



Town of
Chapel Hill,
NC

Personnel
Policy

Policy Number:
PP 5-2

Effective Date:
September 1,
2015

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Approved By:

A blue ink signature of Roger L. Stancil.

Roger L. Stancil,
Town Manager

Grievance Policy

I. POLICY

It is the policy of the Town of Chapel Hill to provide a timely, equitable, and orderly grievance process that allows for the resolution of grievances. Any Town employee, with the exception of Department Heads and Assistant, Deputy, or Town Managers, may access this process.

A grievance is:

- a) An allegation that a serious disciplinary action was taken in violation of procedures set forth in the Disciplinary policy of the Town and Article XII of the Personnel Ordinance; or,
- b) An allegation that an action, or a failure to act, constitutes discrimination, harassment, or retaliation on bases prohibited by the Personnel Ordinance.

For the purposes of this policy, no other issue is considered a grievance.

II. PURPOSE

When an employee is subject to retaliation, discrimination, and harassment, or has been inappropriately subjected to severe disciplinary action, it may violate the law, Town policies, and our adopted Town values of Equity, Safety, Professionalism, Ethics, and Communication. Although the Town has numerous processes in place to protect employees from these types of behaviors and actions in the workplace, the Town provides and fully supports a grievance process as a method of accountability and review for itself, its employees, and the community. Employees may access this process without fear of reprisal.

III. PROCEDURE	The Director of the Human Resource Development Department is authorized to issue procedures consistent with this policy. Grievance Procedures issued by the Human Resource Development Director will be considered an appendix to this policy.
IV.FORMS/ INSTRUCTIONS	See Forms in Grievance Procedures
V.ADDITIONAL CONTACTS	Human Resource Development 919-968-2700 or HR@townofchapelhill.org Ombuds office 919-265-0806 or Ombuds@townofchapelhill.org Employee Assistance Program 1-800-326-3864
VI.DEFINITIONS	See Definitions in Grievance Procedures
VII.RESPONSIBILITIES	See Responsibilities in Grievance Procedures
VIII.APPENDICIES	A. Grievance Procedures
IX. FAQ	Frequently Asked Questions
X. SCOPE	As of September 1, 2015, this policy replaces and supersedes any previous Town policies, supplemental policies, handbooks, or unwritten policies or practices covering the same subject. Supplemental policies in compliance with this policy are referenced in Section XI below, Related Information .
XI. RELATED INFORMATION	A. Town of Chapel Hill Code of Ordinances, Chapter 14, Articles XII and XIV in their entirety. B. Disciplinary Policy, PP 5-3 C. Dispute Resolution Policy, PP 5-4
XII.POLICY HISTORY	Adopted August, 1987 Revised November, 2000 Revised November, 2001 Revised and reissued September 1, 2015 to reflect the revisions to Chapter 14, Articles 11-14 of the Town of Chapel Hill Code of Ordinances passed by the Chapel Hill Town Council June 8, 2015.

	Town of Chapel Hill, NC	Policy Number: PP 5-2	I. Policy	Approved By:  Frances Russell, Director Human Resource Development
	Procedures	Effective Date: September 1, 2015	II. PURPOSE III. PROCEDURE IV. FORMS/INSTRUCTIONS V. ADDITIONAL CONTACTS VI. DEFINITIONS VII. RESPONSIBILITIES VIII. APPENDICES IX. FAQ X. SCOPE XI. RELATED INFORMATION XII. POLICY HISTORY	

III. Grievance Procedures

These procedures are issued by the Director of Human Resources to implement the Grievance Policy, PP 5-2, issued by the Chapel Hill Town Manager. These procedures may be periodically updated.

A. How Time is Calculated:

Ordinance Definition: The Town of Chapel Hill Code of Ordinances defines how timelines are computed for purposes of this process. Please refer to [Understanding Time Calculations for Conflict Resolution Processes \(Appendix A\)](#) for examples of how to calculate time. ([Town of Chapel Hill Code of Ordinances, Section 14-110](#))

1. Summary: In general the timeline starts the day after the notice or action occurs and timelines refer to calendar days except that:
 - a) Timelines do not start or end on a Saturday, Sunday or official Town Holiday, and
 - b) Official Town holidays are excluded from the timeline count.

B. A Brief Definition of Grievance: A grievance occurs when an employee alleges that:

1. The Town did not follow the Town’s disciplinary procedures when taking severe disciplinary action against him/her.
2. Severe disciplinary action taken against him/her constitutes discrimination, harassment, or retaliation towards him/her on bases prohibited by the Code of Ordinances, Town policies, or applicable State and Federal laws.
3. The Town did not respond to his/her complaint of discrimination, harassment, or retaliation in the workplace.

For the purposes of this policy, no other issue shall be considered a grievance. ([Section 14-129, Code of Ordinances](#))

The Grievance Procedure is a two-step process. Step One is a Grievance Conference; Step Two is a hearing before the Grievance Hearing Board.

C. Filing A Grievance:

1. Request Submission: An employee can file a grievance by filling out a [Request for a Grievance Proceeding \(FORM 5-2 A\)](#) and returning it to a member of the Human Resource Development (HRD) staff.

2. Timeline: Grievances must be filed in writing within fourteen (14) days from the decision or action that is the basis of the Grievance. Grievances may be submitted in person, via US mail, by fax, or by email.

All submissions must be signed.

HRD staff are available to answer questions about or provide assistance with accessing the grievance process. ([Section 14-130, Code of Ordinances](#))

D. Filing a Grievance for Allegations of Harassment, Discrimination, or Retaliation:

1. Town Investigation. If an employee files a grievance for allegations of discrimination, retaliation or harassment, before going to Step One of the grievance procedure, the Town must first investigate the allegations contained in the grievance in accordance with Town policy and procedures.

2. Substantiated Allegations: If the investigation substantiates the allegations, the Town will make every reasonable effort to remedy the discrimination, retaliation, or harassment and will notify the employee in writing of its findings and decision(s) regarding the grievance. ([Section 14-131, Code of Ordinances](#))

3. Unsubstantiated Allegations: If the investigation does not substantiate the allegations, the Town will determine if the allegations violate any other Town policies and will take appropriate action if warranted.

4. Recourse: A complainant who is dissatisfied with the results of the Town's investigation and/or resolution may proceed to Step One of the Grievance Procedure, The Grievance Conference outlined below.

5. EEOC Complaint. Harassment, retaliation, and discrimination are specific allegations that, if substantiated, may violate Federal laws. Therefore, the employee may contact the [Equal](#)

[Employment Opportunity Commission](#) at any time. If the employee files an EEOC complaint, then the grievance process terminates and any further action on the matter follows EEOC procedures.

6. Severe Disciplinary Action. An employee who has received severe disciplinary action for engaging in conduct that constitutes harassment, retaliation, or discrimination may grieve the decision according to the Town's grievance process.

E. Grievance Procedure –Step 1: The Grievance Conference:

1. What: The Grievance Conference is a facilitated meeting between the employee and a representative of the Town.
2. Purpose: The purpose of the meeting is to attempt to resolve the grievance. This is the opportunity for the employee (also called the Grievant) to bring any and all information for consideration towards the resolution of the grievance, including information that may not have been presented at the pre-disciplinary conference, or PDC.
3. Facilitation: The Town uses trained facilitators who practice individually or are affiliated with outside dispute resolution services.

F. Initiating the Grievance Process:

1. HRD Responsible for Grievance Procedure: HRD is responsible for administering the grievance procedure. ([Section 14-136, Code of Ordinances](#)).
2. Initiating Request: An employee begins Step One of the grievance procedure by filling out the [Request for Grievance Proceeding \(FORM 5-2 A\)](#) and delivering it HRD by email, regular mail, fax, or in person.
3. HRD Assistance: HRD staff will help employees understand how to fill out and submit the grievance form and to answer any questions about the grievance process. HRD staff are not allowed to fill out the form for the employee or advise an employee on how to word the grievance. This restriction is for the mutual protection of the employee and HRD and their working relationship.
4. Issues for Consideration: All issues for resolution in the grievance procedure must be specified in the initial grievance filing with HRD. The Grievant cannot add additional issues to the grievance once it has been filed with HRD. The Grievant can request to delete issues from the grievance. Issues can also be deleted if they are resolved prior to or during the grievance procedure. ([Section 14-134, Code of Ordinances](#))

G. Time Frame for Filing a Grievance:

The request must be made within 14 days from the decision or action that is the basis of the grievance. ([Article 14-130, Code of Ordinances](#)) Once HRD receives the grievance request, it will contact the Grievant to verify and clarify the information and answer basic questions.

H. Grievance Referral to Manager's Office:

HRD forwards the request for the Grievance Conference to the Town Manager's office so that the Manager's office can appoint the Town's designee. The designee will be someone knowledgeable about the Town's policies and procedures, and may or may not be the Department Head who made the disciplinary decision. The Grievant does not get to choose the Town's designee.

I. Selection Of And Referral To A Facilitator:

1. HRD Role: HRD refers the request to a selected facilitator for prompt follow up.
2. Facilitators rotated: Facilitators are selected on a rotating basis from approved providers based on their ability to complete the Grievance Conference within the 30 day time frame set by the Ordinance. ([Section 14-132, Code of Ordinances](#))
3. Scheduling: The Facilitator will contact the parties to schedule the Grievance Conference and answer any questions employees might have about it.
4. Use of Work Time to Prepare: Employees may request time from the supervisor to fill out forms at a time that does not interfere with the work of the Town. With approval of the supervisor, employees may be allowed limited work time, normally no more than four hours, to prepare and compile materials for the Grievance Conference. The Town will cooperate in providing information and materials for review.
5. HRD Assistance: Time spent in the Conference is considered work time. If needed, HRD will assist the Grievant in getting relieved of work duties to prepare for and attend the Grievance Conference.

J. Who Attends the Grievance Conference:

1. Allowed Attendees: Attendees at the Grievance Conference include:
 - a) The Grievant
 - b) The Town's designee (usually someone in a management role in the employee's department; this may be the department head)
 - c) The Facilitator or Facilitators
 - d) A member of HRD who attends the Conference as an observer and to assure that Town policies and procedures are followed, as well as applicable State and Federal laws
2. No Representation: Since the Grievance Conference is not a legal process, but a facilitated discussion between two persons, neither the Grievant nor the Town may be represented by legal counsel or any other person at the Grievance Conference.

K. The Grievance Conference:

1. **Type of Proceeding:** Every Facilitator has his/her own approach to a Conference of this type. The Facilitator may ask some questions or have an intake form that all parties fill out prior to the Conference. This information allows the Facilitator to select the approach that he/she believes is best for the situation and the parties.
2. **Autonomy of Facilitator:** The Facilitator has a great deal of autonomy in considering how best to facilitate this meeting. For example, the Facilitator may contact both parties for additional information prior to the Grievance Conference to determine the best approach. More than one Facilitator might be involved. More than one session might be appropriate. Employees will sign an [Agreement for Grievance Conference Facilitation \(FORM 5-2 B\)](#) before beginning the Conference. If either party wants to know more about the specific process the Facilitator will use, the Facilitator is the best resource for getting answers to these questions.
3. **Facilitator Confidentiality:** The Facilitator will ask each party, at the beginning of the Conference, to agree that whatever is said during the Conference remain confidential. ([Form 5-2C Confidentiality Agreement](#)). The Facilitator may take notes to assist in preparing a resolution agreement, but will not retain those notes. No recordings of the Conference will be allowed.
4. **Participant Confidentiality:** Information disclosed by either party in the Conference is confidential except as otherwise required or permitted by law. All parties will sign a confidentiality agreement, required by both the Town and the Facilitator. The Facilitator will explain this provision in more detail prior to the Conference. The only information shared with the Town is either a written agreement or a notice that the parties did not reach an agreement.
5. **Basic Proceeding:** Generally, each party gets to make an initial statement of his/her position, and then the Facilitator will talk to the parties and help the parties talk to each other. The Facilitator may choose to speak to one party or the other outside the presence of the other party (this is sometimes referred to as a "caucus"). The discussion continues until either the parties reach resolution or until the Facilitator determines that a resolution cannot be achieved. Either party may call a brief recess for any reason. The Facilitator will set the length of the recess.

L. If the Grievance Conference Results in a Resolution of the Grievance:

1. **Agreement Preparation:** If the Grievance Conference resolves the issues, the Facilitator prepares a draft written agreement. ([FORM 5-2 D Grievance Conference Outcome](#))
2. **Agreement Review:** Once the parties agree, they sign and it is then forwarded to HRD. HRD must review the agreement. Grievance resolution agreements must conform to Town Human Resources policy, the Town's Code of Ordinances, and applicable state and federal laws.
3. **Non-conforming Agreement:** If HRD determines that the agreement is not valid because it violates Town policies or applicable laws, HRD will inform the Facilitator and the parties involved in writing

on or before the 5th day after receiving the agreement. The parties may modify the agreement so that it is compliant. The Facilitator will determine how to best proceed to modify the agreement, for example, whether it can be done by phone or email, or if another session is needed.

4. Compliant Agreement Binding: Once the agreement is compliant, HRD will send a final copy to the Grievant. Once it is signed by both parties it becomes binding and ends the grievance process.

M. If the Grievance Conference does not Result in an Agreement:

1. Right to Further Processes: If the Grievance Conference does not result in an agreement, the facilitator informs HRD of the impasse. HRD then informs the Grievant, within 3 days, in writing of his/her right to use further processes in this procedure and the time limits on requesting such processes. (*Appendices D and E give examples of letters the grievant might receive*).
2. Completion of Conference: Grievance Conferences are completed within 30 days of the date that the employee filed the grievance, unless otherwise agreed in writing, ([Section 14-132, Code of Ordinances](#))

Please refer to [Frequently Asked Questions about the Grievance Conference](#) for more information.

N. Grievance Procedure—Step 2—The Grievance Hearing Board:

1. Composition of Board: The Grievance Hearing Board (GHB) is a volunteer board of eight (8) Chapel Hill residents who are appointed by the Chapel Hill Town Council. They meet as needed to hear grievances related to suspension, demotions, and terminations, and then make recommendations to the Town Manager about the grievance.
2. Quorum: Five (5) members of the Board are required to convene a hearing. ([Section 14-140, Code of Ordinances](#))

O. Special Cases: Harassment, Discrimination, Retaliation:

1. Limitation of Grievance Hearing Board: The Grievance Hearing Board (GHB) does not hear grievances related to discrimination, harassment, or retaliation. ([Section 14-142, Code of Ordinances](#)) These situations are covered under the Town's Serious Incident Policy and Federal laws that are enforced by the [Equal Employment Opportunity Commission](#), or EEOC.
2. Employee Recourse: If an employee is dissatisfied with a Step One Grievance Conference outcome for a grievance related to allegations of retaliation, discrimination, or harassment, then the employee may choose to contact the Equal Employment Opportunity Commission (EEOC) for further assistance.
3. EEOC Charge Terminates Grievance: Filing an EEOC charge terminates the grievance process and leaves the last decision or action taken on the grievance as the final decision or action of the Town.

P. Grievance Hearing Board Scope of Authority:

1. Not a Legal Proceeding: Although the hearing is a formal procedural process, it is not a legal proceeding.
2. Grievance Hearing Board Authority: The GHB does not have the authority to overturn or enforce prior decisions. ([Sections 14-141, 142, Code of Ordinances](#))
3. Burden of Proof Standard: The Town's burden of proof is lower than in a courtroom.

For more information about the Grievance Hearing Board's scope of Authority, refer to:

1. [Basic Information about the Grievance Hearing Board \(Appendix B\)](#)
2. [Detailed Information about the Grievance Hearing Board \(Appendix C\)](#)
3. [Town Code of Ordinances, Chapter 14, Article XIV](#)

Q. Requesting a Hearing before the Grievance Hearing Board:

1. Voluntary Request: An employee may request a hearing before the Grievance Hearing Board (GHB) if the Grievance Conference ended without an agreement. A Grievance Board hearing is VOLUNTARY-it does not occur unless the Grievant requests it.
2. Request Form: An employee makes the request by filling out a [Request for Grievance Proceeding \(FORM 5-2 A\)](#), signing the Step Two request, and returning the form to Human Resource Development (HRD). All issues for resolution in the grievance procedure must be specified in the initial written notification to HRD. The grievance may not add additional issues to the grievance once it has been filed with HRD. Issues may be deleted from the grievance if they are resolved prior to the hearing or if the Grievant asks that they be removed from the grievance. ([Section 14-134, Code of Ordinances](#))
3. Timeline for Request: The Grievant must request the hearing within 14 days of written notification from HRD of the failure of the Grievance Conference to reach an agreement.

R. Scheduling and Timelines for the Grievance Hearing:

1. Notification to Grievance Hearing Board: Within three (3) days of receiving the written request for a hearing, HRD will notify the Grievance Hearing Board. HRD helps schedule the meeting and will communicate with all parties about it.
2. Hearing Scheduled: The Hearing should be scheduled within fifteen (15) days of the request, and held no later than 30 days from the request, unless both parties agree to a later date. ([Section 14-156, Code of Ordinances](#))

S. Representation at the Hearing:

1. Types of Representation: The Grievant may choose to be represented at the Grievance Hearing by an attorney or any other person except a supervisory town employee. HRD will provide briefing for parties and/or their representatives before the hearing takes place. The Town and the Town decision maker involved in the Grievance may have legal representation.
2. Grievance Hearing Board Representation: The Grievance Hearing Board receives independent legal advice and assistance from an attorney not otherwise affiliated with the Town. This attorney will attend both the hearings and the deliberations.

T. Privacy of Hearings:

1. Closed Session: When grievance hearings are scheduled, the Town Clerk's office provides notice to the public, but grievance hearings are conducted in closed session, in compliance with the NC Personnel Records Privacy Act ([G.S. Sec.160A-168](#)) and the Town of Chapel Hill Code of Ordinances ([Section 14-158](#)).
2. Attendance at Closed Sessions: Closed hearings may include the employee, the employee's attorney or other representative, the members of the Grievance Hearing Board, management representatives, the Town Clerk, the Town's attorney, Human Resource Development staff members, and witnesses called by either side or by the Board. The witnesses may be asked to leave the hearing after their testimony.

U. Preparing for the Hearing:

1. Use of Work Time to Prepare: Employees may request time from the supervisor to fill out forms at a time that does not interfere with the work of the Town. With approval of the supervisor, employees may be allowed limited work time, normally no more than four hours, to prepare and compile materials for the Grievance Hearing. The Town will cooperate in providing information and materials for review.
2. Briefing before Hearing: HRD will provide briefing for parties and/or their representatives before the hearing takes place.
3. Attending the Hearing: Time spent in the hearing is considered work time. If needed, HRD will assist the Grievant in getting relieved of work duties to prepare for and attend the grievance hearing.

V. Grievance Hearing Board Proceedings:

NOTE: [The Town's Code of Ordinances, Sections 14-151-159](#), provides significant procedural guidance for the Grievance Hearing Board proceedings and should be reviewed by the Grievant and the representative prior to the Hearing.

1. Basic Format: Each side at the hearing will have the opportunity to make opening statements to the Board, present evidence, offer the testimony of witnesses and provide documents to the Board supporting their side of the grievance. Each side has the opportunity to cross examine witnesses. All witnesses must appear in person and identify themselves to the Board, the Grievant, and the Town. The Town has the burden of proof that the action was taken in compliance with Town policy. (*Section 14-150, Code of Ordinances*)
2. Proceedings: The Board controls the conduct of the hearing and may choose to exclude evidence if the Board determines that it is repetitive or irrelevant or prevents the other side from cross-examination. The Board may impose time limits for each side to present its case. Each side will have the opportunity to make a closing statement to the Board.

W. Scope and Presentation of Information before the Board:

1. Allowed Information: In general, only information presented to and considered by the Department Head at the Pre-Disciplinary Conference (PDC) can be presented at this Hearing. There are some exceptions to this rule, outlined in *Section 14-153 of the Code of Ordinances*.
2. Board Deliberations: After the conclusion of the hearing, the Board will withdraw to consider the credibility and weight of the evidence and develop a recommendation. The Board has 15 days from the conclusion of the hearing to develop this recommendation and provide a report.
3. Board Recommendation: The Board prepares the written report to the Town Manager. This report contains the Board's findings and recommendations with respect to the resolution of the grievance. The Board may submit other observations or suggestions to the Town Manager that are not related to the resolution of the grievance in a separate document. This document is not part of the grievance recommendation and is not shared with the Grievant.

X. Town Manager Decision:

1. Town Manager Responsibility: The Town Manager reviews the Grievance Hearing Board's recommendation and determines whether to adopt it. If the Town Manager rejects the Board's recommendation(s), he/she must state in writing his reasons for doing so and provide that information to the Grievant and to the Chapel Hill Town Council.
2. Determination Timeline: The Town Manager must provide a written decision on the grievance within 30 days of receiving the Board's recommendation. The Grievant receives a copy of the Grievance Hearing Board recommendation and the Town Manager's decision.

The decision of the Town Manager on the grievance is final.

Y. Termination of a Grievance:

The voluntary resignation of any employee from town employment or the filing of a lawsuit or an EEOC charge by any employee shall terminate any outstanding grievance of that employee, and leave the decision(s) or action(s) grieved as the final decision(s) or action(s) of the Town. No decision or determination of any grievance shall in any way conflict with the Town policies, resolutions, ordinances or applicable statutes.

IV. FORMS AND INSTRUCTIONS

- A. [Request for a Grievance Proceeding](#) [FORM 5-2 A](#)
- B. [Agreement for Grievance Conference](#) [FORM 5-2 B](#)
- C. [Report of Grievance Conference Outcome](#) [FORM 5-2 C](#)
- D. [Grievance Conference Agreement](#) [FORM 5-2 D](#)

V. ADDITIONAL RESOURCES

Human Resource Development 919-968-2700 or HR@townofchapelhill.org
Ombuds office 919-265-0806 or Ombuds@townofchapelhill.org
Employee Assistance Program 1-800-326-3864

VI. DEFINITIONS

- A. **Severe Disciplinary Action:** Disciplinary suspension, demotion, and dismissal constitute severe disciplinary actions. Written warnings are not severe disciplinary actions for the purpose of this procedure.
- B. **Pre-Disciplinary Conference:** A meeting between the representative of the town and an employee when the Town is considering taking severe disciplinary action against the employee. In this conference, the town representative sets out the reasons for considering taking severe disciplinary action and the employee has the opportunity to respond to those reasons.
- C. **Discrimination:** Discrimination is any adverse action on any term or condition of employment taken against any employee because of race, sex, religion, national origin, handicapping condition, age, sexual orientation, gender identity and gender expression. Discrimination includes harassment due to any of the above bases.
- D. **[Equal Employment Opportunity Commission \(EEOC\):](#)** A federal agency responsible for enforcing federal laws related to discrimination, harassment, or retaliation in the workplace.
- E. **Facilitator:** a person trained to facilitate mediations and conferences that are used to resolve complex disputes. Usually a facilitator is a certified mediator, a retired judge, or a Human Resource Professional specializing in Employee Relations.

- F. **Grievance Conference:** a meeting between the Grievant and a representative of the Town that uses is professionally facilitated by a neutral third party.
- G. **Grievance Hearing Board:** a group of people appointed by the Chapel Hill Town Council, who convene as needed to hear grievances and provide a recommendation to the Town Manager regarding the disposition of the grievance.
- H. **Grievant:** the employee who is filing the grievance is called the Grievant. The Town is considered the Respondent.
- I. **Harassment:** Harassment includes actions involving the conditioning of employment benefits on an employee's submission to unwelcome sexual conduct. It also includes submission to the creation or maintenance of a hostile work environment based on discriminatory actions or language
- J. **Retaliation:** Retaliation is any action taken by the Town that might discourage a reasonable employee from making or supporting a charge of harassment or discrimination as defined in this article. Retaliation also includes any action taken against a person for opposing discrimination due to any of the above discriminatory bases.

I. RESPONSIBILITIES

A. All Employees are expected to:

1. Be aware of the Town's Grievance Procedure
2. Support the Grievance Procedures by participating as requested
3. Ask questions about anything they do not understand
4. Keep information shared in a Grievance Proceeding confidential as agreed
5. Adhere to any written agreements

B. All Supervisors/Managers are expected to:

1. Maintain documentation in employees' personnel files
2. Be aware of the Town's Grievance Procedures
3. Support the Grievance Procedures by participating as requested

C. All Department Heads are expected to:

1. Maintain documentation about Pre-Disciplinary Conferences
2. Be aware of and support the Town's Grievance Procedures
3. Not retaliate or in any way punish an employee who accesses the Grievance Procedures
4. Allow employees time off to participate in Grievance Procedures
5. Participate in the Grievance Conference, and/or Grievance Hearings as requested
6. Provide information as requested for Grievance Proceedings
7. Keep information shared in Grievance proceedings confidential

D. All Human Resource Development staff members are expected to:

1. Advise and consult with employees with respect to Grievance Proceedings
2. Assist supervisors/managers in assuring that appropriate documentation is maintained in employees' personnel files.
3. Assist all employees in understanding policies and procedures related to the grievance process
4. Manage process and timelines
5. Provide policy interpretation and guidance as needed.
6. Communicate with all parties
7. Remain impartial and act as a resource to all participants
8. Assure that Grievance Hearing Board members are trained

II. APPENDICES

- A. [Timeline Calculations for Dispute Resolution Processes](#)
- B. [Brief Information about Grievance Hearing Board Proceedings](#)
- C. [Detailed Information about Grievance Hearing Board Proceedings](#)
- D. [Template: Employee Notification of Grievance Conference Impasse for Severe Disciplinary Actions](#)
- E. [Template: Employee Notification of Grievance Conference Impasse for Title VII Allegations](#)

IX. FAQ

- A. [Grievance Conference FAQ](#)
- B. [Grievance Hearing Board FAQ](#)

X. SCOPE

As of September 1, 2015, this policy replaces and supersedes any previous Town policies, supplemental policies, handbooks, or unwritten policies or practices covering the same subject. Supplemental policies in compliance with this policy are referenced in Section XI below, **Related Information**.

XI. RELATED INFORMATION

[Town of Chapel Hill Code of Ordinances, Chapter 14, Articles XII and XIV in their entirety.](#)
PP-5-3 Disciplinary Policy

XII. POLICY HISTORY

This policy was drafted in its entirety to comply with The Town of Chapel Hill Code of Ordinances, [Chapter 14, Articles XII and XIV](#), passed on June 8, 2015. It became effective on September 1, 2015.

FORM 5-2 A
Request for a Grievance Proceeding



Date

Employee:

Department

I am grieving the following:

Suspension Demotion Termination Harassment Discrimination Retaliation
Date the Action occurred:

Please describe the reasons you are grieving this decision or action. Include information about what Town policies or procedures you believe have been violated. Please attach additional sheets to this form if necessary.

What remedy or solution are you seeking?

By signing below, I am requesting a Step One Grievance Conference for the reasons outlined above.
NOTE: Allegations of Harassment, Retaliation, or Discrimination require an investigation prior to a Grievance Conference.

Employee Signature _____ Date

Print Name

*Please keep a copy of this form for your records and give one to any Human Resource Development team member.
HRD will contact you for further information and to answer questions about the Conference.*

.....
Request For Step Two Grievance Hearing **

I participated in a Step One Grievance Conference and my grievance was not resolved. By signing below, I am requesting a Step Two Citizens Grievance Board Hearing.

Employee Signature _____ Date

Print Name:

HRD will contact you with further information and to answer questions about the Grievance Hearing.
.....

FORM 5-2 B
Agreement for Grievance Conference Facilitation



A Grievance Conference is the process authorized under Article XIII of Chapter 14 of the Town Code where parties involved in a grievance use the assistance of a facilitator, serving as a neutral third party, to attempt to reach a mutually acceptable resolution. The facilitator’s role is to guide the Grievance Conference, facilitate communication, and help the parties generate possible outcomes. It is the role of the facilitator to declare impasse. A facilitator does not act as a judge or render decisions. Responsibility for resolving the grievance rests with the parties.

In order for the Grievance Conference to be successful, all parties need to abide by the following conditions. It is hereby agreed that:

1. All parties will enter into the Grievance Conference in good faith with the goal of reaching a satisfactory agreement.
2. Any party can withdraw from the Grievance Conference at any time.
3. All parties will provide full and accurate information during the Grievance Conference.
4. Conference sessions shall not be recorded or transcribed by any participants, observers, or facilitators.
5. Any party may request a recess to consult with legal counsel or other advisors, who are subject to the same confidentiality requirements. The Conference may be adjourned and resumed on another date by agreement of all parties. The facilitator will determine how long a recess may last.
6. All parties keep all information disclosed in the Conference confidential; however, under North Carolina law, Conference Agreements are public records.
7. The parties understand and agree that if confidential information obtained during the Conference is disclosed outside of the Conference process, they may be subject to disciplinary action, up to and including dismissal, as detrimental personal conduct.
- ~~8.~~ All parties agree to hold the agency and the facilitator completely harmless and without legal and financial responsibility and to waive rights to subpoena and compel any agency facilitators in any work product, or to be called into any subsequent legal or other action.
9. If an agreement is reached, the agreement shall be binding, subject to the approval of the Town of Chapel Hill Department of Human Resource Development, who will review the agreement to assure that it does not violate State and Federal laws and/or the Town’s policies and procedures.

I have read, understand, and accept the above conditions.

Participant Date

Participant Date

Witnessed by:

Town Representative Date

Facilitator Date

FORM 5-2 C
Confidentiality Agreement



This Grievance Conference Confidentiality Agreement ("Agreement") is made between the undersigned party ("Party") and the Town of Chapel Hill.

I understand that I am participating in a Grievance Conference provided through the Town of Chapel Hill's Grievance Process. I agree to the following provisions:

1. **AGREEMENT TO PARTICIPATE:** I agree to attempt to resolve my grievance with the Town of Chapel Hill using this process and to work with the Facilitator named here:
2. **ATTENDEES:** I understand that this Conference is between me and the Town's designee. I cannot have any other person present in the Conference with me. I also understand that I can request a recess to confer with an outside advisor who must also maintain confidentiality. I also understand that a member of the Town of Chapel Hill's Human Resource Development staff may attend the Conference as an observer.
3. **FACILITATOR'S ROLE/RELEASE.** The Facilitator will act as a neutral third party. The Facilitator will not act as an attorney or advocate for any Party. The Facilitator will determine the length of any recess. I agree the Facilitator will have no liability for any act or omission in connection with or arising out of the Grievance Conference, regardless of the outcome.
4. **CONFIDENTIALITY.** I agree that all statements made in connection with or during the Grievance Conference are confidential discussions and cannot be used in any subsequent proceedings. Neither the Facilitator nor the Human Resource Development Representative can testify in any future proceeding relating to this matter. I understand that any agreement that may arise from this Conference is a public record under NC law.
5. **CONFIDENTIALITY BREACH.** I understand that any breach of confidentiality by myself or my advisor is considered detrimental personal conduct and can result in severe disciplinary action against me, up to and including termination, under the Town of Chapel Hill's Disciplinary Policy.

DATED: _____

PARTY:

Printed Name Signature

Witness HRD Representative



FORM 5-2 D
Grievance Conference Outcome

Case Number or Employee Name

Check one:

No Agreement (if this box is checked, skip the rest of this document and have parties sign below)

Agreement (if this box is checked, provide terms of agreement and have parties sign below)

Terms of Agreement:

Attach additional sheets if necessary

The agreement shall be binding, subject to the approval of the Human Resource Development Department of the Town of Chapel Hill, and provided the agreement does not contain any provision contrary to The Town of Chapel Hill policies or rules, or applicable state or federal law.

I have read, understand, and agree that the above terms of agreement are an accurate account of the areas of agreement reached in the mediation process and that all matters in the dispute between the parties been settled with the terms of this agreement.

I agree that by signing the memorandum of agreement, no further action can be pursued related to this grievance.

Grievant (Employee)	Date
---------------------	------

Town of Chapel Hill Designee	Date
------------------------------	------

FACILITATOR # 1	Date
-----------------	------

FACILITATOR #2	Date
----------------	------

Director of Human Resource Development Town of Chapel Hill	Date
---	------

NOTICE: This Agreement must be reviewed and certified by the Director of Human Resource Development before it is binding. That review is to assure compliance with Town policies and applicable law. The MEDIATOR/FACILITATOR shall submit a signed copy of this agreement to the Human Resource Development Department at the Town no later than 2 business days from the completion of mediation.

Appendix A Understanding Timeline Calculations for Conflict Resolution |



The Town Code of Ordinances specifies how time is calculated for the purposes of filing a grievance or conducting other disciplinary and grievance processes. Here is the ordinance language, with sentences numbered. We will refer to these sentences by number clarify our examples later, so that is why they are included here now.

1. *"In computing any period of time under this article, the day of the act or event after which the designated period of time begins to run is not to be included.*
2. *"The last day of the period so computed is to be included unless it is a Saturday, Sunday or official town holiday (as established by or under the authority of section 14-68 of the Town Code), in which event the period runs until the end of the next day which is not a Saturday, Sunday or official town holiday.*
3. *"Days shall be considered calendar days except that any intermediate official town holidays (as established by or under the authority of section 14-68 of the Town Code), shall be excluded in the computation."*
4. Although the Ordinance does not make this specific provision, **The Town has decided not to start timelines on a Town Holiday, Saturday or Sunday**, since Human Resource Development (HRD) staff members are not generally available on these days to assist employees.

The following examples were prepared illustrate how time is calculated in various situations. They are illustrations ONLY. Please ask an HRD team member to help you with your specific situation. Our examples will use the following calendar.

~ January 2015 ~						
◀ December						February ▶
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	December 29	December 30	December 31	1 Town Holiday	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19 Town Holiday	20	21	22	23	24
25	26	27	28	29	30	31

- 1. Joe receives notice of a severe disciplinary decision on December 31, 2014. What is the last date he can file a grievance?**

A: The day he receives the notice does not count. (1) The next day is a holiday, so it does not count (3). So, Joe's 14 day period starts on January 2 and ends on January 15th. Joe must file a grievance and have it received in the HRD office by midnight on January 15th. Saturdays and Sundays are included in this count because they are not the first or last days of the time period. (3)

- 2. Joe receives notice of a severe disciplinary decision on January 5, 2015. What is the last date he can file a grievance?**

A: Again, January 5th doesn't count because it is the day he received the notice. (1) Time starts on January 6. The 14th day is January 19th, but that is a holiday, and so does not count. (3) Joe must file his grievance and have it in the HRD office by midnight on January 20th, 2015.

- 3. Joe receives notice of a severe disciplinary decision on January 2, 2015. When does the 14 day time start?**

A: The time starts on MONDAY January 5th because the Town does not start the timeline on a Saturday or Sunday. (4). The 14th day is January 18th, but that's a Sunday, which doesn't count, since we don't end timelines on a weekend. (2) The next day is a Town Holiday, which also doesn't count. (3). The last day for Joe to file his grievance and have it in the HRD office is by midnight on January 20th.

- 4. Joe works weekends. Joe receives notice on Saturday, January 3 at 4:15 pm that he is to attend a pre-disciplinary conference in 48 hours. When is the conference?**

A: January 3 is a Saturday. Timelines don't start on a Saturday—or on Sunday, either (4). The timeline starts on Monday January 5th when HRD opens at 8:30 am. The Conference can be held on Wednesday January 7th at 8:30 am or later.

- 5. Joe had a pre-disciplinary conference on Friday January 16 at 3 pm. Joe was told that he will receive a decision "within 5 days." When can Joe expect a decision?**

A: This one is TRICKY! Saturday and Sunday don't count because timelines do not start on a weekend day. (4). Monday, as a holiday, doesn't count either. (3). The timeline starts on Tuesday January 20th. But be careful—remember timelines don't end on a weekend day either. The 5th day is Saturday January 24th. We don't count Saturday—or Sunday-- because we don't end timelines on a weekend day. (2). So the decision is not due until Monday January 26th.

- 6. Joe receives a disciplinary decision on January 12. When is the last day he can file a grievance?**

A: The timelines starts on January 13th (1). The 14th day is January 26th—except that one of those days in the count was a holiday! Those don't count no matter when they occur. (3) Therefore, we must add an

extra day since we can't count January 19th. Joe must file a grievance by midnight on January 27th. All the weekend days count since they are not the first or last days of the timeline.

Appendix B

Basic Information about the Grievance Hearing Board Process



*This document is a brief summary. Please refer to **Detailed Information about Grievance Hearing Board Proceedings** for more information.*

The Grievance Hearing Board is a group of eight (8) Chapel Hill residents appointed by the Town Council. It takes five (5) members of the Board to convene a hearing. They serve as an independent check and balance in the Town’s disciplinary process. The Board hears information about the grievance and then makes recommendations to the Town Manager about it. The Town Manager makes the final decision regarding the grievance. The scope and authority of The Board’s role, as well as significant procedural direction, is provided in the ***Town of Chapel Hill Code of Ordinances, Chapter 14, Article 14.***

A. GENERAL INFORMATION

1. Grievance Board hearings occur at the employee’s request after a Grievance Conference has concluded without an agreement. An employee must file a request for a hearing IN WRITING with Human Resource Development (HRD) within 14 days after the Grievance Conference has occurred. Use the ***Request for a Grievance Proceeding*** form.
2. The Grievance Hearing Board only hears grievances related to severe disciplinary actions—suspensions, demotions, and terminations. Allegations of harassment, discrimination, and retaliation are handled through the Town’s ***Serious Incident Policy.***
3. The Grievance Hearing Board has its own attorney to advise it on procedural and legal matters.
4. A trained court reporter attends the hearing and transcribes the proceedings.
5. The Grievance Hearing Board only considers information from the Pre-Disciplinary Conference, with some exceptions (*Section 14-153, Code of Ordinances*).
6. The Town has the burden of proof by a “greater weight of the evidence” to show that it took action in compliance with Town policies.

B. GRIEVANCE HEARINGS PROCEED ONCE SCHEDULED; NO RECOURSE

1. The Town Code of Ordinances says that a Grievance Hearing must occur within thirty (30 days) of the employee’s request. (*Section 14-156, Code of Ordinances*). **This directive means that the availability of a quorum of the Board members is the primary consideration when scheduling the hearing.**
2. Any decision to reschedule a hearing rests solely with the Grievance Hearing Board and cannot be grieved or challenged.
3. The Board may conduct the hearing even if one of the parties, or a witness, or a representative or attorney, does not show up. The Board makes a recommendation based on the available information.

C. GETTING READY FOR THE GRIEVANCE BOARD HEARING

1. When an employee, also called the grievant, files a hearing request, an HRD staff member will be assigned to the grievance. This person is available to meet with the grievant and provide assistance throughout the process.
2. The grievant should be clear and concise in the grievance request and provide all documents for consideration at least one week before the hearing.
3. The grievant or the Town may have legal representation during a hearing. The grievant may also be represented by any other person except a supervisory town employee. HRD will provide briefing for parties and/or their representatives before the hearing takes place.
4. A grievant should make sure that his/her witnesses know the time and location of the hearing. Please provide a witness list to HRD.

D. THE HEARING PROCEEDINGS

1. Information shared during the hearing is **confidential** and may not be shared outside the hearing or used for any purpose other than the hearing and for the Board's to make a report and recommendation to the Town Manager.
2. HRD attends the hearing as an observer to assure that proceedings follow Town policies and applicable laws.
3. The Hearing IS CLOSED which means that it is not open to the general public.
4. Both sides can present evidence, call witnesses and question the other's witnesses.
5. The Grievance Board members can ask questions of any witness.

E. AFTER THE HEARING

1. The Grievance Hearing Board will forward its recommendation to the Town Manager for consideration within fifteen (15) days of the hearing.
2. The Town Manager will review the Grievance Hearing Board's recommendation and determine whether it will be adopted.
3. The Town Manager has 30 days to make a final determination.
4. The grievant will receive a copy of the Grievance Hearing Board's recommendation at the same time the grievant receives the Town Manager's decision.
5. If the Town Manager does not adopt the Board's recommendation, he/she must explain in writing the reasons why and provide this information to the Town Council as well as to the grievant.

CONTACT HRD at 919-968-2700 or at HR@townofchapelhill.org for more information or refer to ***Detailed Information about Grievance Hearing Board Proceedings.***

Appendix C

Detailed Information about Grievance Hearing Board Proceedings



This document provides more detail on the Grievance Hearing Board and its proceedings. For a shorter summary, refer to ***Basic Information about Grievance Hearing Board Proceedings.***

A. BOARD COMPOSITION

The Grievance Hearing Board is made up of 8 residents of Chapel Hill, appointed by the Town Council. They are not Town employees. A minimum of 5 members is required to hold a hearing.

B. GENERAL INFORMATION ABOUT THE PROCEEDING

1. The Hearing is not a legal proceeding.
2. The Town has the burden of proof, which is whether it is more likely than not that the incident occurred, and that the action taken was appropriate given the incident. This burden of proof is lower than what is required in a legal proceeding
3. The Board hears grievances related to severe disciplinary actions and makes a **recommendation** to the Town Manager about the action. The Board does not have the power to overturn or modify a decision.
4. The Board will listen to testimony and decide whether procedures were followed and whether the facts, as presented to them, appear to support the action taken. The Board focuses on the key issues in the case, especially on the procedures and communications involved in the action or issue under appeal.

For example, if an grievant is grieving a five (5) day suspension because he or she had driven a town vehicle recklessly, the Board would consider whether the

- a) evidence presented generally supports the Town's allegation of reckless driving;
- b) grievant knew or should have known that reckless driving of a town vehicle is not allowed,
- c) Town had followed its own policies and procedures with respect to investigating the allegation, communicating with the grievant, and imposing the discipline.

However, the Board would not consider whether the grievant should have had more or less of a suspension, or whether the policy of suspending employees for reckless driving is a good policy or not.

C. SCHEDULING HEARINGS; HEARING LOCATION

1. Hearings are scheduled on Monday, Tuesday, Wednesday, or Thursday evenings, beginning at 6:00 or 6:30. They are generally completed in one evening.
2. The Town Ordinance stipulates that hearings should be scheduled within 30 days of a request, unless the parties agree otherwise. **Board members are volunteers**; their availability heavily impacts when hearings are scheduled. Hearings are generally not rescheduled once confirmed.

3. Meetings are usually held in the Human Resources Department's Training Room (2nd floor of Town Hall).

D. CLOSED HEARING.

1. The Personnel Ordinance states that the Hearing is closed. This provision means that the general public and members of the media may not attend.
2. A closed hearing includes:
 - a) Members of the Grievance Hearing Board
 - b) the grievant
 - c) the grievant's non-legal representative (if desired),
 - d) the department head or designee,
 - e) the Human Resources Director and/or Human Resources Department staff member.
 - f) Witnesses as requested or as authorized to attend while they are testifying.
 - g) The Grievance Hearing Board attorney
 - h) A court reporter to transcribe the proceedings.
 - i) Attorneys for the grievant and the Town, if the grievant has an attorney instead of a non-legal representative.

E. GRIEVANT REPRESENTATION

1. The grievant may be represented by one person of choice: an attorney, citizen, or other Town employee (except not a current supervisory Town employee). Having a representative is not required.
2. If the grievant is represented by an attorney, the Town will also have legal representation. The grievant should inform HRD as soon as he/she secures an attorney. If the grievant says he/she does not have an attorney, but shows up at the Hearing with one, the Hearing must be rescheduled so that the Town can have an attorney present.
3. **If the grievant has an attorney, it is important that the attorney understand that this hearing is not a court of law.** The Grievance Hearing Board is made up of volunteers, not legally-trained judges. It makes recommendations on whether the facts presented appear to support the action taken. It does not make decisions based on legal precedents, swear witnesses, or follow procedures that a court would follow on rules of evidence or testimony. It can request information or ask witnesses to appear, but has no subpoena power.
4. The Board will keep the hearing non-adversarial and respectful and will remove anyone who becomes disruptive.
5. Even when an attorney is present, the Board has expressed strong interest in past hearings in hearing from the grievant, rather than only the attorney. The members may ask questions directly of the grievant, the Town, or witnesses.

F. INFORMATION CONSIDERED AT THE GRIEVANCE HEARING PROCEEDINGS

Generally, only information from the Pre-Disciplinary Conference is considered at the Grievance Hearing Board proceedings. The Ordinance provides some exceptions as noted in Sections 14-153, which is provided below.

Sec. 14-153. Scope and presentation of information before the **Board**.

- a. *The only information admissible before the Grievance Hearing Board shall be that information presented to and considered by the department head at the pre-disciplinary conference.*
- b. *Exceptions to this rule of admissibility shall be:*
 1. *evidence relating to the credibility of evidence presented at the pre-disciplinary conference; (2) information or witnesses tendered at the pre-disciplinary conference, but not allowed by the department head;*
 2. *witnesses requested to appear at the pre-disciplinary conference but who refused to do so;*
 3. *newly discovered information which by due diligence could not have been discovered prior to the decision by the department head; or*
 4. *relevant policy documents and other papers if not provided as part of the record.*

The party seeking to introduce information under any of these exceptions shall be required to establish a basis for relevancy before the information shall be admitted.

- c. *The Board has the authority to evaluate the credibility of each witness, the witness's testimony, and the credibility and value of any documentary evidence offered by either side.*

G. SUBMITTING INFORMATION BEFORE THE HEARING

1. Before the hearing is scheduled, the grievant should submit any written information that he/she wants the Board to consider. A required document is a letter or memo stating why the grievant disagreed with the severe disciplinary action and a statement of the remedy requested.
2. All witnesses must appear in person at the hearing.
3. About 10 days to 2 weeks before the hearing, HRD will send all appeal materials to the Board, the grievant, and the Town's designee. Information from the Pre-Disciplinary Conference and from the grievant will be included. No information from the Grievance Conference is provided.
4. Board members have asked that the number of pages provided for review by the parties be limited to those directly relevant to the grievance. It is strongly suggested that submissions be limited to no more than 30 pages, and that pages be numbered. A written summary or index of the information is helpful.
5. Board members review the written information about the appeal prior to the Hearing. Both parties should be prepared to answer questions from the Board members at the Hearing.
6. Since the Board members will read the written materials before the hearing, it is not necessary to go over materials in detail. Use the page numbers to refer to key points during the hearing.
7. For effectiveness during the hearing, the grievant should focus attention on key points and on the main reasons for the appeal. What is the main issue or issues? What are the main things for the Board

to consider? Remember that the Board members are volunteer Town residents who may not be familiar with terminology which Town employees use every day.

H. BRINGING ADDITIONAL MATERIALS

After submitting advance documentation for the Board, if the grievant wants to distribute other materials during the hearing, 7 copies are required so that every Board member will receive one (5 copies for the Board, plus 1 for the department head and 1 for HRD for the record).

I. TIME LIMITS

Each side in the hearing will be limited to a specific time limit for testimony, examination of witnesses, and cross examination. HRD staff will keep time during the hearing.

J. HEARING FORMAT

1. **Before the Proceedings Begin:** The Board selects a Chair for the hearing. All attendees will introduce themselves. The Chair will outline the hearing procedure and set a time limit for each side. Both the grievant and the department will adhere to the same time restriction. Please plan carefully to be concise and take best advantage of the allotted time. Opening and closing statements, presentation of evidence, and questioning the other side's witnesses must be completed within the time allotted to each party.
2. **Opening statements:** Each side presents a brief opening statement summarizing the key points. The personnel ordinance states that the Town has the burden of proof and goes first in the hearing.
3. **Presentation of testimony:** The grievant and/or his representative may present information and may question the Town's witnesses. The department head and/or representative may present information and question the grievant's witnesses. The time spent in this questioning is debited from the questioner's time allotment. Time spent by Board members questioning witnesses directly is not included in either side's time limit.
4. **Closing statement:** Each side may present a closing statement summarizing the case as presented. The closing statement is part of the overall time allotted to each party.
5. **Witnesses:** At the hearing, the grievant may give testimony personally, call witnesses, and ask questions of Town supervisors or officials. The department head will be present and may also give testimony, call witnesses, and ask questions of the grievant.
6. **It is the grievant's responsibility to contact witnesses he/she wishes to call and to request their attendance. Witnesses must appear IN PERSON at the hearing.** Attendance and testimony is voluntary. Although a grievant or a department may ask a witness to be present at the hearing, neither can require that a person give testimony if they do not wish to do so. If one of the grievant's witnesses is a Town employee who would be on duty at that time, the grievant should inform HRD seven days in advance of the hearing to arrange for the employee's attendance, if the employee has agreed to be a witness.
7. Non-exempt employees who appear as witnesses on their off-duty time will be compensated at their regular hourly rate for the time spent in testimony and for reasonable time waiting to testify.

8. **Other details:** the Board members may request additional information such as summaries of disciplinary actions or performance evaluations for other employees, or a copy of the grievant's entire personnel file.

K. ONCE THE HEARING ENDS

1. After the hearing, the Board will discuss the case and write their recommendation to the Town Manager. Usually this recommendation is made within 15 days of the meeting, although it may be longer if the Board needs to gather additional information before making a decision.
2. After receiving the Board's recommendation, the Town Manager will review the information from the Board and make a final decision in the appeal within 30 days.
3. The grievant will receive a copy of the Manager's decision and the Grievance Hearing Board recommendation.

STILL HAVE QUESTIONS?

If you have questions about Hearing procedures, please feel free to call HRD at 919-968-2700. PLEASE DO NOT CONTACT THE GRIEVANCE HEARING BOARD MEMBERS DIRECTLY.



Appendix D Example of Grievance Conference Impasse Letter

This is an example of the type of communication that may come from Human Resource Development (HRD) after a Grievance Conference has failed to resolve a grievance related to a Severe Disciplinary Action. The actual correspondence from HRD may vary from this example.

Dear <Employee Name>

This letter will serve as formal notification regarding the outcome of the Grievance Conference that occurred on < Insert Date> at <insert location>.

The following individuals attended the Conference: <Insert Names and Positions/Titles of all Attendees, including the employee and member of management. Include name of Mediator>

Summary of Grievance Conference Outcome

The facilitator has informed the Town that the parties were not able to reach an agreement at the Grievance Conference. This letter is to inform you of the options you have available to you for further resolution.

You may request a Step Two hearing before the Grievance Hearing Board. You must request this hearing on or before <Insert LAST DATE that a grievance request can be filed>.

The Grievance Hearing Board is a group of Chapel Hill residents appointed by the Town Council. They convene as requested to hear grievances and make a recommendation to the Town Manager. The Town Manager makes the final decision within 30 days of receiving the recommendation.

Enclosed is a copy of your Step One Grievance request, a copy of the Town Code of Ordinances, Chapter 14, Article 14, which provides more information about the Hearing, and an information sheet prepared by HRD to assist employees.

If you want to request a Step Two hearing, please contact your HRD partner right away. Your HRD partner can answer questions about the process.

If you do not request a Step Two hearing within the time allocated, the file will be closed and the last decision of the Town regarding this matter will be the final decision.

cc: Personnel File
Human Resources Development Department
Department Manager
Management Designee in Grievance Conference

ATTACHMENTS: Ordinance
FAQ regarding Grievance Hearing Board

Copy of Step One Grievance Request



Appendix E
Example of Grievance Conference Outcome Letter
Grievance due to Title VII Allegation

This is an example of the type of communication that may come from Human Resource Development (HRD) after a Grievance Conference has failed to resolve a grievance related to a Title VII allegation. The actual correspondence from HRD may vary from this example.

Dear <Employee Name>
This letter will serve as formal notification regarding the outcome of the Grievance Conference that occurred on < Insert Date> at <insert location>.

The following individuals attended the Conference:

<Insert Names and Positions/Titles of all Attendees, including the employee and member of management. Include name of Mediator>

Summary of Grievance Conference Outcome

The facilitator has informed the Town that the parties were not able to reach an resolution at the Grievance Conference. This letter is to inform you of the options you have available to you for further resolution.

1. The Director of Human Resource Development is available to discuss your concerns with you. The Grievance Conference is the final option through the Town’s grievance process.
2. Options for further redress are available through the Equal Employment Opportunity Commission. Please refer to <http://www.eeoc.gov/employees/charge.cfm> for further assistance.

Sincerely,
<Signature of HRD >

cc: Personnel File
Human Resources Development Department
Department Manager
Management Designee in Grievance Conference



Frequently Asked Questions about the Grievance Conference

1. What is the purpose of this conference?

The Grievance Conference is a meeting where the Grievant and the Town have a candid, safe, and confidential conversation about the severe disciplinary action or Town action regarding a Title VII allegation. This Conference is an additional opportunity for both parties to exchange any additional information that may assist in the resolution of the grievance. HRD will attend as an observer and resource to all parties to assure compliance with Town policies and applicable laws.

2. Why can't I have someone attend the conference with me?

The goal of the Grievance Conference is to get the parties to talk to and listen to each other and come up with their own decision about how to resolve the grievance. Having representatives present in the Conference does not further this goal. Representatives are allowed in other proceedings.

3. Why can't I go straight to Step Two, the Grievance Hearing Board, and just bypass the Grievance Conference?

A Grievance Conference must be held before a Grievance Hearing will be scheduled. The Grievance Conference represents the best opportunity for a mutually agreed-upon resolution to the grievance. Information can be shared in the Grievance Conference that cannot be considered by the Grievance Hearing Board. The exchange is less formal and can explore options outside the scope of the Grievance Hearing Board's authority.

4. What happens if someone shares something from the Grievance Conference that was supposed to be confidential?

Any employee who discloses confidential information from the Grievance Conference is subject to disciplinary action, up to and including termination. In addition, if it is disclosed at a subsequent grievance hearing, the Hearing board can be instructed to not consider the information.

5. What if I don't like the facilitator or think he/she is biased against me or isn't doing a good job?

The Grievance Conference challenges participants to work together to resolve what can be an emotionally charged and upsetting issue. You might experience heightened emotions during the proceeding. Discomfort with the process doesn't necessarily mean the facilitator is doing a bad job.

Ask for a recess to speak to the facilitator privately, or share your feelings in the Conference or with the HRD partner.

However, if you feel you cannot continue in the Conference for any reason, you can request a recess or let the facilitator know that you want to end the Conference. Although you are not obligated to do so, considering sharing your experience with HRD to help improve conflict resolution processes.

Frequently Asked Questions—Grievance Hearing Board



□ 1. Why is the Grievance Hearing limited to severe disciplinary actions?

The Town follows the ***Serious Incident Policy*** to investigate allegations of discrimination, retaliation, or harassment, which are violations of federal law. If an employee is dissatisfied with the resolution of these allegations after a Town investigation and a Grievance Conference, the Equal Employment Opportunity Commission (EEOC) is a resource for further redress.

2. What are the qualifications of the Grievance Hearing Board members?

They are Town residents appointed by the Town Council. All Town residents are eligible to serve. Although it is not required, some members may have legal or human resource backgrounds. All Board members receive training before serving. An independent attorney advises the Board.

3. How do I request a Grievance Hearing?

You can request a Grievance Hearing if the Grievance Conference has been unsuccessful in resolving the grievance. Fill out the ***Request for a Grievance Proceeding FORM 5-2 A*** and submit it to your Human Resource Development (HRD) partner or another member of the HRD team.

4. Once I request a Grievance Hearing, what happens?

HRD will assign someone to your grievance. This person will be your point of contact and can answer questions and provide information. The Town has prepared other reference material with more detail about the proceedings and timelines. Refer to ***Basic Information about Grievance Hearing Board Proceedings, Request for a Grievance Proceeding*** and ***Understanding Timeline Calculations for Conflict Resolution Processes*** for more information.

5. Why does the Grievance Hearing Board make a “recommendation” rather than a “decision?”

Under state law, the Town Manager has the final decision on personnel matters. The purpose of the Grievance Hearing Board is to provide a “check and balance” to the Town’s disciplinary procedures and make recommendations to the Manager.

6. Do I need an attorney for the hearing?

It is not required. Some employees secure legal counsel; others do not. The hearing is not a legal proceeding. However, it is possible that the Town decision-maker in your case might be represented by an attorney.

7. Do I get paid for the time I am at the hearing? Can I use work time to prepare?

Yes. Employees may use up to four hours of work time to prepare for the hearing, scheduled when it does not interfere with normal operations. You, as the grievant, and employees requested by the Town to appear before the Committee are compensated for their time: non-exempt employees are paid at their normal hourly rate; exempt employees are eligible for compensatory time off based on Town policy.

8. I can't attend the hearing; can I send my attorney or representative in my place?

No. Your representative cannot testify for you. It is important that you personally attend the hearing. Once scheduled, the hearing proceeds, even if some of the parties do not show up. The Board will make a recommendation based on the information available to it. Any decision to reschedule a Grievance Hearing Board proceeding rests solely with the Board and cannot be grieved or challenged. Because the Board is composed of Town residents who volunteer their time, their availability determines when hearings are scheduled.

9. What if the grievance process ends up negating or reducing the severe disciplinary action? What happens to my employee file and my pay?

The Grievance Board has no authority to negate or modify any disciplinary action. However, if the Town Manager decides to negate or modify the severe disciplinary action, then your employee file will reflect that fact and any pay and benefits lost as a result of the previous disciplinary action will be restored to you.

10. What happens if I do not agree with the Town Manager's decision after the hearing?

The Manager's decision is the final step in the Town's grievance procedure. There is no further recourse through Town processes.

11. Why does the Town Manager get so much time—30 days after receiving the recommendation- to make a final decision?

The Chapel Hill Town Council voted to give the Manager up to 30 days to make a final decision after receiving the Hearing Board recommendation. The Manager uses that time to review the entire case file, which can be extensive. All the timelines work to balance thoroughness with promptness.

Didn't find what you needed here? Contact Human Resource Development at 919-968-2700 or HR@townofchapelhill.org for more information.