

UPDATING GRIEVANCE PROCEDURES/ HR POLICIES

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How Things Are Today

- Changes to the old SPAct – Now it's the SH Resources Act
- Changes at OSHR (used to be OSP) – significant reduction in resources available to local government issues
- Still have OAH
- Even if you're a CHSA, a grievance procedure is a merit system tool

Changes to the Old SPAct

- Elimination of 3 to 9 month probationary period (at State level – for now)
- Probationary period is now 24 months (at State level – for now)
- Elimination of direct appeal to OAH
- Time limits for OAH to hear/decide

Changes to the Old SPAct

- New grievance procedure (at the State level – for now)
- New way of defining grievances re: discrimination
- Elimination of UWPH concept

Your Grievance Procedure



Or Maybe . . .



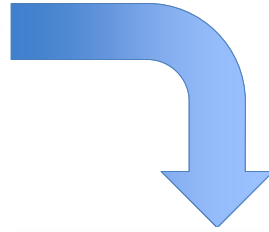
Either Way . . .



Do You Have . . .

- Employees appealing your decision to your Board?
- Employees using the county grievance procedure?
- Employees by-passing you and going straight to OAH?
- Employees filing complaints about UWPH?
- A grievance procedure from 1992?

Segue Slide



Critical Elements For Positive Change

1. Employees covered
2. Issues handled
3. Process for disciplinary action grievances
4. Process for grievances involving allegations of prohibited discrimination, harassment, retaliation

Critical Elements For Positive Change

5. No attorneys
6. Director is final decision-maker
7. Process to appeal to OAH

I Recommend

That your policy start out like this . . .

- I. Purpose
- II. Policy
- III. Definitions

Employees Covered

- Career status – full access to procedure
- “Twilight Zone” employees – some/full access to policy, but may only appeal to OAH if discrimination, harassment, retaliation
- Probationary Status/Temporaries – no access except for discrimination, harassment, retaliation

Issues

- Disciplinary demotion, suspension without pay, dismissal
- Allegations of discrimination based on race, sex, age, color, national origin, genetic information, political affiliation or disability
- Separation due to unavailability (your burden is to show employee was unavailable. Period.)

Procedures

- 1. Serious Disciplinary Actions** – Director’s decision final, only persons with C/S may go on to OAH
- 1. Allegations of Prohibited Discrimination** – Director’s decision is final, any employee alleging prohibited discrimination may go on to OAH.

What Procedures to Have?

- Mediation
- Traditional “chain of command”
- Peer review hearing with recommendation to Director

CHSA Grievance Procedures

- Subject to county grievance procedure
- May be an opportunity to start discussion about county grievance procedure
- May be an opportunity to start discussion about other county policies (i.e., why do you have a probationary period?)



Social Services Directors Legal Update – April 2015

MANAGING YOUR HR POLICIES

Over 30 NC Counties have only
the most basic personnel
function.

What Shape Are Your HR Policies In?



OR



Do Your Policies



Force you to do wasteful or unnecessary things?

Lock you into a non-productive way of doing business?

Cause you to unintentionally violate the law?

Unnecessarily restrict how you do business?




Recommended Policy Tune Ups

- ADA was completely rewritten in 2009
- FMLA continues to be rewritten nearly every congressional session
- FLSA definitions to be updated shortly
- GINA
- Pregnancy Discrimination Act

Have You

- Reviewed your positions' FLSA designations within the last 5 or 10 years?
- Checked to make sure that any "independent contractors" are really and truly "independent contractors" and not employees?
- Looked at how you recruit and select people to work in your agency?

Do You Have

- A violence in the workplace policy? 
- A dress code? [Do you need one?] 
- A social media policy? No? 
- A policy on how to handle whistleblowers?