

## Alternative Dispute Resolution Policy for the

### Children and Youth Department

Effective upon the County's withdrawal from SCSC

The County of Adams has established and implemented policies and procedures which clearly govern all personnel transactions. Further, The County of Adams is dedicated to adhering to its policies and procedures when executing personnel actions.

The County of Adams encourages open and honest communication between employees and their supervisors. Most conflicts and differences of opinion can be resolved by the employee and supervisor directly confronting issues and jointly exploring alternatives. In cases where conflicts cannot be mutually resolved, the County of Adams has established an alternative dispute resolution (ADR) procedure for non-union and management employees-excluding Executive Directors and/or Elected Officials in the Children and Youth Services Department. NOTE: The ADR procedure does not apply to bargaining unit employees as an available grievance procedure which is clearly outlined in the applicable Collective Bargaining Agreement.

The County of Adams recognizes the importance of providing a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without fear of prejudice or reprisal for initiating a complaint or participating in its settlement. To the extent possible, all complaints should be settled through informal discussion at the lowest administrative level, and disputed matters should be processed in a more formal matter only when either party feels that a fair and equitable solution has not been reached in the informal discussions.

Regardless of any informal attempt to resolve areas of conflict, the appeal process extends to all personnel actions affecting employment including termination from employment, suspension, from employment, involuntary demotion, furlough from employment, unsatisfactory work performance appraisal, and any personnel action that the employee believes to be based on non-merit factors or which the employee believes to stem from illegal discrimination. Discriminatory action is defined as any based on political affiliation, race, color, national origin, gender, religious creed, age, handicap or any factor not related to the person's ability to perform the duties of the position (i.e. any non-merit factor). Multi-lingual services are available for those who may require them.

Personnel actions, including but not limited to removal and suspension from employment and demotion shall be reviewed in light of merit criteria (based on Performance Appraisals, Disciplinary Actions, and/or Performance Improvement Plans). In the event of removal from employment, or suspension from employment or demotion, merit criteria shall mean whether the infraction(s) committed by the employee's competency and/or ability to perform their job duties or whether the infraction(s) committed by the employee hampered or frustrated the execution of the employee's job duties.

#### **Timeliness:**

1. All disputes must begin at the first step within five (5) business days of the time the employee knows of an action or issue that can be raised through the ADR procedure. The steps outlined below should be considered the maximum, as every effort should be made to ensure prompt and efficient consideration at each and every stage.

## Special Provisions

### Applicants

The County is committed to maintaining the integrity of the application process and ensuring the equal treatment and consideration of all applicants, e.g. individuals who have applied for a job but were not selected. Therefore, an applicant for a position in the Children & Youth Services Department who is subject to non-selection which they believe to be unreasonably arbitrary or discriminatory as defined above may avail themselves of the ADR procedure. Notice of an applicant's intent to pursue the ADR procedure must be provided, in writing and utilizing the attached form, to the Human Resource Department within five (5) business days of the time the applicant know, or should have known, of an action or issue that can be raised through the ADR procedure. Unless otherwise specified, applicant grievances will begin at the third step as defined below in Section 3.

### Direct Appeal

The County remains committed to the transparency and integrity of the entire ADR process as written, and has intentionally crafted a series of steps that further develop both in authority and accountability. As such, the County would strongly encourage employees and applicants to avail themselves of the entire procedure; however, employees and applicants do have the option to appeal directly to the panel described in the fifth step and waive the first four steps in the process. The decision to waive steps one through four must be provided in writing to the Human Resources Department within five business days of the time the employees know, or should have known, of an action or issue that can be raised through the ADR procedure. Furloughs are an appealable action.

## **STEPS OF THE ADR PROCEDURE**

### **A. Initiating an ADR request:**

An employee may utilize the attached form to initiate an ADR request at the first step. The attached form must be utilized for this process. The form must state the claim, the facts in support of the claim and the relief requested. NOTE: The employee is responsible for having the issue/dispute/appeal delivered to the appropriate person(s) within the time period as specified.

#### **B. First Step: Immediate Supervisor**

Within five (5) business days of the time the employee knows of an action or issue eligible for the ADR process the employee must advise his or her immediate supervisor that he/she is initiating an ADR request. The employee must give the supervisor the completed ADR form **filled out in its entirety**.

The Supervisor is responsible for scheduling and holding a meeting with the employee within five (5) business days of the receipt of the ADR to facilitate a face-to-face discussion of the employee's ADR request. The Supervisor will then have five (5) business days to respond to the ADR in the form of a letter delivered to the employee with a copy placed in the employee's personnel folder in the HR office. This notice will include notice of the employee's right to appeal the dispute to the second step if no common ground is reached.

#### **C. Second Step: Department Head**

If an employee finds the first step response unsatisfactory, the employee may appeal the dispute in writing to the department head within five (5) business days of receipt of the first step response. The second step appeal must be on the original ADR request form and completed in its entirety.

Copies of any first step documentation must be provided.

Within five (5) business days, the department head will, with due consideration of the facts and circumstances of the dispute, meet with the employee in an effort to resolve the issue at this level. Within five (5) business days following the discussion the department head shall, in writing, grant, deny, or propose a modification to the requested remedy with a copy placed in the employee's personnel folder in the HR office. This response will include the notice of the employee's rights to appeal the dispute to the third step.

#### **D. Third Step: Human Resources**

If the employee finds the second step response unsatisfactory, the employee may appeal the dispute in writing to the Human Resources Director within five (5) business days of receipt of the third step response. The third step appeal must be on the original ADR request form and completed in its entirety. Copies of any first or second step documentation must be provided.

Within five (5) business days of receipt of the third step paperwork, HR will conduct a thorough and complete investigation including the solicitation of oral and/or written

statements from persons of interest in the dispute. Within ten (10) business days of receipt of the third step paperwork Human Resources shall in writing, grant, deny, or propose a modification to the request remedy. The response shall include notice of the employee's rights to appeal the dispute to the fourth and final step.

**E. Fourth Step: County Administrator, Chief Clerk, Solicitor's Office and Board of Commissioners**

If the employee finds the third step response unsatisfactory, he/she may appeal the dispute to the fourth step. This appeal must be submitted in writing to the Chief Clerk within five (5) business days of receipt of the third step response. The Chief Clerk, the County Administrator, a representative from the Solicitor's office and at least two (2) of the three (3) County Commissioners will meet to discuss the dispute within ten (10) business days of the date the Chief Clerk received the third step appeal. This group will conduct a non-record hearing on the complaint and will provide the opportunity for all parties involved to provide testimony relevant to the matter in dispute.

**F. Fifth Step: Panel Review**

If the employee finds the fourth step response unsatisfactory, the employee may appeal the dispute to the fifth and final step. This appeal must be submitted in writing to the Director of Human Resources within five (5) business days of receipt of the fourth step response. This appeal must state the issue in dispute, the facts in support of the employee's position, the reasons why the fourth step response is unsatisfactory, and the remedy requested. Copies of the fourth step correspondence must be included.

Upon receiving the appeal and determining that the appeal was made timely, the County Commissioners shall approve a panel of three members: one Human Resources professional from the public sector who is not in any way affiliated or under the employ of the County of Adams, one Human Resources professional from an education institution, and one Human Resources professional from the private sector. The panel shall be appointed for staggered terms of one, two, or three year; and will remain in place for any and all appeals that may arise during that term unless in the event of a clear and articulate conflict of interest in a given appeal, at which time the panel member would be replaced with a similarly qualified individual for the purpose of that appeal.

The administrative panel shall conduct a hearing on the complaint and will provide the opportunity for all parties involved to provide testimony relevant to the matter in dispute.

This group will render a binding decision in writing to the Department of Human Resources within twenty (20) business days of their final discussion on the subject. This group has the authority to grant necessary relief based upon their binding decision in the context of granting back pay, retroactivity, or reinstatement when applicable.

The decisions of this group are final and not subject to review or modification. As such there is no legal opportunity for appeal in the civil court system.