Hardin County Board of Developmental Disabilities
POLICY

Policy Number: B-17	Page: 1	Of: 7
Title: Administration - Grievances		
Regulatory Authority: Ohio Revised Code 4112.01, 4112.02, 4117.01		
Effective Date: 9/18/2018, Review Date: 2/15/2022		
Reviewer/Job Title: Superintendent or designee		

ADMINISTRATION
GRIEVANCES

(A) OVERVIEW

(1) A "grievance" is defined as a complaint in writing describing a disagreement between an employee and management as to the interpretation or application of official Board policies, state civil service laws, agency rules or decisions, matters subject to state or federal law, departmental rules and regulations, or other disagreements perceived to be unfair or inequitable relating to discipline, treatment, or other conditions of employment. Probationary removals nor any other personnel actions taken in matters in which employees have been afforded the opportunity for a pre-disciplinary conference may be appealed through the in-house grievance procedure.

(2) Nothing in this policy is intended to deny employees any rights available by law to have redress to their legal rights, including the right to appeal to the State Personnel Board of Review where that body has jurisdiction, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission, or any court of competent jurisdiction. However, if the employee elects to file a complaint on a matter over which another appeals body has jurisdiction, it is the employee's responsibility to meet the criteria for filing with that appeals body.

(3) The purpose of this procedure is to secure equitable resolution of problems at the lowest possible administrative level.

(4) This grievance procedure is only to be used when normal supervisor-subordinate communications breakdown and the subordinate feels that a proper solution has not been reached.

(5) All employees shall sign a statement that they have seen and have knowledge of the complaint procedure.

(6) The employee must proceed through all steps of the grievance procedure in proper order and within the prescribed time limits, except as otherwise noted.

(7) Where a grievance cites issues of law which the respondent (individual hearing the complaint) cannot address, the complaint shall be forwarded to the Prosecuting Attorney's Office for an opinion before proceeding. All time limits set forth in this procedure shall be suspended until a response from the Prosecutor is received.

(8) Where a group of employees desire to file a grievance involving a situation affecting each employee in the same manner, one employee selected by such group will process the complaint.

(9) A complainant may have a representative (employee or non-employee) of his/her choosing present at any step of the procedure except STEP ONE. Employees and employee representatives shall not lose pay or benefits during normal working hours for time spent in grievance hearings. The expense of any legal representative(s) shall be borne by the party utilizing them. Witnesses may be called by both parties. Management maintains the right to schedule witnesses for hearings. Grievance hearings shall not be conducted beyond normal working hours without the consent of both parties. Compensation of pay and benefits shall not be extended beyond the normal working hours for parties involved.

(10) All grievances filed under this procedure shall be in writing on the form provided for this purpose, and shall state the nature of the complaint, the expected resolution, and the facts which affect the conditions of the complaint.

(11) For the purpose of this policy, days shall not include Saturdays, Sundays, holidays, or non-working days.

(12) The employee may terminate the grievance at any point by submitting a written statement to that effect. This written statement shall be submitted to the immediate supervisor.

(13) Time limits as set forth in the following Grievance Procedure may be extended by mutual agreement of the parties in writing.

(B) GRIEVANCE PROCEDURE

STEP ONE: Filing a grievance with the Immediate Supervisor

An employee having a grievance shall file the grievance in writing on the appropriate form with his/her immediate supervisor. Forms shall be available in the office of each building authority. In order for a grievance to be recognized, it must be filed within five (5) working days from the date of the incident giving rise to the grievance.

The immediate supervisor and the employee will hold a verbal discussion to try to resolve the grievance within two (2) days following the date of receipt of the written grievance. The immediate supervisor may offer his/her oral remedy immediately following the

discussion, but shall present this remedy in writing within three (3) days following the date of discussion.

STEP TWO: Grievance Submitted to Department Director

If the grievance is not resolved to the satisfaction of the employee at the STEP ONE meeting, the grievance must, within two (2) working days after receipt of the STEP ONE written decision, be submitted on the designated form to the employee's department director. The written grievance must be signed by the employee and contain all the pertinent facts of the grievance including a copy of the original grievance and a copy of the decision from STEP ONE. The department director shall schedule a meeting within three (3) working days following the receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the meeting.

The department director shall issue a written decision to the grievance within five (5) working days of the meeting with copies to all parties involved. (In facilities/departments having intermediate levels of supervision between the immediate supervisor and department director, the STEP TWO procedure shall be followed as indicated with next person in the chain of command. For example, for those facilities having an assistant director or manager, the assistant director or manager would hear the grievance with the same time guidelines as outlined above before the grievance went to the department director)

STEP THREE: Grievance submitted to Superintendent or Designee

If the grievance is not resolved at the STEP TWO decision, the employee must, within four (4) working days after receipt of the STEP TWO decision, submit the written grievance including all pertinent data from previous STEPS to the superintendent or designee. The Superintendent or designee will schedule a meeting within five (5) working days following the date of receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the meeting. The aggrieved employee and the department director shall attend the meeting. The superintendent/designee will render his decision in writing to the employee within five (5) working days following the STEP THREE meeting. Copies of the decision shall be provided to all parties involved.

STEP FOUR: Personnel Committee of the Board

If the STEP THREE decision is not satisfactory to the employee, the written grievance with supporting documentation and copies of previous decisions may be submitted to the Personnel Committee of the Board for review and determination of the facts within ten

(10) working days from the date the STEP THREE decision is received or as soon thereafter that the Committee can meet. The Personnel Committee has the right to appoint any other individual to review and determine the facts. If the Personnel Committee determines to review the case, it will make a decision within fifteen (15) working days from the date the grievance is reviewed, with copies of the determination to all parties involved.

(C) APPEALS

(1) If the STEP FOUR decision is not satisfactory to the employee, the superintendent will inform the employee that the employee may have a right to appeal the decision to the Department of Labor and/or State Personnel Board of Review and that decision will be final and binding, and that cases of alleged discrimination may be appealed to the Ohio Civil Rights Commission or the Equal Employment Opportunity (EEO) Commission. However, nothing in this grievance procedure, including the review by the Personnel Committee of the Board, shall be deemed to give an employee any rights of appeal outside of the agency that the employee would not have in the absence of this grievance procedure.

(D) MANAGEMENT RESPONSIBILITIES DURING GRIEVANCE PROCEDURES

1. Tracking of Grievances

Once a grievance is filed, the department director must "track" the complaint throughout the procedure. If a grievance is not processed by the employee to the next step of the procedure within the specified time limits or any written extension thereof, it shall be considered resolved on the basis of the decision at the previous step, and should be indicated, "Resolved, employee did not pursue", dated, signed and sent to the Personnel Office for filing as a permanent record.

If the grievant does not receive a response from the appropriate management representative within the specified time limit or extension thereof, the grievance will be considered to have been answered in the negative and the employee may advance the grievance to the next step. The management representative receiving a grievance, which was not answered at the previous step, must investigate the reason that no answer was given. If a management representative does not possess the authority to correct the employee's grievance, then he/she should so indicate and return the grievance to the employee in a timely fashion.

2. Decisions

Decisions to grievances are to be in writing and should have supporting documentation attached. There are three (3) possible decisions to any grievance. They are:

a. Find in the employee's favor. The decision is to grant the remedy requested.

b. Find against the employee. The decision is that the findings of fact do not support the allegation(s) and, therefore, the grievance and remedy requested is denied.

c. Compromise. The employee has a legitimate grievance but the remedy requested is improper. Prior to a compromise decision, the person responsible for determining the grievance should call the grievant in and ask if he/she will accept the proposed offer. If not, option 3b may be exercised.

(E) EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT

1. Filing of Discrimination Complaint

Any employee or applicant having complaint of discrimination on basis of race, color, religion, sex, national origin, handicap, or age (40 and over) may file a written discrimination complaint in the office of the Equal Employment Opportunity Coordinator located in the office of the Administrative Assistant (Supt.). A complaint form is available for this purpose, and can be obtained from the EEO Coordinator.

The complaint must be filed within thirty (30) days of the alleged discriminatory action, except that this time limit may be extended if the complainant can show that he or she did not have notice of the time limit, or was prevented by circumstances beyond his/her control from submitting the complaint within the time limit, or for other reasons considered sufficient by the Coordinator.

A complaint shall be deemed filed on the date it is received, or on the date postmarked if mailed. The EEO Coordinator shall acknowledge receipt of the complaint in writing, and inform the complainant in writing of the complaint procedure and of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission.

2. Complainant's Right to Representation

At any time during the course of the procedure, the complainant shall have the right to be accompanied, represented, and advised by a representative of his/her choosing. If the complainant is an employee and has designated another employee as his or her representative, both the representative and the complainant shall be given a reasonable amount of time off work during normal working hours to present the complaint. Time spent during non-working hours to prepare the complaint will not merit compensation under this policy.

3. Rejection of Complaint

The EEO Coordinator may reject a complaint which was not timely filed or where information supplied by the complainant is deemed insufficient for the purpose of conducting an investigation.

The EEO Coordinator shall reject those complaints which do not allege discrimination on the basis of race, color, religion, sex, national origin, handicap, age (40 and over), or which are identical to a previous complaint filed by the same complainant which is pending or has been decided under this procedure.

The decision to reject a complaint, and the reason(s) for the decision, shall be communicated to the complainant in writing within ten (10) days of the filing of the complaint.

4. Informal Resolution of Complaint

Upon receipt of complaint, the EEO Coordinator shall have twenty-one (21) days in which to investigate and attempt to resolve the complaint informally. If an informal resolution of the complaint is achieved, the terms of the resolution shall be set forth in writing, made part of the complaint file, and a copy shall be provided to the complainant.

If an informal resolution of the complaint is not achieved, the EEO Coordinator shall notify the complainant in writing of the proposed disposition of the complaint; and of his/her right to a hearing before the Personnel Committee of the Hardin County Board of Developmental Disabilities. The complainant must notify the Board's Personnel Committee Chairperson in writing of his/her desire for a hearing within fifteen (15) days of his/her receipt of this notice.

5. The Hearing

Upon receipt by the Personnel Committee Chairperson of the Hardin County Board of Developmental Disabilities of the complainant's written notification of his/her desire for a hearing, the Personnel Committee of the Board shall have thirty (30) days in which to conduct a hearing on the complaint.

The EEO Coordinator shall transmit to the Personnel Committee all materials concerning the complaint which have been acquired. If the Personnel Committee determines that further investigation is needed, the Committee may direct the EEO Coordinator to conduct such investigation.

The hearing shall be conducted in accordance with due process of law, including:

(a) Adequate notice to parties of hearing time, place, and procedures;
(b) Reasonable timing;
(c) The right of each party to representation;
(d) The right of each party to present evidence;
(e) The right of each party to question evidence of the other; and

(g) That the decision is made solely on the basis of recorded evidence.

The Personnel Committee shall have authority to:

(a) Regulate the course of the hearing;
(b) Exclude irrelevant or unduly repetitious evidence;
(c) Limit the number of witnesses; and
(d) Exclude any person from the hearing for misconduct during the hearing.

The rules of evidence applicable to civil proceedings are not required to be followed.

The Personnel Committee shall render a decision within ten (10) days of the conclusion of the hearing. The decision shall be made in writing and shall contain a statement of the reason(s) for the decision. Copies of the decision shall be provided to the Superintendent, the EEO Coordinator, and the complainant.

In addition, a letter shall be provided the complainant informing him/her of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission. The complainant has the right to file with the EEO Commission and the Ohio Civil Rights Commission within 180 days (federal) 6 months (state) of the date of the alleged discrimination.

The decision of the Personnel Committee shall be final; however, the Committee may refer the matter to the Board.

6. Freedom from Reprisal

Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal during all stages and following the completion of the complaint procedure.