

Article IX. Grievance Procedures

Section 1. Purpose

The process outlined here ~~establishes policies and procedures in employment and personnel management and~~ provides for an adequate and fair hearing ~~of grievances and resolving matters of employment conditions of Jackson County employees.~~ Nothing herein shall prohibit from filing complaints of unlawful discrimination, harassment, or retaliation in accordance with Jackson County policy

Section 2. Applicability/Coverage

This grievance policy and associated procedures applies to all departments and all employees of Jackson County set forth in Article I. Organization of the Human Resources System, Section 2. Coverage with exception of employees subject to the North Carolina Human Resources Act, employees of the Board of Elections, Sheriff, and Register of Deeds. For employees subject to the North Carolina Human Resources Act, appeals of termination should be directed to the Office of Administrative Hearings. Any other grievance by these employees should be directed to their respective Department Director or Board. For employee of the Board of Elections, Sheriff, or Register of Deeds, grievances must be presented to the Board of Elections, the Elections Director, the Sheriff, or the Register of Deeds respectively.

Section 3. ~~Policy and Definitions~~Definition

A grievance is defined as a claim or complaint of an event or condition that affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A complaint may involve allegations of safety and health hazards, unsatisfactory physical facilities, unfair or discriminatory supervisory or disciplinary practices, unjust treatment my fellow employees, harassment, or bullying.

Section 4. Policy

- A. Every employee shall have the right to present his/her grievance in accordance with these procedures, with or without a representative ~~of his/her own choosing~~, free from interference, coercion, restraint, discrimination, penalty, or reprisal. Every employee will be allowed such time ~~away~~off from his/her regular duties as may be necessary and reasonable as determined by the ~~Department~~ Head, Human Resources Director and/or County Manager, for the processing of a grievance under these procedures without loss of pay, vacation, or of other ~~time credits~~leave accruals. All grievances filed due to dismissal or based on alleged discrimination may be appealed directly to the County Manager by submittal of grievance to the Human Resources Director or corresponding appointing authority, indicating whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, or any other legally protected class under federal, state, or local law. Filing a grievance pursuant to this section does not toll the statute of limitation applicable to filing charge of discrimination with the Equal employment Opportunity Commission.

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B. Grievance filed on an untimely basis will be dismissed. Allegations of discrimination, if raised more than thirty calendar days after the party alleging discrimination became aware of or should have become aware of the alleged discrimination, shall be dismissed.

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C. Employees who are covered by the North Carolina State Human Resources Act must follow the administrative procedures outline per specific Departmental policy, and, specifically for unlawful workplace harassment, for filing complaint of discrimination or harassment.

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D. The dismissal of your grievance related to discrimination has no bearing on your ability to bring a charge of discrimination with the Equal Employment Opportunity Commission.

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Section 5. Objectives

The objectives of this policy and associated procedures include the following:

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1. To assure employees of a means to have their complaints considered rapidly, fairly, and without fear of reprisal.
2. To encourage employees to express themselves about how their conditions of work affect them as employees.
3. To provide better understanding of policies, practices and procedures which affect employees.
4. To provide Jackson County Department Heads with greater opportunity, both to exercise proper responsibility in dealing with employees, and to improve their effectiveness in carrying out established policies.
5. To improve employee opportunities in performing duties with effectiveness and satisfaction.

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Section 6. Procedure

A. Step One

1. An employee must file a grievance in writing with the immediate supervisor within five (5) business days of the date of a grievable incident having occurred. The immediate supervisor shall meet with the employee within five (5) business days of receipt of the grievance and attempt to informally and expeditiously resolve the grievance. If the grievance is not settled, then the employee and immediate supervisor should document a statement of relief that describes the action the employee desires the immediate supervisor or organization should take to resolve the grievance.
2. If the immediate supervisor's informal resolution efforts fail, the immediate supervisor must issue a written decision to the employee and the Department Head on the grievance and submit it no later than five (5) business days following the meeting that summarized the grievance, the requested statement of relief, and documentation

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as to why the grievance was not resolved. The grievance procedure would at this point move to Step Two.

3. If the employee alleged sexual harassment or hostile work environment by the immediate supervisor, the employee may file the complaint with the Department Head, Human Resources Director or County Manager, or corresponding appoint authority. Alternatives as to who to report alleged harassment or hostile work environment to are outlined in Article V. Conditions of Employment, Section 4. Unlawful Workplace Harassment, Subsection A. should the immediate supervisor, Department Head, or County Manager be the sources of the employee's grievance.

B. Step Two

1. Employees not reaching resolution with the informal response at Step One may file the grievance and statement of relief desired, in writing, with the Department Head within five (5) business days of receipt of the immediate supervisor's written decision and shall state the basis for the complaint, and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, or any other legally protected class under federal, state, or local law.
2. The Department Head shall meet with the employee within five (5) business days of receipt of the Step Two grievance, and review the decision at Step One, and make an independent determination on the merits of the grievance. Within five (5) business days of meeting with the employee, the Department Head shall issue a written decision to the employee with copies to the immediate Supervisor and Human Resources Director. If the employee and Department Head reach an agreement at this step, the decision and statement of relief shall be issued and the grievance will be considered resolved.
3. Should the grievance not be resolved at the Department Head level, Step Three of this procedure is available to the employee.

C. Step Three (Not applicable to elected official employees (Sheriff and Register of Deeds), employees of the Board of Elections, or employees subject to the North Carolina Human Resources Act)

1. Employees not reaching a resolution or timely response in Step Two are able to take the grievance to the Human Resources Director. This enables the employee, immediate supervisor, and Department Head to have the grievance reviewed by someone external to the department. The grievance may be filed with the Human Resources Director within five (5) business days of the decision or decision due date of Step Two. The Human Resources Director shall review the grievance and render a decision within five (5) business days.
2. The decision, in writing shall be provided to the employee, immediate supervisor, and Department Head. Should the employee and Human Resources Director reach a resolution, the prescribed relief shall be outlined and the grievance shall be resolved.

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3. If no resolution is reached at this level, the employee may proceed to Step Four of the prescribed grievance process.

D. Step Four

1. Employees not reaching resolution at Step Three may forward the written grievance to either the County Manager or the corresponding appointing authority within five (5) business days of receipt of the Step Three decision. The County Manager shall review the grievance and render a decision within ten (10) business days.

2. The decision, in writing shall be provided to the employee, immediate supervisor, Department Head, and Human Resources Director. Should the employee and the County Manager reach a resolution, the prescribed relief shall be outlined and the grievance shall be resolved.

3. If no resolutions is reached at this level, the employee may proceed to Step Five of the prescribed grievance process.

E. Step Five

1. Employees not reaching resolution at Step Four may forward the written grievance to the Jackson County Board of Commissioners within five (5) business days of receipt of the Step Four decision. The Jackson County Board of Commissioners shall review the grievance and render a decision within thirty (30) calendar days.

2. At Step Five in the grievance procedure, the Jackson County Board of Commissioners are utilized for a final binding decision.

3. The decision issued and applicable relief to resolve the grievance is at this stage final and binding and in itself is not grievable.

Section 7. Protection of Complainants, Employees, Witnesses and Representatives, from Interference, Harassment, Intimidation, and Reprisal.

All employees shall be free from any or all restraint, interference, coercion, or reprisal on the part of their associates of Department Heads in making any complaint or appeal, in serving as representative of an appellant, in appealing as witnesses, or in seeking information in accordance with these procedures. The above principles apply with equal force after a complaint has been resolved. Should these principles be violated, the facts shall be brought to the attention of the County Manager by the appellant, his/her representative, or the person affected so that the appropriate remedial action may be taken.

Section 8. Maintenance of Records

All documentations, records, and reports shall be retained for the minimum of three years and shall be held by the Human Resources Department. These records shall be subject to review by the employee, the employee's Department Head, the Human Resources Director, the County Manager, or other corresponding appointing authority, and by the Board of County Commissioners.

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Section 9. Alternate Remedies

The existence of these grievance procedures does not preclude any individual from pursuing other remedies available under law.

~~For the purposes of this policy, an appeals process is established to hear grievances of a formal complaint nature and grievances of an informal complaint nature.~~

- ~~1. Grievances of a **formal complaint** nature are defined as complaints dealing with employees who have grievances based upon the denial of equal employment opportunity or discrimination based on one's race, color, religion, sex, national origin, political affiliation, non disqualifying handicap, or age.~~
- ~~2. Grievances of an **informal complaint** nature are defined as any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of the County, and not described in the above paragraph as a formal complaint.~~

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Section 4. Objectives

~~The objectives of this policy and associated procedures include the following:~~

- ~~1. To assure employees of a means to have their complaints considered rapidly, fairly, and without fear of reprisal.~~
- ~~2. To encourage employees to express themselves about how their conditions of work affect them as employees.~~
- ~~3. To provide better understanding of policies, practices and procedures which affect employees.~~
- ~~4. To provide Jackson County department heads with greater opportunity, both to exercise proper responsibility in dealing with employees, and to improve their effectiveness in carrying out established policies.~~
- ~~5. To improve employee opportunities in performing duties with effectiveness and satisfaction.~~

Section 5. Administration

~~The County Manager will assign all department heads the duties of coordinating all activities relating to grievance procedures for their respective department. The department head shall:~~

- ~~1. Coordinate a system for (1) counseling an aggrieved employee who believes he/she has been discriminated against and (2) attempting to resolve, informally, any matter raised by the aggrieved employee.~~
- ~~2. Arrange for the receipt and investigation of individual complaints of both a formal and~~

~~an informal nature by the Human Resources Department.~~

- ~~3. Arrange for the receipt and investigation of general allegations by organizations, or other third parties, of discrimination which are necessary on individual complaints, including any disciplinary action that is warranted when an employee has been found to have engaged in a discriminatory practice.~~
- ~~4. Review the file on any individual complaint before a decision is made under the grievance procedure and make any recommendations to the County Manager that are considered desirable, including any disciplinary action that is warranted by the circumstances.~~

~~Section 6—Protection of Complainants, Employees, Witnesses and Representatives, from Interference, Harassment, Intimidation, and Reprisal.~~

~~All employees shall be free from any or all restraint, interference, coercion, or reprisal on the part of their associates of department heads in making any complaint or appeal, in serving as representative of an appellant, in appealing as witnesses, or in seeking information in accordance with these procedures. The above principles apply with equal force after a complaint has been resolved. Should these principles be violated, the facts shall be brought to the attention of the County Manager by the appellant, his/her representative, or the person affected so that the appropriate remedial action may be taken.~~

~~Section 7.—Procedure for Resolution of Informal Complaints~~

~~The County Manager is designated to act in an effort to mediate or conciliate informal complaints, except in the Social Services and Health Departments; there the final decision rests with the Director. Initially, employees should attempt to resolve informal complaints at the lowest possible supervisory level. Informal complaints may be filed by anyone eligible to file a formal complaint.~~

~~If the grievance is not resolved at the lowest level, the aggrieved may proceed to the next supervisory level and this procedure may be repeated until the complaint reaches the County Manager. An informal complaint not resolved to the employee's satisfaction by the County Manager must thereafter be handled through the formal complaint procedures.~~

~~When an informal complaint has been received by an immediate supervisor, a memorandum shall be prepared by that supervisor and sent to the appropriate department head, advising him/her of the complaint, outlining the circumstances of the complaint, discussing attempts to resolve the complaint, and citing recommendations and conclusions or recommendations for future action.~~

~~All informal complaints will be heard by the immediate supervisor as rapidly as possible and in no more than thirty (30) calendar days after receiving the complaint. If no satisfactory solution can be found for the complainant by the supervisor, the complainant may proceed to the next higher supervisory level.~~

~~In any case where the employee feels that he/she cannot present the complaint, or would not receive proper consideration at the immediate supervisor level, he/she may, without prejudice, move up the supervisory channel to any higher level or may take the complaint directly to the~~

County Manager.

All complaints should be settled at the lowest possible supervisory level and complaints submitted to the County Manager should be fully justifiable. The County Manager will have the right to refer complaints to a lower level of management when he or she feels it would be in the best interest of the employee and/or the County.

Section 8. Procedure for Resolution of Formal Complaints

The procedures for the processing of formal complaints of employment discrimination or any adverse action by employees of Jackson County is as follows (except that Competitive Service Employees* may file discrimination complaints directly to the State Personnel Commission):

If the informal procedures do not attain a result satisfactory to the employee, or if the complainant has suitable reason not to follow the informal procedure, he/she may file a formal complaint to be submitted in writing and signed. The formal complaint should state concisely the basis for the complaint and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, handicap, national origin, sex, age, or religion. A statement from the employee describing the conduct or condition grieved, with greater particularity, may be required as the investigation proceeds.

1. Who May File? A complaint may be filed by any employee of Jackson County who believes that an adverse employment condition exists and/or that discrimination in employment has been practiced against him/her and/or that an employment practice in Jackson County has resulted, or will result, in discrimination in employment against him/her. A complaint of general discriminatory employment practices may also be filed by an employee provided, however, that upon request of the County Manager, the employee shall furnish names of individuals who are adversely affected by those practices.

2. Right of Representation. An employee may designate, in writing, an individual or an organization to represent him/her in the processing of the complaint and is entitled to the advice of counsel at his/her cost at all stages in the proceeding. If the representative designated by the complainant is an employee of Jackson County, such employee, as well as an employee-complainant, shall have reasonable amount of official time with pay if he/she is in a pay status for the purpose of appearing at any hearing on the complaint. The rights and privileges set forth in this paragraph shall also be available to any person whose alleged conduct is the cause of the complaint.

3. Where Filed? All employees who wish for their complaint to be handled under the Formal Complaint Grievance Procedure of Jackson County should file their complaint in writing with the County Manager (with the exception of Competitive Service Employees who may file their complaints with their department head).

The employee shall have the option to call for a hearing before the County Personnel Board or request a decision of the County Manager. Failure to request a hearing before the personnel board at this point in the grievance procedure will forfeit the employee's right to a hearing before the personnel board.

The County Manager or respective department head will investigate the complaint and will determine if a hearing before the personnel board should be called. Upon receiving the request

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-Supervisor, respond within 5 business days
-Department Head, respond within 5 days
-Human Resources Director, respond within 5 days
-County Manager, respond within 10 days
-Final appeal to BOCC whose decision is final, decision does not require face-to-face hearing unless desired by BOCC. BOCC respond within 30 days.

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~~for a hearing, the personnel board chairperson shall instruct the board secretary to convene a hearing as set forth in this section, paragraph (e). If it is determined that a hearing will not be called, the County Manager or respective department head will act on the case as rapidly as possible and advise the employee of his/her decision within thirty (30) calendar days after receiving the complaint. The County Manager's decision regarding an adverse action shall be final. (Competitive Service Employees may appeal the department head's decision as stated in Section 9 of this document).~~

~~4. When Filed? A complaint shall be submitted within fifteen (15) calendar days of the conduct giving rise to the complaint. The County Manager may extend the time limit for good cause. Competitive Service Employees must file appeals of demotion, suspension, and dismissals within fifteen (15) calendar days of his/her receipt of written notice of action. A direct appeal to the State Personnel Commission alleging discrimination must be filed with the Commission within thirty (30) days of the alleged discriminatory act.~~

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~~5. Hearing. The employee or the County Manager may request a hearing which shall be transcribed or recorded. The hearing shall be conducted within sixty (60) calendar days from the date the hearing is requested, during regular working hours of the County. The personnel board, the complainant, and any person whose alleged conduct is the cause of the complaint shall have the right to call and cross-examine witnesses and offer other evidence. The hearing shall be instituted and conducted by the chairperson of the personnel board. Attendance at the hearing shall be at the invitation of the chairperson of the personnel board in consultation with the complainant. The board shall submit to the County Manager a proposed decision within thirty (30) calendar days of the hearing.~~

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~~6. Jackson County Personnel Board. The Jackson County Jackson County Board of Commissioners shall appoint a County personnel board to consist of five (5) members: one (1) County commissioner, two (2) County employees, (each from different departments), and two (2) private citizens from the County at large. Members shall be appointed to serve a term of two years and may be removed from that term by the Board of County Commissioners only for cause, after being given a written statement of the charges and a public hearing thereon if so requested. No County employee may sit in judgment of any matter involving his or her own department or of any matter in which they have a material interest.~~

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~~The Jackson County Personnel Board at the first meeting in January of each year, shall elect one of its members as chairperson, who shall preside at all meetings and shall be responsible for calling all such meetings. Meetings shall be held from time to time as necessary and three (3) members shall constitute a quorum. Members of the County personnel board shall serve without compensation. The County shall provide clerical support to personnel board to perform such duties as the board may direct.~~

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~~The Jackson County Personnel Board shall:~~

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- ~~a. Advise the County Manager and/or department heads on County personnel problems.~~
- ~~b. Conduct public hearings upon the request of the County Manager, or upon the request of discharged, suspended, or demoted County employees. The board shall have all powers necessary to complete investigation of the action taken, including the power to call and examine witnesses and papers. The personnel board shall inform the employee and the County Manager in writing of its findings and recommendations.~~

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~~e. — Keep an accurate record of all proceedings, findings and recommendations.~~

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~~In order to help ensure that County time is not expended needlessly on insubstantial or insupportable contentions, the personnel board (except in the case of Competitive Service Employees, the governing board) must establish that "probable cause" exists to believe impermissible discrimination or other employment practice occurred; establish a "prima facie" case of that occurrence, which is grounded in proven fact; and find that the balance of evidence concerning the occurrence remains convincing even when refutation is offered. After the conclusion of the hearing, the personnel board will prepare a report which will be submitted to the County Manager and/or department head (for Competitive Service Employees, the report will be prepared for their governing board).~~

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~~7. — Action by the County Manager. Upon receiving the recommendation of the personnel board, the County Manager will render the final decision regarding the adverse action appeal within (30) calendar days.~~

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~~**Section 9. — Appeals Procedure for Competitive Service Employees**~~

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~~Employees subject to the jurisdiction of the North Carolina State Personnel Commission shall have the right to file grievances with their respective appointing authority. These employees may also appeal to the state commission through the Office of Administrative Hearings not later than thirty (30) days after receipt of notice of the appointing authority decision, provided the employee has obtained permanent status in accordance with the rules and regulations of the State Personnel Commission. The decisions of the state commission shall be binding in appeals of local employees subject to the State Personnel Act if the commission finds that an employee has been subjected to discrimination or in any case where a binding decision is required by applicable federal standards. In all other appeals, the decision of the state commission shall be advisory to the local appointing authority.~~

~~**Section 10. — Maintenance of Records**~~

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~~All documentation, records, and reports will be retained for a minimum of two (2) years and shall be held in the office of the County Human Resources Director. These records will be subject to review by the employee, the employee's department head, the County Manager, and members of the County Jackson County Board of Commissioners.~~

~~**Section 11. — Procedure for Recording Receipt and Disposition of All Complaints**~~

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~~The County Manager will keep a record of all informal complaints filed with him/her. If a complaint is withdrawn, the record shall include a statement from the employee indicating the reason for withdrawal.~~

~~**Section 12. — Alternative Remedies.**~~

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~~The existence of these grievance procedures does not preclude any individual from pursuing other remedies available under law.~~