



Grievance

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Policy No. 4.502

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**Developer/Reviewer:
Division of Human Resources**

1. Purpose

The primary objective of this policy is to provide a process for employees to appeal disciplinary actions of unpaid suspension, demotion and termination.

2. Scope

The Sedgwick County grievance process is available to employees in benefitted positions who have completed their initial probationary period with Sedgwick County. This policy shall not apply to employees who are elected, appointed or contracted; employees of the Office of the District Attorney; and employees of the Sheriff's Office, who are part of a recognized Civil Service system.

3. Policy

The Sedgwick County grievance process may be used to grieve terminations, demotions or disciplinary suspensions without pay, including those resulting from violations of policies 4.506 Workplace Discrimination and 4.505 Workplace Violence. The process may not be utilized to dispute performance evaluations, Performance Improvement Plans (PIP), verbal or written counseling disciplinary actions, written or final written reprimands, hours of employment, rates of compensation or the content or merit of County Personnel Policies and Procedures.

4. Definitions

- A. Involuntary termination – Termination of employment made by Sedgwick County.
- B. Demotion – Disciplinary transfer to a position in the same Division/Department to a lower job classification and a lower rate of compensation.
- C. Unpaid suspension – Disciplinary action placing an employee off work in unpaid status for a minimum of one (1) work day/shift and a maximum of five (5) work days/shifts.

5. Procedures – Grievance Board

- A. The Sedgwick County Grievance Board shall consist of five (5) members.
 - 1. Position 1 – An exempt supervisor appointed by the County Manager will serve as Grievance Board Chair.

2. The other four (4) positions will be selected through a County-wide election process. Employees filling positions two (2), three (3), four (4), and five (5) may not be employees in supervisory positions.
 - a. Position 2 – Exempt employee
 - b. Positions 3 and 4 – Non-exempt employees.
 - c. Position 5 – Exempt or non-exempt employee.Employees of the Office of the District Attorney and the Sheriff's Office are not eligible to serve on the Grievance Board.

- B. Employees must specify which position they wish to fill and may only run for one seat in an election.
- C. The terms of Grievance Board members shall be for a period of two (2) years and members may serve no more than two (2) consecutive terms. Terms will be staggered to allow continuity in membership. Members serve at the pleasure of the County Manager.
- D. Four alternate members of the Grievance Board will be elected for the same terms and in the same manner as regular members to serve in the absence of a regular member or in cases of conflict of interest. The County Manager will appoint an alternate for the position of exempt supervisor serving as Board Chair.
- E. The Grievance Board may have legal counsel appointed to serve in an advisory capacity as directed by the County Counselor. The Employee Relations Specialist will communicate with the County Counselor on all hearing matters and materials.

6. Procedures – Grievance Process and Hearing Procedures

- A. The employee should complete a grievance form available on the Sedgwick County web site, Eline or available upon request from the Employee Relations Specialist.
- B. The grievance form should be submitted to the Employee Relations Specialist within fifteen (15) business days of the first day of the suspension or the effective date of the demotion or termination, as indicated on the disciplinary action form provided to the employee.
- C. The Employee Relations Specialist will act as secretary to the Grievance Board during the hearing and handle all correspondence.
- D. The Employee Relations Specialist will send written confirmation of receipt of the grievance to the grievant.
- E. If any member of the Grievance Board is from the same department as the grievant, the Employee Relations Specialist will notify the Grievance Board Chairperson and coordinate an alternate to hear the grievance.
- F. Any member of the Grievance Board who has any relationship, knowledge or bias that may constitute a conflict of interest has the responsibility to recuse themselves from hearing the grievance. The Grievance Board Chair, or the Employee Relations Specialist, will arrange for an alternate member to hear the grievance.

- G. Within five (5) business days of receipt of the grievance, the Employee Relations Specialist will notify the members of the Grievance Board and the County Counselor's Office of the grievance and forward a copy of the grievance form.
- H. The hearing should be conducted as soon as possible after the grievance has been filed with the Employee Relations Specialist. The Employee Relations Specialist will set a date and location for the grievance hearing and notify the grievant in writing at least fifteen (15) business days prior to the date of the hearing.
- I. If the grievant desires legal counsel, they are responsible for any legal expenses incurred. The County has no obligation to provide counsel for the grievant. If the grievant retains legal counsel, the grievant must provide the attorney's name, phone number and email address to the Employee Relations Specialist within two (2) business days of notification of the hearing date. Once that information is communicated, all correspondence and document exchange will be with the grievant's counsel. All information of the grievant's counsel shall also be passed on to the County Counselor's Office.
- J. Documents and witnesses - The grievant and the grievant's department director, or designee, will have the opportunity to call witnesses and to present documents at the grievance hearing. Documents and a witness list, describing what the witness will testify to in the matter, must be submitted to the Employee Relations Specialist ten (10) business days prior to the hearing. The Employee Relations Specialist will copy the documents and witness lists and distribute copies to the opposing party and to the members of the Grievance Board no fewer than five (5) days business days prior to the hearing.
- K. County employees who are called as witnesses will be compensated.
- L. All hearings before the Grievance Board will be closed to the public and will be recorded by the Employee Relations Specialist. Board members shall maintain strict confidentiality regarding all aspects of the grievance.
- M. The burden of proof, by a preponderance of evidence, rests upon the grievant. In all cases, the question under consideration is whether or not the disciplinary action is proportionate to the infraction and was administered in accordance with Sedgwick County Policies and Procedures. The Board shall not consider unrelated matters.
- N. In addition to legal counsel and witnesses, the grievant may bring one additional individual to the hearing. This person may listen, take notes and offer support to the grievant, but may not speak on behalf of the grievant.
- O. In the event the grievant fails to appear in person without good cause being shown for their absence, it will be presumed that the grievant has waived their privilege to appear before the Grievance Board, and the grievance will be closed without further proceedings.
- P. The hearing will be divided into four phases: opening statements by grievant and Sedgwick County; presentation of grievant's evidence; presentation of Sedgwick County's evidence; and closing arguments by the grievant and Sedgwick County.

1. Opening Statements – Each party will present a brief summary of the core dispute(s), including a basic outline of the facts and what they believe they will be able to show through the presentation of evidence. Parties may only state the evidence, and may not argue the merits of the evidence they will be presenting. Presentations should be well-organized and concise. An opening statement usually lasts less than five minutes. Either party may waive an opening statement.
2. Presentation of Grievant’s Evidence – The grievant may call witnesses and/or provide testimony. The County will have the opportunity to cross-examine the grievant’s witnesses and the grievant. Grievance Board members may also question the grievant. The County may object to the grievant’s narrative, including the questions asked. If an objection is made, it will be ruled on by the Grievance Board Chair. In addition to the exhibits submitted prior to the hearing, the grievant may request to have additional exhibits admitted. The Grievance Board Chair will rule on the admissibility of objected exhibits. Exhibits introduced the day of the hearing should be provided in duplicates of ten.
3. Presentation of Sedgwick County’s Evidence – The County may call witnesses. The grievant may object to the questions asked and may cross-examine witnesses. If an objection is made, it will be ruled on by the Grievance Board Chair. The County may also request to have additional exhibits admitted. The Grievance Board Chair will rule on the admissibility of objected exhibits. Additional exhibits should be provided in duplicates of ten.
4. Closing Arguments – Both parties may present a closing argument. The purpose of the closing argument is to explain why the evidence and the applicable rules support each parties’ positions. The grievant will present their closing argument first, followed by the County’s representative. Closing arguments usually take less than five minutes each.
5. After an opportunity for closing arguments, the Grievance Board will go into closed session to discuss the evidence and deliberate. If the Board reaches a decision within a reasonable amount of time, they will reconvene and relay the outcome to the grievant. If the Board is unable to reach a decision within a reasonable amount of time, they shall reconvene and notify the grievant and County’s representative, including an anticipated timeline for a decision.

Q. The Grievance Board will provide written rationale of the determined outcome. The allowed outcomes of the grievance process are as follows:

1. Termination
 - a. Termination upheld.
 - b. Termination rescinded and employee is reinstated with back pay.
 - c. Termination is rescinded, employee is reinstated with back pay and alternative level of disciplinary action is issued. Alternative discipline may represent loss in wages commensurate with level of discipline.
2. Demotion
 - a. Demotion upheld.
 - b. Demotion rescinded and employee is reinstated to previous position with back pay.

- c. Demotion rescinded with back pay and alternative level of disciplinary action issued. Alternative discipline may represent loss in wages commensurate with level of discipline.
 - 3. Suspension
 - a. Suspension upheld.
 - b. Suspension rescinded and employee receives back pay.
 - c. Suspension rescinded with back pay and alternative level of disciplinary action issued. Alternative discipline may represent loss in wages commensurate with level of discipline.
- R. The Board's outcome determination will be forwarded to the Employee Relations Specialist within ten (10) business days of the conclusion of the hearing. The Employee Relations Specialist will forward the outcome summary to the County Manager and the Chief Human Resources Officer. Within five (5) business days of receipt of the outcome, the Employee Relations Specialist will send an outcome letter to the grievant, and the County's representative, on behalf of the Grievance Board. The letter will be sent via U.S. mail in all cases and, in cases of demotion and suspension, notification will also be sent via Sedgwick County email.
- S. The decision of the Grievance Board shall be final.
- T. The Grievance Board is not a policy-making body and may not challenge the legality of the hiring authority's policies and procedures. The Board must reach its decision 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 terminated.
- U. All reinstatements will be done in accordance with Personnel Policy 4.301 Employee Re-hire.
- V. If a lawsuit or complaint is filed with any other board, agency or court concerning the same subject matter during an active grievance process, the process will continue unless the grievant submits written notification to the Employee Relations Specialist withdrawing the grievance. Upon written notification, the Employee Relations Specialist will notify the members of the Grievance Board and the grievance process will end.
- W. All records pertaining to grievances will be maintained by the Division of Human Resources in files separate from the employee's personnel file.
- X. An employee may not grieve any alternative disciplinary action that is issued in accordance with the Grievance Board's final decision.
- Y. Retaliating against a person filing a grievance, serving as a witness in a grievance process, or any person connected to a grievance process or resolution of a grievance, is prohibited by this policy and will be subject to disciplinary action up to and including termination.