



CHAPTER: Employee Conduct and Relations Standards

SUBJECT: Grievance

POLICY NUMBER: 4.502

PAGES: 5

**RELATED POLICIES:
4.500 4.501 4.601 4.311**

**ENABLING RESOLUTION:
114-1988 267-2007 269-2007
31-09 35-09 19-10 22-10
183-13 49-2014 172-2016**

**REVISION DATE(S):
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DEPARTMENT OF PRIMARY RESPONSIBILITY: HUMAN RESOURCES

SPECIAL NOTES: This Policy/Procedures Manual does not in any way constitute an employment contract. Sedgwick County reserves the right to amend this Manual at any time subject only to approval by the Board of County Commissioners and the Governing Body of Sedgwick County Fire District Number One.

I. Purpose

The Policies and Procedures described herein have been established to foster sound employee-employer relations through communication and reconciliation of work-related problems. The primary objective of the Grievance Procedure is to determine whether employees have been treated in accordance with Sedgwick County Personnel Policies and Procedures.

II. Policy

- A. The grievance process is only available to permanent full time and permanent part time non-exempt County employees who have completed their initial probationary period with Sedgwick County.
- B. A County employee whose grievance is directly related to an act of discrimination due to such grievant's race, color, gender, age, national origin, ancestry or citizenship, marital status, religious or political affiliation, genetic information, disability, status as member of the uniformed services, opposition to prohibited discrimination or participation in a discrimination or harassment complaint process, may use the discrimination and harassment complaint procedure regardless of his/her employee classification. See policy 4.506 Discrimination and Harassment.
- C. Sedgwick County Policies and Procedures relating to grievances do not apply to employees of the Sedgwick County Sheriff's Department, who are part of a recognized Civil Service system or employees of the District Attorney.
- D. The Sedgwick County grievance process will not be used to effect changes in Policies or Rules, such as hours of employment, rates of compensation or the content or merit of County Personnel Policies and Procedures. The process will not be utilized to

investigate verbal or written counseling unless the grievance falls under Policy 4.506, Discrimination and Harassment.

- E. If, after a grievance is filed, a lawsuit/complaint is filed with any other board, agency or court concerning the same subject matter, the grievance process will continue unless the grievant has submitted written notification to the Employee Relations Officer of his/her intent to withdraw the grievance.
- F. It should be understood that reasonable accommodation, as defined in Reasonable Accommodation Policy 4.311, will be provided to qualified employees or potential employees with disabilities when and where it is necessary to avoid discrimination based on disability and ensure an equal employment opportunity.
- G. All records pertaining to specific grievances will be maintained by the Department of Human Resources in separate files from the employee's personnel file.

III. Procedures

- A. Before a formal written grievance is filed, an employee shall attempt to settle his/her dispute with his/her immediate supervisor in the employee's division. The employee is required to show that a reasonable effort was made to resolve any question or misunderstanding within the employee's division prior to filing a grievance.
- B. **Facilitated Conflict Resolution** –The assistance of trained, neutral “third parties” is available to all staff having serious differences with others. The third party, or mediator, has no decision making or enforcement authority, is impartial to the issues being discussed, assists others in defining the issues in dispute, facilitates communication between those in dispute, and assists them in reaching solutions. This assistance provides an opportunity for both parties to present points of view and work toward solutions that are mutually agreeable. Although mediators usually have a vested interest in arriving at a workable solution, the final agreement belongs to the parties. The role of the mediator is to help the parties reach an agreement that ultimately results in a healthy work environment for both parties. In general, the goal is a “win/win” solution. Unless criminal or unethical issues are identified, the process is handled in a confidential manner. In some situations, however, the parties may request the final agreement be shared with other specific persons. Information learned or obtained in the facilitated conflict resolution process is not admissible in the grievance process.

Depending on the situation, facilitated conflict resolution can involve several meetings. A preliminary meeting is usually scheduled to assess the dispute and clarify roles. An actual facilitated conflict resolution session(s) is held to develop mutually agreeable solutions. Follow-up sessions are sometimes held to assess the success of the agreements, and to manage any new disputes.

An employee wishing to participate in the conflict resolution process to resolve a dispute shall complete a Request for Facilitated Conflict Resolution Form and submit it to the Employee Relations Officer in Human Resources. The Employee Relations Officer shall notify the other party that a request for facilitated conflict resolution has been made. The Employee Relations Officer may serve as the mediator or appoint another qualified employee to serve as the mediator.

- C. It is expected that each employee will make a good faith effort to resolve disagreements or conflicts prior to filing a grievance, by talking with his/her supervisor or by taking advantage of the facilitated conflict resolution process. If an employee is unable to informally resolve his/her grievance with his/her immediate supervisor or by participating in facilitated conflict resolution, the employee shall obtain a grievance form from the Department of Human Resources. The grievant will be required to state the nature of the grievance, supported with specific facts, as well as what steps the employee has taken to resolve the grievance. The grievance form should be presented to the employee's immediate supervisor within thirty (30) calendar days after an alleged grievable incident shall have occurred. If the grievance is against the employee's immediate supervisor, the grievance form should be presented to the supervisor's direct supervisor. The supervisor shall sign and date the form, identifying receipt of said grievance and shall present it immediately to the appropriate hiring authority. A copy of the grievance shall then be forwarded by the division to the Employee Relations Officer.
- D. The Division Head or Elected Official shall respond to the grievant within ten (10) work days from receipt of the grievance by the supervisor and shall present a response to the employee with a copy forwarded to the Employee Relations Officer.
- E. If the employee is not satisfied with the response of the hiring authority and desires to continue with the grievance process, the employee shall notify the Employee Relations Officer in writing of his/her intent to continue with the grievance within five (5) work days of receipt of the response. The Employee Relations Officer may investigate the grievance regardless of whether the grievant is alleging discrimination based on a protected status.
- F. The Employee Relations Officer may conduct the investigation or appoint, with the consent of the Director of Human Resources, a person to serve as an investigator who will conduct a fact-finding investigation into the employee's complaint within twenty (20) work days after the receipt of the employee's appeal in the Department of Human Resources. The Employee Relations Officer may request a time extension from the County Manager.

The investigative summary shall be submitted to the Employee Relations Officer who shall then submit it to the County Counselor's Office for review. The County Counselor's Office will review the investigative summary, along with the conclusions and recommendations, within ten (10) work days after receipt of the report from the Employee Relations Officer. After the Legal review, the County Manager will review the investigative summary, along with the conclusions and recommendations. The Division Head shall be notified of the results of the investigation upon completion of the County Manager's review. The Division Head may appeal the recommendations to the County Manager. The County Manager will then advise the employee of his/her decision, agreeing or disagreeing with the investigator's conclusions and recommendations, within ten (10) work days after the receipt of the report from the Employee Relations Officer. This decision shall be final with reference to all County grievances, except in cases which may be appealed to the Sedgwick County Grievance Board.

- G. If the employee is not satisfied with the County Manager's decision, the employee will have thirty (30) calendar days to appeal the grievance to the Sedgwick County Grievance Board for grievances related to: (1) terminations, (2) demotions, and (3) suspensions without pay.
- H. Employees grieving a dismissal will be allowed to file their grievance directly with the Employee Relations Officer to initiate fact-finding.

GRIEVANCE BOARD

- I. The Sedgwick County Grievance Board shall consist of three (3) members, which shall include one Elected Official of Sedgwick County; one Sedgwick County Division Head, recommended for appointment by the County Manager; and one non-exempt employee, recommended for appointment pursuant to procedures adopted by the Department of Human Resources with input from non-exempt County employees. The Elected Official shall serve as chairperson of said Board and the Board may have legal counsel appointed to serve in an advisory capacity as directed by the Department of Human Resources. The terms of Grievance Board members shall be for a period of two (2) years and they shall be appointed by, and serve at the pleasure of, the Board of County Commissioners.

Alternate members of the Grievance Board shall be appointed in the same manner as regular members to serve in the absence of a regular member or in cases of conflict of interest.

- J. The Grievance Board will determine its procedures for conducting a hearing which will include an opportunity for the grievant and the County to make opening and closing statements, present evidence supporting their positions, call witnesses and be represented by legal counsel. If the grievant desires legal counsel, he/she is responsible for any legal expenses incurred. The County has no obligation to provide legal counsel to the grievant. All hearings before the Grievance Board will be tape recorded. County employees who are called as witnesses at such hearings will appear during regularly scheduled work hours when so directed by the Grievance Board. The Employee Relations Officer will act as secretary to the Board during the hearing and handle all correspondence.
- K. The Chairperson of the Grievance Board will set a date for hearing on the grievance appeal. The Board will decide if the hearing is closed or open to the public. The hearing should be conducted as soon as possible after the appeal has been filed with the Employee Relations Officer. The grievant must be notified of the date of the hearing at least ten (10) calendar days prior to that date. The Grievance Board shall be supplied copies of the initial grievance, along with supervisor responses and employee appeals, prior to the hearing, but shall not have access to the findings of the Employee Relations Officer and recommendations thereto, nor shall board members discuss the grievance with any interested party.
- L. In the event the grievant fails to appear in person without good cause being shown for his/her absence, it will be presumed that the grievant has waived his/her privilege to the appeal process and the grievance will be closed without further proceedings by

the Board.

- M. Following the presentation of evidence at the grievance hearing, the Board will make written findings of fact which will be included in the Board's recommendation to the grievant. The Board shall recommend to uphold or overturn the decision of the County Manager. The Board's recommendation will be forwarded to the County Manager within ten (10) work days of the conclusion of the hearing. The decision of the Grievance Board shall be final unless overturned by the County Manager within fifteen (15) work days of the date of the Grievance Board's decision.
- N. The Grievance Board is not a policy making body and may not challenge the legality of the appointing authority's Rules and Policies. The Board must reach its decisions within the framework of the Policies existing at the time the case was initiated. The Board is without the authority to award or recommend damages or compensation of any nature, except reinstating lost wages for an employee who has been suspended without pay, demoted or dismissed.
- O. The burden of proof rests upon the appealing employee, who must show that the action constitutes unfair treatment. In an appeal to the Grievance Board, the question under consideration is whether or not the appealing employee's conduct deserves the action taken against him/her. The Board shall not consider unrelated matters.
- P. **Prohibition Against Retaliation**

All elected officials, officers, employees or agents of Sedgwick County are prohibited from retaliating against a person filing a grievance, serving as a witness in a grievance investigation, or any person connected to a grievance investigation or resolution of a grievance.