed by the Commissioners Court, the persons on either side of the grievance may appeal the decision of the panel within ten (10) working days after the decision. This appeal is to the Commissioners Court.

- (1) Any person who wants to appeal must submit additional documentation within the applicable allowed time or lose the right to provide any additional information for the appeal process. Deadlines for the appeal process are calculated from the date of the previous deadline.
  - (2) The person appealing shall provide nine (9) copies of any additional documentary evidence to be considered by Commissioners Court. This information must be delivered to HRMD within ten (10) working days after receipt of written acknowledgement from HRMD that an appeal has been received.
  - (3) HRMD provides a copy of the submission of the person appealing to the person in whose favor the panel decided. That person has ten (10) working days after receipt of the submission to provide nine (9) copies of any response to HRMD.
  - (4) HRMD provides a copy of the response from the person in whose favor the panel decided to the person appealing and allows three (3) working days for the person appealing to provide nine (9) copies of any reply to the response of the person in whose favor the panel decided.
  - (5) Within five (5) working days of the receipt of the response of the person appealing, HRMD forwards the following documentation to the person appealing, the person in whose favor the panel decided, and the ~~Commissioners Court~~:
    - (A) The additional information provided under the appeal process,
    - (B) The documentation provided at the Grievance Panel hearing,
    - (C) The Grievance Panel's decision, and
    - (D) The official recording of the grievance hearing.
  - (6) HRMD, in consultation with the Commissioners Court, sets the appeal from the Grievance Panel's decision for hearing on the first date on which the person appealing and the person in whose favor the panel decided are available, usually within 30 days after the documentation for the appeal has been forwarded.
  - \*\*\*** (7) At the appeal hearing, each person is allowed 30 minutes to make a **\*\*\*** presentation to Commissioners Court.
  - (8) All information to be considered by the Commissioners Court must be received within the stated time frames.
- (I) If employed by an Elected Official who has adopted these policies in writing, the persons on either side of the grievance may appeal the decision of the panel within ten (10) working days after the decision. This appeal is to the person designated by the Elected Official at the time these policies were adopted. If no designation was made, this appeal is to the Commissioners Court. With the Elected Official's

designee substituted for the Commissioners Court, the appeal steps for persons employed by the Commissioners Court apply.

- (m) The vacant position created by a termination of employment should not be filled until the grievance and the appeal processes are complete. Positions may be posted and filled upon approval by the Commissioners Court after review by the County Attorney's Office.

#### **9.256 Anti-Retaliation Provision**

No employee should be discriminated, harassed, or retaliated against as a result of filing a grievance or participating in the grievance process.

#### **9.257 Non-Grievable Personnel Actions**

An employee may submit a complaint to the HRMD director about personnel actions that are not listed as grievable. That director should review the complaint, determine whether there is legitimate reason for dissatisfaction by the employee, and may, in consultation with the affected employee's executive manager, take appropriate actions based on the nature of the complaint.

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#### **9.258 Purpose of Grievance Panel**

The purpose of the Grievance Panel is to ensure that employee grievances are given prompt and fair consideration.

#### **9.259 Term of Membership on Panel**

A Grievance Panel serves a term of two (2) years.

#### **9.260 Composition of Panel**

- (a) The Grievance Panel consists of a pool of 18 members – six (6) management and 12 non-management – and reflects the diversity of employees at the County. From this pool, five (5) members are selected to serve for each grievance hearing.
- (b) The following positions or departments are to be excluded from membership on the Grievance Panel because of their status with respect to the Commissioners Court:
  - (1) Elected or Appointed Officials, department heads, executive managers, and positions that report directly to the Commissioners Court;
  - (2) Staff to members of the Commissioners Court;
  - (3) Staff to the Executive Manager, Administrative Operations;