

GRIEVANCE POLICY

PURPOSE

Employees and the Town of Randolph benefit from a procedure established for the purpose of resolving complaints on specific issues. The process allows for the free discussion of matters of concern.

SCOPE

This policy applies to all career service employees. This policy establishes; ground for grievances; standing to file a grievance; rights and responsibilities of the employee filing the grievance; rights and responsibilities of the person to whom the grievance is submitted; Procedures and deadlines.

CROSS REFERENCES

Utah Code Annotated 67-19a-1 et. Seq. 1953 amended

POLICY AND PROCEDURES

1. Career Service Grievance Review thru the Town Council.
 - A. There is created a Career Service Review for the Town of Randolph thru the Town Council.
 - B. The Mayor shall appoint members of the Town Council to the Service Review Committee. The appointments to the Career Service Review Committee shall consist of the three voting members and its designated attorney.
 - C. The Mayor may remove or change a member of the Career Service Review Committee for conflicts of interest or cause.
 - D. The Mayor is the secretary to the Committee. Papers required or permitted to be filed with Committee shall be filed with the Mayor. The Mayor shall maintain the record of grievances. The Mayor shall serve a copy of all orders and decisions of the Committee upon the parties to the grievance. Service upon a party represented by counsel shall be made upon counsel.

2. Authority of the Career Grievance Review Committee

- A. Action by the majority of the Committee is an action of the committee. All members of the Committee must be present for the Committee to conduct business. A member of the Committee may be present by means of a telephone conference call.
- B. The Committee shall serve as the final administrative body to review appeals by employees of the Town and grievances. The Committee has jurisdiction over appeals from decisions on grievance about promotions, dismissals, demotions, suspensions, written reprimands, salary, violations of personal rules, the equitable administration of benefits, reductions in force, and abandonment of position that have not been resolved at an earlier stage of the grievance process.
- C. The Committee has no other jurisdiction to review or decide any other personnel matter.
- D. The Committee may not issue subpoenas. The Committee may petition any court with the authority to issue subpoenas to issue a subpoena on the Committee's behalf. The Utah Rules of Civil Procedure regulation the issuance of a subpoena shall apply.
- E. The Committee may not award costs or attorney fees to either party.
- F. The Committee may make rules governing the conduct of its proceedings.

3. Standing

- A. Only a career service employee may submit a grievance.
- B. When several employees allege the same grievance, they may submit a joint grievance. Each employee shall sign any written statement of the grievance or appear of a decision. If a decision at some level of review resolves the grievance for some but not all employees joining in the grievance, the employees remaining dissatisfied may seek review of the decision.
- C. A person who voluntarily terminates employment with the Town may not submit or pursue a grievance after termination.

4. Grounds for Grievance

- A. A career service employee may file a grievance based upon a claim of actual harm resulting from an act, occurrence, omission, or condition of employment.

- B. A career service employee may grieve promotions, dismissals, demotions, suspension, written reprimands, salary, violations or personnel rules, the equitable administration of benefits, reduction in force, and abandonment of position to all levels of the grievance procedure.
- C. A career service employee may grieve all other matters only to the Mayor.
- D. A career service employee may not submit a grievance concerning content of a performance evaluation, but only the regular administration thereof.
- E. A career service employee may submit a classification grievance to the Mayor.

5. Employee Rights

- A. For the purpose of submitting a grievance, an employee: obtain assistance by a representative to act as advocate; request a reasonable amount of time during work hours to confer with a representative to prepare the grievance and attend hearings; call employees or others as witnesses at a grievance hearing; and invoke the subpoena power of a court in the same manner as the Career Service Guidance Committee to compel attendance at a hearing. No person may take reprisals against any employee for the use or participation in grievance procedures.
- B. Employees called to appear as witnesses at a grievance hearing shall be permitted to attend if the party calling the employee notifies the employee and the Town at least two days prior to the hearing.

6. Time for Submission and Appeal of Grievance

- A. The employee shall submit a grievance within thirty (30) days after the event giving rise to the grievance or within thirty (30) days after the employee knows of or, with the exercise of reasonable diligence, should have known of the event giving rise to the grievance. In no event shall the employee submit the grievance more than one year after the event giving rise to the grievance.
- B. If the employee fails to appeal a decision on a grievance to the next level of review within the time permitted, the employee shall be deemed to have waived all rights to further review, and the grievance shall be deemed disposed on the basis of the last decision.
- C. The employee and the person to whom the grievance is submitted may agree to waive any grievance step or waive to extend the time taking any grievance step. Such a waiver or extension of time shall not permit the

employee to submit a grievance more than one year from the date of the event giving rise to the grievance. The agreement must be reduced to writing and signed by the parties.

7. Procedure for Submitting Grievances

- A. An employee shall submit a grievance through discussion with their supervisor. The supervisor shall issue a verbal decision within five days after its submission.
- B. If the verbal grievance remains undecided, or if the employee is dissatisfied with the decision, the employee shall submit the grievance in writing to the Mayor within fifteen (15) days after the receipt of the verbal decision or within fifteen (15) days after the expiration of time for the decision which ever is first. The Mayor shall issue a written decision on the grievance within five (5) after its submission. The decision shall include the reasons for the decision. The Mayor shall serve a copy of the decision upon the employee. If the decision is not issued within five (5) days, the grievance shall be deemed denied.
- C. If the grievance remains undecided, or if the employee is dissatisfied with the decision, the employee shall submit the grievance in writing to the Career Service Committee within fifteen (15) days after service of the decision, or within fifteen (15) after the expiration of time for the decision, whichever is first. The Committee shall issue a written decision on the grievance within five (5) days after its submission. The decision shall include the reasons for the decision. The Mayor shall serve a copy of the decision upon the employee. If the decision is not issued within five (5) days, the grievance shall be deemed denied.

8. Submission to the Career Service Board

- A. The Mayor shall represent the interest of the Town before the Committee.
- B. The Committee may at any time attempt to settle the grievance informally by discussion with the parties.
- C. The Committee shall confer with the parties in an effort to settle the grievance. At the settlement conference the Committee shall require the parties to identify:
 - 1) admitted and disputed allegations;
 - 2) the issues to be resolved;

- 3) applicable laws;
- 4) the harm suffered;
- 5) the relief requested;
- 6) witnesses, exhibits, and other evidence to be offered at an adjudication hearing, and;
- 7) A date for an adjudication hearing.

D. The parties shall file a written statement confirming the matters identified under subparagraph 8C. The statement shall be filed within a time established by the committee, but not less than two (2) days prior to the adjudication hearing. The statements shall be considered the pleading for adjudication by the Committee. Either party shall serve a copy of the statement on the other party on or before the date of filing.

9. Adjudicative Hearing

- A. The adjudicative hearing shall be before the Committee and shall be electronically recorded.
- B. All proceedings before the Committee are closed meetings under section 52-4-4 Utah Code Annotated 1953, as amended.
- C. The Town has the burden of proof in all grievances resulting from dismissals, demotions, suspensions, written reprimands, and reduction in force, and disputes concerning abandonment of position. The employee has the burden of proof in all other grievances. The proponent of fact shall have the burden persuasion for the existence of that fact.
- D. The party with the burden of proof shall prove the case by substantial evidence.
- E. The Committee shall conduct the proceeding to obtain full disclosure of relevant facts and to provide all parties a reasonable opportunity to present their position.
- F. The Committee shall permit all parties the opportunity to present evidence and rebuttal evidence, conduct cross-examination, argue and respond to arguments.
- G. The Committee shall determine the order of presentation of the evidence.

- H. The Committee shall consider evidence it determines to be material, relevant, probative, credible, and reliable. The Committee shall not exclude evidence solely because it is hearsay.
- I. The Committee may ask questions of witnesses.
- J. All testimony shall be given under oath or affirmation.
- K. The Committee shall issue a written decision within thirty (30) days after the hearing is adjourned.
- L. The decision of the Committee shall include a statement of: findings of fact; conclusions of law; the relief granted; and the reasons for the decision.
- M. The Committee shall not reconsider a decision once issued.
- N. If the Committee does not issue its decision within thirty (30) after the hearing, the Town shall not be liable for any claimed back salary or benefits between the time the decision is due and the time the decision is issued.

10. Records

- A. The official record of any proceedings required by these rules to be recorded shall be maintained by an electronic recording device.
- B. The Mayor shall establish a file for the grievance. The file so established shall contain the initial written complaint and the decision on the complaint. The file shall contain the submission of the grievance to the next higher level of review and the decision upon review for each level of review. The file shall contain all motions, briefs, memoranda, and pleadings filed in the grievance. The file may contain any other document pertain to the issues of the grievance. The employee shall be provided a copy of any document filed.
- C. The record shall consist of the file required by 10B above, the transcript of any hearing required by these rules to be recorded, and any evidence submitted by a hearing.
- D. The record shall be private data under the Government Records Access Management Act of the State of Utah. The Committee may declare the record to be confidential or order the record, or any part of it sealed.
- E. No document relating to a grievance shall be placed in the employee's personnel file.

- F. If any disciplinary action against an employee is rescinded as a result of the grievance process, the Mayor shall remove the record of the disciplinary action from the employee's personnel file.
- G. If any disciplinary action against an employee is modified as a result of the grievance process, the Mayor shall remove record of the disciplinary action from the employee's personnel file and file the record of the disciplinary action as modified.
- H. The Mayor shall approve a form for submitting a written grievance.