



**ALTERNATIVE DISPUTE RESOLUTION POLICY FOR MERIT HIRE EMPLOYEES AND APPLICANTS FOR EMPLOYMENT IN THE DEPARTMENT OF CHILDREN AND YOUTH SERVICES COUNTY OF ADAMS, PA (approved by the Board of Commissioners 11-30-2016)**

1. The County of Adams has established and implemented policies and procedures which clearly govern all personnel transactions. Further, the County of Adams is dedicated to adhering to its policies and procedures when executing personnel actions relative to current employees and applicants.
2. The County of Adams encourages open and honest communication between employees and their supervisors. Most conflicts and differences of opinion can be resolved by the employee and supervisor directly confronting issues and jointly exploring alternatives. In cases where conflicts cannot be mutually resolved, the County of Adams has established an Alternative Dispute Resolution (“ADR”) procedure. The ADR procedure is applicable to all non-union and management employees, with the exception of the Executive Director(s) and/or Elected Officials in the Children and Youth Services Department. NOTE: The ADR procedure does not apply to bargaining unit employees as an available grievance procedure is clearly outlined in the applicable Collective Bargaining Agreement.
3. The County of Adams recognizes the importance of providing a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without fear of prejudice or reprisal for initiating a complaint or participating in its settlement. To the extent possible, all complaints should be settled through informal discussions at the lowest administrative level, and disputed matters should be processed in a more formal manner only when either party feels that a fair and equitable solution has not been reached in the informal discussions.
4. Regardless of any informal attempt to resolve areas of conflict, employees have the explicit right to pursue the five-step ADR procedure which covers the following employment actions: demotion, suspension, reduction in pay, non-selection, promotions, employee work performance appraisals, furloughs, discharge, and any personnel action

which the employee believes to be arbitrary or discriminatory. Discriminatory action is defined as any based on political affiliation, race, color, national origin, gender, religious creed, age, handicap, or any factor not related to the person's ability to perform the duties of the position (i.e. any non-merit factor).

5. Personnel actions shall be reviewed in light of merit criteria. Merit criteria shall be defined as factors that affect an employee's competency and/or ability to perform his or her job duties.

## **I. TIMELINESS**

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

## **II. SPECIAL PROVISIONS**

### **A. Applicants**

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

### **B. Direct Appeal**

The County remains committed to the transparency and integrity of the entire ADR process as written, and has intentionally crafted a series of steps that include incremental increases in the scope of authority and accountability. As such, the County would strongly encourage employees and applicants to avail themselves of the entire procedure; however, employees and applicants do have the option to appeal directly to the neutral Arbitrator described in the fifth step (Sec.III-F) and waive the first four steps in the process. The decision to waive steps one through four must be provided in writing to the Human Resources Department within five (5) business days of

the time the employee knows, or should have known, of an action or issue that can be raised through the ADR procedure. Furloughs are an appealable action.

### **III. STEPS OF THE ADR PROCEDURE**

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

An employee or applicant may utilize the attached form to initiate an ADR request at the first step. The attached form must be utilized for an appeal of the first step response. The form must state the claim, the facts in support of the claim and the relief requested. NOTE: the employee or applicant is responsible for having the issue/dispute/appeal delivered to the proper person or office within the time periods, as specified.

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

Within five (5) business days of the time the employee knows, or should have known, of an action or issue in dispute, the employee must advise his or her immediate supervisor that he or she is initiating an ADR request. The employee must notify the supervisor in writing, and must advise the supervisor of the specific issue in dispute, the facts in support of the employee's position, and the remedy requested. The supervisor is responsible for scheduling a meeting with the employee within five (5) business days of the receipt of the complaint to facilitate a face-to-face discussion of the employee's request. Within five (5) business days of the face-to-face discussion, the supervisor is responsible for responding to the employee's request. The supervisor shall include notice to the employee of his or her right to appeal the dispute to the second step. Should the issue or dispute involve alleged discrimination by the immediate supervisor and/or the department head, the ADR request may be submitted directly at the second or third step, respectively.

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

If the employee finds the first step response unsatisfactory, the employee may appeal the dispute in writing to the department head within five (5) business days of receipt of the first step response. The second step appeal must state the specific issue in dispute, facts in support of the employee's position, the reason the first step response is unsatisfactory, and the remedy requested. Copies of the first step correspondence must be included.

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

#### **D. Third Step: Human Resources Investigation and Review**

If the employee finds the second step response unsatisfactory, the employee may appeal the dispute in writing to the third step within five (5) business days of receipt of the second step response. The third step appeal must state the specific issue in dispute, the facts in support of the employee's position, the reasons why the second step response is unsatisfactory, and the specific remedy requested. Copies of the second step correspondence must be included.

Human Resources, in addition to considering the facts and circumstances of the dispute, shall conduct a thorough and complete investigation, including the solicitation of oral and/or written statements from persons of interest in the dispute. At the conclusion of the review and investigation and within five (5) business days, Human Resources shall, in writing, grant, deny, or propose a modification to the requested remedy. The response shall include notice of the employee's right to appeal the dispute to the fourth step.

#### **E. Fourth Step: County Manager and Board of Commissioners**

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

The County Manager or his designee will review the appeal to determine whether time limits and procedural steps were followed. Having determined that the ADR procedure has been followed, the County Manager will forward the complaint to the Board of Commissioners for review. The Board of Commissioners shall, in writing, grant, deny, or propose a modification of the requested remedy. This response shall include notice of the employee's rights to appeal the dispute to the fifth step of the process. Should the County Manager determine that the employee did not follow the time limits and/or procedural steps of the ADR procedure, the County Manager will notify the employee, in writing, of the administrative faults. Any administrative faults caused by the employee shall render the appeal null and void.

#### **F. Fifth Step: Hearing and Review by Neutral Arbitrator**

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

the fourth step response is unsatisfactory, and the remedy requested. Copies of the fourth step correspondence must be included.

NOTE: As articulated in Section II-B, an employee or applicant has the ability to appeal directly to the fifth and final step of the ADR procedure, provided that a timely written waiver of steps one through four is provided to the Human Resources Department together with a fully executed ADR request form describing the claim, the facts in support of the claim, and the relief requested. Upon receipt of a timely filed appeal, the neutral Arbitrator shall preside over the hearing process. The Arbitrator shall have the authority to hear any case timely filed, whether or not it has gone through steps one through four. The neutral Arbitrator shall conduct a hearing on the complaint and will provide the opportunity for all parties involved to provide testimony relevant to the matter in dispute. The Arbitrator and Parties shall follow the ADR Hearing Rules. The ADR Hearing Rules are incorporated herein by reference, and attached hereto as Appendix A. A transcript of the proceedings shall be made, and the cost of the transcript shall be evenly divided between the grievant and the County. The Arbitrator shall render a written decision to the Parties within twenty (20) business days of the date of the hearing. The Arbitrator has the authority to grant relief including but not limited to the grant of back pay, retroactivity, and/or reinstatement when appropriate.

The decision of the neutral Arbitrator is binding upon the Parties and not subject to review or modification by the County Commissioners or County Staff. The Decision and Award, if any, by the Arbitrator shall constitute a full and final disposition of the issues raised by the grievant during the Step-5 process. There is no opportunity for appeal to the Court of Common Pleas or any other branch of the court system. The neutral Arbitrator may not be removed by an individual or majority of the Board of Commissioners due to the outcome of a rendered decision.

The Board of Commissioners shall appoint David V. Breen, Esquire as the neutral Arbitrator, for an initial term of two (2) years. The Board of Commissioners may reappoint the neutral Arbitrator to additional one (1) year terms after the expiration of the initial two (2) year term. The County shall compensate Attorney Breen for his professional expertise at a flat rate of **TWO THOUSAND DOLLARS AND NO CENTS (\$2,000.00)** per arbitration hearing. The appointment of Attorney Breen, and any subsequent neutral Arbitrator, shall be approved by the Department of Human Services.

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