

## CORPORATE POLICY

<b>SUBJECT:</b> Grievance Procedure	<b>CATEGORY:</b> Human Resources
	<b>ORIGINAL DATE:</b> December 13, 1983
	<b>REVIEWED DATE:</b> November 28, 2017
	<b>REVISION DATE:</b> November 28, 2017

### I. **POLICY:**

The Lake County Health Department and Community Health Center (LCHD/CHC) encourages and promotes the prompt and equitable resolution of employee grievances so a harmonious and productive work environment is maintained. A grievance is an opportunity for an employee to present their asserted basis in writing that a suspension, demotion or termination grieved is not warranted.

Grievances may be brought by any At-will employee, and any regular full-time or regular part-time employee of the LCHD/CHC. The following individuals are not eligible to file for a grievance:

- Employees serving their original 12-month introductory period or an extension of that introductory period
- Flex or temporary employees
- Employees serving under a contractual basis

Eligible employees may file a grievance in response to the following employment actions:

- Disciplinary suspensions without pay.
- Demotions that result in a reduction in an employee's current salary (exempt employees) or current regular hourly rate of pay (non-exempt employees). However, an employee may not file a grievance for a demotion that occurs under the following circumstances:
  - If, while serving an introductory period for a promotion, the employee is returned to the position held immediately prior to the promotion (if available), or to a position paying the same salary or regular hourly rate of pay as that prior position; or
  - If the demotion results from a reorganization, reduction in force, or other administrative changes ordered by the Executive Director.

Termination of the grievant's employment. A non-introductory employee may file a grievance if the employee believes he/she has been discharged from employment without just cause and one of the following exceptions does not apply:

- The employee resigned or retired from his/her position.
- The termination resulted from a reorganization, reduction in force, or other administrative change ordered by the Executive Director.
- The termination occurred after the employee failed to return to work upon the expiration of an approved leave of absence or during a leave of absence where the employee was not promised re-employment at the end of such leave.

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### **II. SCOPE:**

All Lake County Health Department and Community Health Center employees.

### **III. PROCEDURE:**

- A. Employees who file a grievance must abide by the time limits contained in this policy. Grievances not filed or appealed within the designated time limits will be dismissed. When filing a grievance, the employee must state all facts and issues in dispute as the grievance will subsequently be limited to the facts and issues contained in Step I of the grievance procedure.
  1. Step I - Director
    - a. The employee shall first raise his or her grievance with the program's Director. To comply with this first step, the employee must submit a written statement to the Director and a copy to Human Resources (HR) stating:
      - i. the issue(s) being grieved and all relevant supporting facts;
      - ii. that this grievance constitutes the first step of the grievance procedure;
      - iii. the desired outcome to resolve the grievance; and
      - iv. the date on which the grievance was submitted to the Director.
    - b. All grievances must be submitted no later than seven (7) business days from the date the employee received notice of the employment action. The Director or designee, shall render a written response to the grievance within seven (7) business days after the grievance was presented. If the grievance is filed by a Director who is considered At-will, the first step in the grievance process will begin with the Human Resources Director.
  2. Step II - Human Resources Director
    - a. If the grievance is not resolved at Step I, it shall be presented in writing by the employee to the HR Director within five (5) business days after receipt of the Step I response or after the Step I response was due, whichever is earliest.
    - b. The employee may not raise new issues but rather, may only raise those issues presented in writing at Step I. The employee must attach the Step I grievance and the Director's Step I response, if one exists, with the Step II grievance. The employee's Step II grievance must state the desired outcome to resolve the grievance. Upon receipt, the HR Director shall date and initial the written grievance. The HR Director or designee, shall render a written response to the grievance within seven (7) business days after the grievance was presented.
  3. Step III - Executive Director
    - a. If the grievance is still not resolved at Step II, it shall be presented in writing by the employee to the Executive Director within five (5) business days after receipt of the Step II response or after the Step II response was due, whichever is earliest.
    - b. The employee may not raise new issues but rather, may only raise those issues presented in writing at Step I. The employee must attach the Step I and Step II grievances and the Director's Step I and HR

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Director's Step II response, if one exists, with the Step III grievance. Upon receipt, the Executive Director shall date and initial the written grievance. Within seven (7) business days after the Step III grievance is presented, the Executive Director or designee may meet with the employee if the Executive Director or designee believes that such a discussion would resolve the grievance. The Executive Director or designee, shall render a written response to the grievance within seven (7) business days after the grievance was presented.

- B. For grievances involving a suspension without pay, demotion or discharge, a formal hearing may be requested when the informal grievance steps have failed to resolve the grievance in a manner satisfactory to the employee. The purpose of the hearing will be to determine whether the employee was suspended, demoted or discharged without just cause.
  1. Any written request for a formal hearing shall be filed with the HR Director within five (5) business days after the conclusion of Step III. The employee must attach to the request copies of all written grievances submitted and all written responses received. The request must set forth the nature of the grievance, the facts on which it is based, the desired resolution the employee requested and the basis for appeal.
  2. A request for a formal hearing will be approved if the HR Director determines:
    - a. the employee has complied with the requirements of Steps I, II and III;
    - b. the request for a formal hearing is timely and contains the information requested in the above paragraph;
    - c. the grievance involves an employment action that is subject to this grievance procedure; and
    - d. the employee is raising the same grievance at the formal step that he or she presented at Steps I, II and III.
  3. If a request for a formal hearing is not approved, the HR Director will send written notice to the employee explaining the reasons for the denial. If the employee attempts to raise a new grievance in the formal step, those issues will be stricken and only those issues raised in Steps I, II, and III may proceed to a formal step hearing. The HR Director has the discretion to allow an employee to consolidate two separate grievances and present both grievances at a single formal hearing.
  4. Upon receipt, the HR Director shall date and initial the written grievance and notify the Health Department Grievance Committee within ten (10) business days after the receipt of the request.
  5. The Grievance Committee shall consist of three (3) members: two Board of Health members (one shall serve as Chairman of the Grievance Committee), and one Director. The members of the committee and one alternate for each position shall be chosen by the Secretary of the Board of Health by drawing from each group of eligible and willing Board members and Executive Team Directors. The Grievance Committee drawing should be held each time a request has been made for a formal hearing.
  6. The Board of Health Attorney will serve as legal representation for the Health Department.
  7. Either the HR Director and/or Executive Director (or designee) will appear at the hearing on behalf of the agency.

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8. The Executive Director's Assistant shall attempt to schedule the hearing within thirty (30) business days of the Grievance Committee's receipt of a request for a formal hearing. Whenever possible, the hearing shall be scheduled during normal working hours.
9. The HR Director will be responsible for notifying the employee at least ten (10) business days prior to the formal hearing with the Grievance Committee. The hearing notice will state:
  - a. The date, time and place of the hearing.
  - b. The purpose of the hearing and a statement of the issues involved.
  - c. The contact name and phone number for the employee to call, if they have questions.
10. Both sides will be given the opportunity to present evidence, to call witnesses, and to question witnesses of the other side. The parties and witnesses may also be questioned by the members of the Grievance Committee.
11. Employee must inform HR Director or designee within 3 business days prior to the hearing whether evidence will be presented, the names of any witnesses or if legal representation will be present at the grievance hearing.
12. The formal rules of evidence or procedure will not apply.

**C. Employee Procedures**

1. The employee's presence at the hearing is required. If the employee fails to appear at the scheduled time or if the employee appears at the scheduled time but states that he/she is unable to present their grievance at that time, the grievance will be considered to have been withdrawn and the matter will be dismissed with prejudice.
2. Employee may withdraw the request for a hearing in writing at any time prior to the start of the hearing.
3. A written request to reschedule the hearing for good cause must be submitted to the HR Director or designee no later than two (2) full business days before the scheduled date of the hearing (example: if the hearing is scheduled for Friday, the request for an extension must be made by Tuesday at 5 p.m.) The two-day notice requirement may be waived by the HR Director or designee if the Director finds the employee could not have provided notice sooner due to a bona fide emergency involving the employee. The inability to procure legal counsel shall not constitute an emergency. The employee may submit only one request to extend the hearing date. If a request for an extension request is denied, the employee must present his or her grievance on the original hearing date.
4. The employee may have representation, legal or otherwise, present at the hearing at their own expense. However, the employee's representative will not be afforded an opportunity to speak on the employee's behalf or to question witnesses at the grievance hearing. The employee will be provided an opportunity to caucus with his or her representative during approved breaks.

**D. Responsibilities of the Grievance Committee Chairperson**

1. The Chairman shall be responsible for the conduct of the hearing. The quantity and quality of evidence required to support a decision on an issue should be sufficiently credible that a court, upon reviewing the decision, would conclude it is supported by a preponderance of the evidence.
2. The Chairman will ascertain that all three (3) Committee members are present

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and will begin the hearing by summarizing the record and issues and explaining the manner in which the hearing will be conducted, ensuring everyone involved understands the proceedings. This explanation will be adapted to the needs of the specific situation. The Chairman determines the order of presentation at the hearing.

### E. Grievance Committee Procedures

1. The Committee may, in their discretion, take testimony under oath and elect to tape record the proceedings or have a court reporter present.
2. The purpose of the hearing will be to determine, based upon the totality of the circumstances, whether:
  - a. the request for hearing was made on a timely basis and whether the applicable procedures were followed.
  - b. the preponderance of the evidence supports or is averse to the position of the grievant.
3. The Committee may attempt to negotiate a resolution of the issue at any time prior to the conclusion of the hearing.
4. The Committee may continue the hearing, on its own motion or on motion of any party, for any reasonable period if the Committee believes a continuance is warranted by the circumstances.
5. Those portions of the hearing within a statutory exception to the Open Meetings Act (OMA) (III Revised Statutes, Chapter 102, Section 42), may be closed to the public.
6. The parties may present documentary evidence and the grievant may request to have relevant records or documents kept in the ordinary course of business produced at the hearing.
7. The Committee may limit the number of times any witnesses may testify, limit repetitions or cumulative testimony and set reasonable limits on the amount of time each witness may testify and be cross-examined.
8. No power to issue subpoenas exists. LCHD/CHC employees may attend and give what information or evidence they have regarding the grievance when such testimony is relevant to the proceedings. Willfully giving false or misleading evidence may be grounds for discipline. All current LCHD/CHC employees who testify before the Committee shall have such time considered hours of work.
9. There will be an opportunity for the Committee and the parties to question any witness.
10. On the day of the hearing, all parties involved will be expected to be ready to proceed at the hour set. Any failure to be prepared to proceed at the designated time may be deemed by the Committee to be an admission by the unprepared party that the party's case is without merit and that a decision should be rendered against that party.
11. The recommendation of the Committee shall be based on a majority vote and shall be sent in writing to the parties within ten (10) business days after the hearing. The recommendation should be written in clear, simple, non-technical language and include the following information:
  - a. A list of the attendees at the hearing.
  - b. A clear and concise statement of the issues.
  - c. The findings of fact, based on the entire record as disclosed at the hearing.

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- d. The opinion and reasons for the recommendation.
- e. The conclusion based on the findings of fact and opinion, indicating the final judgment of the Committee on the issues involved and pronouncing the action recommended.
- 12. The Committee will make the final decision to approve or disapprove the initial action against the employee. It may recommend reinstatement of an employee or may recommend other action to HR.

**IV. REFERENCES:**

None

**V. AUTHORS/REVIEWERS:**

Designated Review Team, Corporate Policy and Procedure Committee, Executive Team, and Lake County Board of Health Personnel Committee.

**VI. APPROVALS:**

Lake County Board of Health President

Signature: \_\_\_\_\_ Date: \_\_\_\_\_