

It is the policy of Cottonwood County to prevent the occurrence of grievances insofar as practicable and to provide an orderly, efficient and timely procedure for dealing with those, which do occur. A grievance is defined as a dispute or disagreement regarding the interpretation or application of Cottonwood County policy and procedure.

Exclusions

An employee who has the right to commence a grievance proceeding under the provisions of a bargaining agreement is precluded from grieving the same issue under these rules.

Department Heads shall proceed to Step III. If the matter cannot be resolved immediately, the County Board will schedule a hearing to be held before the Personnel Board of Appeals. The Personnel Board of Appeals will return a recommendation to the County Board for final action. (See Policy Number 370 "Personnel Board of Appeals")

Eligible, honorably discharged veterans shall be accorded statutory hearing rights pursuant to the Veterans Preference Act with respect to removal from positions (dismissal, suspension without pay of thirty days or more, demotion involuntary transfer) rather than the proceeding under this Section. However, other disciplinary/corrective actions, which are not subject to the Veterans Preference Act, such as shorter suspensions, reprimands and notices of deficiencies, are subject to the grievance procedure.

These rules shall not be construed as creating a second opportunity to litigate/contest an issue, which has already been, or has the right to be, litigated in any other administrative or judicial proceeding.

Appeal Periods and Employer Response

The failure of the employer/employer's representative to respond to the employee at any Step during the grievance process shall be deemed a denial of the grievance as of the final date the representative is given to answer the grievance under the Step in question. The employee must then appeal to the next Step in the grievance procedure within the time specified for appeal after an answer or shall be deemed to have waived their right to appeal.

Working Days

For purpose of the grievance procedure, "working days" are defined as calendar days, excluding Saturdays, Sundays and legal holidays for which the Courthouse Offices are closed, regardless of whether the employee in question is scheduled to work on a particular day.

Presentation of Grievance

Step 1. A grievance shall be presented by the employee to the immediate supervisor within ten- (10) working days after the occurrence of the event giving rise to the grievance. The supervisor shall give an oral or written answer within five working days after such presentation. In instances where the organizational structure does not provide a level of supervision between the Department Head and the employee, grievances shall be presented directly to the Department Head as set forth in Step II.

Step II. If the grievance is not satisfactorily resolved at Step I, and the employee wishes to appeal the grievance through the formal steps in the grievance procedure, it shall be referred in writing to the Department Head or designee within ten- (10) working days after the designated immediate supervisor's answer. The grievance appeal shall be initiated by means of the written grievance to be signed by the employee. The written grievance shall set forth the nature of the grievance, the facts on which the grievance is based and the action requested. The grievance shall be submitted to the Department Head or his/her designee. The Department Head shall discuss the grievance within five (5) working days with the employee and the employee's representative, if any, at a time mutually agreeable to the parties. If the grievance is resolved as a result of such meeting, the settlement shall be reduced to writing and signed by the Department Head or designee and the employee, including the employee's representative, if any. If no settlement is reached, the Department Head or designee shall give written answer to the employee within ten- (10) working days following their meeting.

Where the immediate supervisor is also the Department Head, the employee stating a grievance may file his/her original complaint under this step.

Step III. If not resolved at Step I or II, the employee (complainant) shall set forth in writing the nature of the complaint, the facts on which it is based, the provision(s) of the policy or rules allegedly violated, the reason(s) the Step II decision was not acceptable and the remedy requested. Attached to the Step III grievance shall be the Step II grievance and the Department Head's response, along with any related documents.

The grievance appeal shall be presented to the County Board at its next regularly scheduled meeting. The Board will review the grievance appeal and shall schedule a hearing, unless the matter can be resolved immediately by the Board. The Board may make, or cause to have made, an investigation of the grievance and alleged violation of the policy or rules.

Step IV. Appeal Hearing Before the County Board

The Board shall schedule a public or private hearing, consistent with the requirements of the Open Meeting Law and Minnesota Government Data Practices Act, within thirty days (30) of, or as soon thereafter as practical following receipt and review of the Step III appeal.

The hearing shall be conducted by the chairperson of the Board in their absence, the vice-chairperson. A quorum of the County Board shall be sufficient to hold the hearing and render a decision. The decision of the County Board may uphold, reverse, or modify the action being appealed.

Technical rules of evidence shall not apply. All relevant evidence may be introduced into the record. A party may be represented by legal counsel throughout the proceedings. A party shall be allowed to argue the case, give testimony, present evidence, and cross-examine the other party's witnesses. All oral testimony shall be under oath or affirmation. Appellant shall go first and shall have the burden of proving the facts of the issue, unless specified otherwise by statute or regulation. A party may present written argument. The hearing shall be recorded. Department Heads shall have a hearing scheduled with the Personnel Board of Appeals, with a written recommendation from the Personnel Board of Appeals presented to the County Board for final action.

After the close of the hearing, the County Board shall make its decision within thirty- (30) days. The written decision shall include the reason for it and the facts relied on in making it. The decision shall be mailed to Department Head, affected employee(s) and legal representatives of the same by certified mail. A copy of the decision shall be placed in the employee's personnel file.

Employee Representation

Employees and their representative, if they are Cottonwood County employees, shall be paid at their regular rate of pay for time reasonably spent during their ordinary workday for the processing and appeal of their own grievance(s). An employee is responsible for such costs incurred by a representative, if used, no matter how the grievance may be resolved.

Judicial Review

A decision of the County Board is final under this section and is final and binding, but may be appealed as provided by state statute.

Employee Status

The pendency of grievance and/or appeal proceedings shall not be grounds for postponement of the effective date of the employee's termination or suspension, but if review results in reinstatement of the employee, Cottonwood County shall pay the employee all benefits and compensation withheld as a result of the suspension or dismissal order.

Successful grieving of classification or compensation grievances by an employee shall result in the employee receiving credit retroactive to the date the grievance occurred.

Reprisals Prohibited

No employee shall be disciplined for seeking redress through a grievance or as a result of his/her testimony in following the provisions of this procedure. Any employee so disciplining another employee shall be subject to disciplinary action by the County Board.