

RESOLUTION #2022-014

**AMENDMENT TO CAROLINE COUNTY PERSONNEL RULES AND REGULATIONS,
EMPLOYEE GRIEVANCE PROCEDURES**

WHEREAS, Chapter 49 of the Code of Public Local Laws of Caroline County (the “Code”) establishes the Caroline County Government Personnel System (the “Personnel System”); and

WHEREAS, §49-5 of the Code requires that the County Commissioners adopt by resolution rules and regulations governing the Personnel System and the County Commissioners have therefore created and adopted the Caroline County Personnel Rules and Regulations (the “Rules and Regulations”); and

WHEREAS, the County Commissioners have an obligation to ensure that during significant events that may impact parts or all of County operations, public health, safety, or welfare that essential functions will continue to operate and services will continue to be provided to the public to the best extent possible; and

WHEREAS, in order to execute that obligation to the public through the County government, it may be necessary to suspend or modify certain rules and regulations governing the Personnel System; and

WHEREAS, the County Administrator, the County Attorney and the Director of Human Resources recommend that Chapter 6 Employee Grievance Procedures, of the Caroline County Personnel Rules and Regulations be amended.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND, that Chapter 6, Employee Grievance Procedures, of the Caroline County Personnel Rules and Regulations is repealed and replaced in its entirety as follows:

Chapter 6
Employee Grievance Procedures

Section 6-101. Introduction.

Caroline County is committed to providing a safe and pleasant place to work. The County encourages an open and honest atmosphere in which concerns, or complaints can be handled promptly, based on all the facts available. In meeting this objective, the County is devoted to providing ways for employees to discuss and address issues. This Chapter discusses a formal dispute resolution practice available to employees if issues cannot be resolved through alternative resolution actions.

Employees are free to make complaints without fear of retaliation or harassment. The County is dedicated to resolving employment disputes in a fair, equitable, and timely manner, protecting employees from retaliation, minimizing operational disruptions, and minimizing false or frivolous complaints. Caroline County promotes employees resolving issues at the lowest level possible within the organization.

Section 6-102. Employees Covered.

Unless otherwise specified, the provisions of this Chapter shall apply only to Classified Employees. Recently hired Probationary Employees and At-Will Employees have no rights under the County's grievance procedure system except for the right to file a grievance of the matters set forth under Section 6-103 B.2. The Office of Human Resources can confirm whether an employee is a Classified Employee.

Section 6-103. Reasons for Filing a Grievance.

- A. A disciplinary action against a Classified Employee which results in termination, demotion, reduction in pay, and/or suspension without pay.
 - 1. A grievance regarding termination of employment shall proceed directly to the Employee Grievance Panel.
- B. Non-disciplinary actions directed at a Classified Employee by a supervisor, the Employer, or another person such as:
 - 1. An alleged violation, misinterpretation, or improper application of a law, rule, regulation, procedure, or policy.
 - 2. An alleged improper or unfair act directed at a Classified Employee, Probationary Employee or At-Will Employee by a supervisor or other employee, including an act of coercion, restraint, retaliation, harassment, or intimidation. This includes but is not limited to sexual harassment, discrimination, workplace violence, or direction to work in an unsafe manner. Sexual harassment, discrimination and harassment are investigated under the guidelines within Chapter 4; however, an employee may file a grievance if they feel the investigation has not been done properly or has been unfair.
 - 3. An alleged improper, inequitable, or unfair act in the administration of involuntary transfer, reduction in force not approved by the County Commissioners, promotional action that was arbitrary and capricious or in violation of established procedures, or denial of an opportunity for training.

4. An alleged improper, inequitable, or unfair application of the compensation policy and employee benefits, which may include salary, a pay differential, overtime pay, leave, insurance, retirement, or a holiday.
5. An alleged action taken in retaliation towards a Classified Employee for filing a grievance.
6. An alleged action taken in retaliation towards a Probationary Employee or At-Will Employee for filing a grievance under Section 6-103 B-2.

Section 6-104. Matters That May Not Be Grieved.

The following matters are not grievable:

- A. Ratings in personnel evaluations.
- B. Class specifications, grade assignments, and position reclassifications.
- C. Adverse employment actions taken against an employee during a probationary period.
- D. Not being selected for a position or promotion.
- E. Action terminating a temporary promotion and returning the employee to the position previously held.
- F. Termination of employment due to a reduction in force or other elimination of positions approved by the County Commissioners.
- G. Lack of a pay increase or reduction in pay due to a budgetary decision by the County Commissioners.
- H. Verbal or documented counseling.
- I. Actions taken by the Personnel Administrator, County Attorney, and/or County Administrator in the administration of the grievance procedures set forth in this Chapter.
- J. Any action approved by the County Commissioners.
- K. Discharge of an appointed employee.
- L. The content of published County policy.
- M. A supervisor's determination of the job responsibilities and performance standards of an employee's position.

Section 6-105. Grievance Form and Documentation.

- A. Employee Grievance Forms can be obtained from the Office of Human Resources.
- B. Employee Grievance Forms, supporting documentation, grievance investigations, and Employee Grievance Panel recommendations are confidential personnel information and shall not be disclosed. All records related to a grievance shall be kept in a separate file from the Classified Employee's personnel record.

Section 6-106. Filing a Grievance.

Disciplinary grievances must be filed within fifteen (15) calendar days after the date of the action. Non-Disciplinary grievances must be filed within fifteen (15) calendar days of the non-disciplinary action. If a grievance is not timely filed, no further grievance or appeal shall be made. The filing of a grievance does not automatically stay the action at issue in the grievance.

- A. The employee must complete the Employee Grievance Form and submit it to the Director of Human Resources.
- B. The Director of Human Resources will:
 - 1. Review the Employee Grievance Form to determine if the event is a grievable matter, if it was filed within the time frame permitted, and if it otherwise complies with the grievance process;
 - 2. If determined to be grievable, notify the County Administrator that a grievance has been filed; and
 - 3. Determine the type of grievance as Disciplinary or Non-Disciplinary.

Section 6-107. Disciplinary Grievances.

- A. The County Administrator will investigate the disciplinary grievance; provided, however, that if the disciplinary grievance filed directly involves the County Administrator, then the Director of Human Resources will receive the disciplinary grievance and investigate, and if the grievance filed directly involves the Director of Human Resources and the County Administrator, then the County Attorney will receive the grievance and investigate. Disciplinary grievance investigation may include, but is not limited to, interviewing the Grievant and other persons believed to have personal knowledge of the problem or issue, and reviewing any relevant documentation. In investigating and deciding a disciplinary grievance, the Director of Human Resources and the County Attorney shall have the same powers and duties as the County Administrator set forth in this Section.

- B. The County Administrator may designate a supervisor or other qualified person(s) to help him or her investigate the matter, provided that that person or those persons do not have direct involvement in the matter.
- C. The County Administrator may consult the County Attorney or an outside counsel to conduct or review the investigation when deemed necessary if they do not have direct involvement in the matter.
- D. The County Administrator has twenty (20) days to complete an investigation and provide a report to the Director of Human Resources. The report will affirm or overrule the disciplinary action, and relevant documentation shall be attached to the written report. An extension may be allowed for the investigation by the County Administrator if extenuating circumstances require more than twenty (20) days to complete.
- E. The County Administrator's decision will be delivered to the Grievant either by hand delivery or certified mail. The County Administrator's decision in a disciplinary grievance is final and not subject to further appeal or review, except that a decision to terminate employment and/or a suspension without pay of three (3) or more days may be reviewed by the Grievance Review Panel as set forth below in Section 6-109.

Section 6-108. Non-Disciplinary Grievances

- A. The Director of Human Resources will investigate the non-disciplinary grievance; provided, however, that if the grievance filed directly involves the Director of Human Resources, then the County Attorney will receive the non-disciplinary grievance and investigate. Non-disciplinary grievance investigation may include, but is not limited to, interviewing the Grievant and other persons believed to have personal knowledge of the problem or issue and reviewing any relevant documentation. In investigating a non-disciplinary grievance, the County Attorney shall have the same powers and duties as the County Administrator set forth in this Section.
- B. The Director of Human Resources may designate a supervisor or other qualified person(s) to help him or her investigate the matter, provided that that person or those persons do not have direct involvement in the matter.
- C. The Director of Human Resources may consult the County Attorney or an outside counsel to conduct or review the investigation when deemed necessary if they do not have direct involvement in the matter.
- D. The Director of Human Resources has twenty (20) days to complete an investigation and provide a report to the County Administrator. The report may make recommendations for change or action to be taken, and relevant documentation shall be attached to the written report. An extension may be requested for the investigation by the Director of Human

Resources to the County Administrator if extenuating circumstances require more than twenty (20) days to complete.

- E. Within five (5) days after receipt of the report of the Director of Human Resources, the County Administrator shall decide whether to affirm or overrule the non-disciplinary action.
- F. The County Administrator's decision will be delivered to the Grievant either by hand delivery or certified mail. The County Administrator's decision in a non-disciplinary grievance is final and not subject to further appeal or review.

Section 6-109. Grievance Review Panel Procedure.

- A. A Grievant whose termination and/or suspension without pay of three (3) or more days has been decided or upheld by the County Administrator may file an application for review of the decision by the Grievance Review Panel. The application must be submitted in writing to the Director of Human Resources within ten (10) working days of the Grievant's receipt of the decision of the County Administrator, and must:
 - 1. Set forth the basis for the contention that the decision to terminate or suspend without pay for three (3) or more days was not consistent with County laws, Personnel Rules and Regulations, policies, processes, and/or directives.
 - 2. List the names of all witnesses and those whom the Grievant desires to have appear before the Grievance Review Panel. Whether to appear before the Panel is the choice of the witness.
 - 3. Provide notice as to whether the Grievant intends to be represented by legal counsel and, if so, the name and contact information for the counsel.
 - 4. The Director of Human Resources may reject the application for review if application was not presented within the ten (10) day, time limit or does not provide a clear statement of the basis for the Grievant's contention that the decision to terminate and/or suspend without pay for three (3) or more days was not consistent with County laws, etc. The Director of Human Resources may return the application to the Grievant for clarification or additional information. The Grievance Review Panel is authorized to hear and make recommendations for grievances which arise from a decision to terminate employment and/or an appeal to a County Administrator's review for discipline which resulted in a suspension without pay for three (3) or more days.
- B. The Grievance Review Panel is authorized to conduct a hearing and issue an advisory opinion as to whether the termination and/or suspension without pay of three (3) or more days was consistent with County laws, Personnel Rules and Regulations, policies, processes, and/or directives. The Grievance Review Panel may not dictate an alternate type or level of discipline.
- C. The Grievance Review Panel shall be comprised of three (3) panelists selected by a blind

draw from a larger pool appointed by the County Commissioners.

- D. The County Commissioners shall maintain appointment of no less than seven (7) individuals to the Grievance Review Panel. Members must be qualified voters of the County. The appointments shall be made without regard to political party. Members shall be selected for their recognized general intelligence and reputation for integrity. Familiarity with labor, employment or personnel matters is beneficial but not necessarily required. No person in an employment relationship or family member of a person in an employment relationship with the County shall serve on the Employee Grievance Panel except for the member of the Employee Advisory Board that is appointed by the County Commissioners. All other members of the Employee Grievance Panel shall be citizens and residents of Caroline County. The County Commissioners may designate an alternate member of the Employee Advisory Board to sit on the Employee Grievance Panel in cases in which the primary Employee Advisory Board member has a conflict of interest, or the matter being grieved involves the primary member's department.
- E. Membership on the Grievance Review Panel shall be for a term of three (3) years. A member may be reappointed for an unlimited number of terms.
- F. Upon receiving a notice of a grievance to the Grievance Review Panel, the County Attorney and/or the Director of Human Resources shall conduct the blind draw, continuing until a three-person Panel can be seated to conduct the hearing. At their first meeting, the Panel shall elect one of their number to serve as the Panel Chair. The Director of Human Resources shall provide a copy of the grievance case file to each member of the Panel and the County Attorney.
- G. The Personnel Administrator or his or her designee shall assist the Grievance Review Panel and the parties to the hearing in making sure that all relevant material to the issue is presented to the Panel. Within twenty-one (21) calendar days following the conclusion of the hearing, the Grievance Review Panel shall prepare and submit a written advisory opinion to the County Administrator. Copies of the Grievance Review Panel's report shall be given to the Grievant, the Grievant's Department Head, and the Personnel Administrator.
- H. Grievance Review Panel members are prohibited from communicating with any party involved in the hearing about the issues of the case.
- I. Hearing. Grievance Review Panel hearings are not open to the public. The Panel Chair shall always preside at hearings and have full authority to maintain orderly procedure and restrict the hearing to relevant and material facts.
 - 1. The Grievant has the burden of establishing his or her case by a preponderance of evidence; therefore, the Grievant shall present his or her case first. The Grievant may reiterate the application for review, present additional evidence relevant to the

application, and may call any witness who can be expected to contribute materially to the issue(s).

2. Each party shall have the opportunity to make an opening statement, present their case, including witnesses, and make a closing statement. Following the opportunity for each party to make closing statements, the record shall be closed, and the Grievance Review Panel will deliberate in private, with the County Attorney, to make its findings of fact and render its advisory opinion. The Panel's findings of fact, advisory opinion, and any recommendations shall be by majority vote. The Chair of the Panel shall vote.
3. The Grievance Review Panel hearing is a quasi-judicial hearing. The hearing is not a court proceeding, and the rules of evidence do not necessarily apply. The Grievance Review Panel shall determine the validity of and the weight to be given the evidence submitted based upon its relevancy and probative value. Relevant evidence is that which a reasonable person would agree has tendency to prove or disprove any fact that could be of significance in deciding the case. The Grievance Review Panel may exclude material that is not relevant or is repetitious testimony and may limit the number of witnesses when testimony is cumulative in nature.
4. The County Attorney shall advise the Panel regarding their authority/scope of review, standard of review, burden of proof, relevancy of evidence, and to ensure no error of law is made during deliberations, or in their recommendations, which will be provided in a report prepared by the County Attorney. The County Attorney ensures that the hearing proceeds in a timely manner and that questions remain relevant and not repetitive.
5. *Management.* The Department Head of the Grievant, with such assistance as may be appropriate, shall represent management in the hearing, and shall present all facts and evidence available to the Department Head which bear on the application for review. While the burden of proof is on the Grievant, the management representative must not only attempt to refute any inaccurate information, but also present all material information known to the representative, even if that information may support the contentions of the Grievant.
6. *Recording.* The Grievance Review Panel hearing shall be recorded. This recording and the findings of the Grievance Review Panel, along with all exhibits presented, shall be preserved in accordance with the County's record retention policy as related to personnel documents.
7. *Witnesses.* Both the Grievant and the County may call appropriate witnesses while presenting their case. All witnesses, including the Grievant, shall be sworn and subject to direct and cross examination. Panel members and the County Attorney may ask questions of any witness. Witnesses shall only be present when giving

testimony. Witnesses are not to discuss their testimony with each other, or the matters discussed at a Grievance Review Panel Hearing at any time thereafter. A witness who is a County employee scheduled to work is not required to use leave to attend the hearing.

8. *Standard of review.* The Grievance Review Panel shall render its advisory opinion and any recommendations based upon the testimony and evidence presented. The scope of the appeal shall conform to the matters which were raised by the Grievant in the application for review as set forth in Section 6-109. The Grievance Review Panel shall not exercise its authority in an arbitrary or capricious manner. The County Attorney shall prepare the findings of fact and advisory opinion of the Panel.
9. The County Administrator is not bound by the Grievance Review Panel's advisory opinion or recommendations. The County Administrator's decision shall be final and is not subject to further appeal or review.

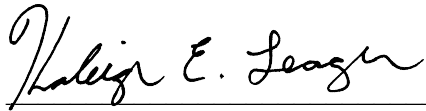
Section 6-110. Grievant's Right to Representation.

A Grievant, at his or her sole cost and expense, may have an attorney at law, or a representative who is not a County employee or a member of the Panel, assist him or her in preparing any written submission under this Chapter. However, a Grievant is not entitled to or permitted to have a representative at any inquiry or interview of Grievant conducted pursuant to this Chapter except in a hearing before the Grievance Review Panel.

ADOPTED/EFFECTIVE: August 2, 2022

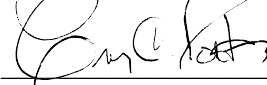
ATTEST:

COUNTY COMMISSIONERS OF



Kaleigh Leager, Executive Assistant
(SEAL)

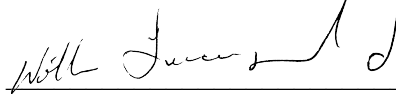
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