

LUMPKIN COUNTY RESOLUTION NO. 2010-10

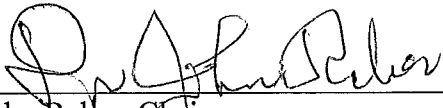
A RESOLUTION TO AMEND CIVIL SERVICE PLAN APPEAL PROCEDURES

Whereas, the governing authority of Lumpkin County has determined that the appeals procedures of the Lumpkin County Civil Service Plan should be amended to provide as follows:

- a. Disciplinary actions concerning employees supervised by the governing authority shall be reviewed by the County Manager as the final review; and
- b. Disciplinary actions concerning employees supervised by elected officials shall be reviewed by that elected official as the final review.

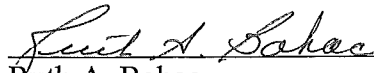
Now therefore, it is hereby resolved that Section 7, Grievance and Appeal Procedures, attached hereto as Exhibit "A," and by reference included herein as fully as if set out herein, be adopted; it is further resolved that the existing Lumpkin County Civil Service System be amended as necessary to implement the approved changes.

Resolved, adopted and effective this 17th day of February, 2010.



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Ruth A. Bohac
Clerk, Lumpkin County

Section 7- Grievance

Par. 7.100 Grievance and Appeal Procedure –

a) Intent

1. County employee grievances should receive prompt consideration and equitable resolution. Wherever possible, grievances should be resolved or adjusted informally, and both supervisors and employees shall be expected to make every effort to do so. With respect to those grievances that cannot be so resolved, employees shall be entitled to process the grievances as hereinafter provided.

2. These procedures governing the processing of grievances and providing the right of appeal are established for the purpose of eliminating or correcting justifiable complaints or dissatisfaction of regular employees or certain complaints of probationary employees and applicants; insuring that all employees shall be afforded fair, equitable and expeditious review of their grievances without fear, coercion or discrimination; and providing a systematic and orderly method for resolving complaints and differences between employees and supervisory or management personnel.

b) Procedure for Grievance Resolution. Any regular employee in the classified service who has been demoted, suspended, dismissed, or subjected to any other type of disciplinary action (except oral or written reprimand), or who is aggrieved as a result of the interpretation and application of these rules and regulations, and any applicant or employee (regular or probationary) who has been subjected to any alleged discriminatory action that is prohibited by federal law, shall have the right to utilize the grievance and appeal procedure hereinafter set forth.

1. A formal grievance shall not be initiated unless and until the employee has discussed the grievance with the department head, Elected Official/Constitutional Officer and Human Resources Director, or in the case of an applicant, with the County Manager. Such discussion shall be held within ten (10) working days after the occurrence or within ten (10) working days after the employee or applicant becomes aware of the occurrence of a grievable matter. The department head, Elected Official/Constitutional Officer, or County Manager in the case of an applicant, shall render a decision on the matter within ten (10) working days after the grievance has been discussed.

With respect to employees of Elected Officials/Constitutional Officers covered by the Lumpkin County Civil Service Personnel Policies, the elected official has final decision making authority at this level. Further appeal of a grievance shall be made directly to the Appeals Board, as outlined in section 7.4 of this personnel policy manual.

2. Should the employee or applicant not be satisfied with the decision of the department head or Human Resources Director, the employee or applicant, within five (5) working days, shall state the grievance in writing and file a standard grievance form with the Human Resources Director or the County Manager in the case of an applicant, setting forth the reasons for the appeal. The Human Resources Director, or the County Manager in the case of an applicant, shall make appropriate inquiries, consider all facts surrounding the action, and make every effort to resolve the grievance to the satisfaction of the department head and the employee, or the applicant.

3. Should no decision resulting in the settlement of the grievance be reached within ten (10) working days after the filing of the written grievance, the employee or applicant, within five (5) working days, may appeal to the County Manager. Such grievance appeal shall be submitted through the County Manager's office and shall be accompanied by all of the facts and information concerned with the grievance as well as any written responses of the department head.

4. The County Manager or his designee shall, within ten (10) working days after the receipt of an appeal to hear the grievance, hold a hearing upon same and consider the action complained of in the grievance.

Whenever possible, the hearing shall be scheduled during normal working hours and employees, supervisors, applicants and their representatives and witnesses shall have the right to appear before the County Manager for the purpose of presenting facts. All hearings conducted by the County Manager shall be in accordance with Title 50, Chapter 14 *Official Code of Georgia Annotated*.

At the hearing before the County Manager, technical rules of evidence shall not apply. All testimony before the commission shall be under oath or affirmation. The County Manager shall have the power to administer oaths and call witnesses and may compel the production of relevant books, records, and documents.

A copy of the decision of the County Manager shall be given to the affected employee and the department head of same, or to the applicant, within three (3) working days following the completion of the hearing.

5. The failure of supervisory employees to follow the steps outlined above shall result in conferring upon the employee the right automatically to proceed to the next step in the grievance procedure. The failure of the employee to follow the steps outlined above may result in the dismissal of the grievance at any step.

6. In those cases where dismissal of an employee is involved, the Human Resources Director shall immediately notify the affected employee that, if requested, a hearing before the County Manager will be set up and held within ten (10) working days of the action taken. At all such hearings, the department head shall be required to appear and explain the reasons for the dismissal.

No punitive, discriminatory, or adverse action shall be taken against any employee or applicant on account of the filing of a grievance or an appeal.

Par. 7.200 Definition – A grievance is a claim by a permanent employee alleging:

- a) His or her employment has been adversely affected by unfair treatment
- b) Unsafe or unhealthy working conditions
- c) Erroneous or capricious application of County policies and procedures
- d) Unlawful discrimination
- e) A claim by a probationary employee alleging unlawful discrimination

Par. 7.300 Non-grievable Areas – The following areas are not grievable:

- a) Issues that are pending or have been concluded by other administrative or judicial procedures
- b) Work assignments that do not result in a demotion or salary reduction
- c) Budget allocations and expectations and organizational structure, including the persons or number of persons assigned to particular jobs or units
- d) The content or rating of a performance appraisal except when the employee can show that he or she has been adversely affected by the appraisal
- e) The selection of an individual by the appointing authority to fill a position through appointment, promotion or transfer except when the employee can show that he or she has been adversely affected because of unlawful discrimination
- f) Any matter that is not within the jurisdiction or control of the appointing authority
- g) Internal security practices established by the appointing authority or the governing authority

- h) Decisions, policies, practices, resolutions, or ordinances made or passed by the governing authority or the appointing authority which are not job or work related and which do not contradict these policies

Par. 7.301 Posting Procedures – Each department will post a grievance procedure that is specific to that particular office. Grievance procedures will be reviewed and approved by Human Resources prior to posting.

Par. 7.400 Appeal Process:

- a) Filing. The employee, who is dissatisfied with the decision of the County Manager or an Elected Official, must file an appeal with the Human Resources Department within five days of learning of the decision. The appeal shall contain a statement describing what is being appealed. The Human Resources Director will forward the appeal to the Appeals Hearing Board.
- b) The Appeals Board shall be a standing board comprised of all Department Directors and one representative from each Constitutional office.
- c) The Appeals Board will be divided into five member (plus one alternate member) Appeals Hearing Boards. No Department Director may sit on an Appeals Hearing Board hearing an appeal by an employee from his or her department.
- d) The Appeals Hearing Board shall serve for a period of six (6) months.
- e) The Appeals Hearing Board members will meet and elect a chairperson.
- f) The Appeals Hearing Board will determine if the case may be appealed under the policy, with merit, and properly filed. If all conditions for appeal have been met, the Chairperson will notify the appellant of the date, time, and place of the appeal hearing.
- g) Hearing. The Appeals Hearing Board will conduct the appeal hearing. The hearing process is intended to be less formal than a court hearing, but orderly.
- h) The Appeals Hearing Board will compile evidence, prepare findings of facts, and will listen to statements from the Appellant and the appointing authority. The hearing will be recorded.
- i) Representation. Both the County and the Appellant may either represent themselves at the appeal hearing or choose to be represented by an attorney.
- j) **The Decision.** The Appeals Hearing Board chairperson shall submit a recommendation of the final action to be taken to the appellant and the County Manager within 10 days after completion of the hearing. The decision of the Appeals Hearing Board will be the final decision of Lumpkin County.

Par. 7.500 Further Appeal – If the appellant feels that an error has occurred in the above appeal procedure, the appellant may seek redress by writ of certiorari to the superior court.