

CAREER SERVICE COUNCIL GUIDELINES AND OPERATING PROCEDURES

The purpose of these Guidelines and Operating Procedures is to enable the Career Service Council to fulfill its duties and responsibilities efficiently and effectively.

Overview: *The Career Service Council was established in accordance with the County Personnel Management Act (Utah Code 17-33) and Salt Lake County Ordinance (2.80.030). The Career Service Council is a bipartisan board consisting of three members who are appointed by the Mayor and confirmed by the County Council for staggered three-year terms. The Career Service Council hears appeals of merit employees regarding termination, suspension, demotion, transfer for disciplinary reasons, overall does not meet expectations performance evaluations ([Human Resources Policy 3- 500, Grievance Procedures](#)) and extension of probation (UCA 17-33-5 (3)(B)(b)(viii)).*

The Council hears appeals from merit or non-merit employees or volunteers related to claims of harassment, discrimination or retaliation after following the procedures outlined in [Human Resources Policy 3-100, Workplace Harassment, Discrimination and Retaliation Complaints Procedure](#).

The Council also hears appeals from job applicants concerning the selection procedures used for certification of registers and removal from a register as outlined in [Human Resources Policy 2-300, Recruitment and Selection](#).

I. FILING AN APPEAL

- A. A merit employee will follow the procedures outlined in Human Resources Policy 3-500 to file an appeal related to termination, suspension, demotion, transfer for disciplinary reasons, overall does not meet expectations performance evaluation or extension of probation.

II. PRE-HEARINGS

When an appeal is filed, a prehearing will be scheduled to discuss the issues to be addressed during the hearing. The Council will also determine its jurisdiction over the issues brought forward.

- A. Pre-Hearing Conferences are held at the discretion of the Council. The purpose of the conference is to:
 - i. Define the issues to be heard
 - ii. Identify witnesses
 - iii. Determine stipulations of fact
 - iv. Schedule the hearing dates
 - v. Resolve questions regarding the Council's jurisdiction

- B. The Council will notify the parties of the date, time and place of the prehearing. Prior to the prehearing conference, the parties are required to submit a Pre-Hearing Outline which identifies the issues. Written notice of the prehearing conference will include the date outlines are due.
 - i. The appellant files the initial outline and the agency responds.
 - ii. The appellant's outline will include:
 - 1. The appellant's name, agency where employed, and contact information;
 - 2. A short statement of the grievance;
 - 3. A statement of facts or occurrences surrounding the grievance;
 - 4. A statement of the remedy requested;
 - 5. When necessary, a statement regarding any legal issues presented by the grievance; and
 - 6. A list of witnesses.
 - iii. The agency's outline will include:
 - 1. The agency where the appellant is employed;
 - 2. The disciplinary action imposed;
 - 3. A statement of any previous disciplinary action(s) issued to the appellant;
 - 4. A statement of facts or occurrences surrounding the grievance;
 - 5. When necessary, a statement regarding any legal issues presented by the grievance; and
 - 6. A list of witnesses.
 - iv. With reasonable justification, additional issues may be raised at the prehearing or hearing. A majority of the Council must approve adding the issues to the matters to be heard and the responding party may be allowed an extension of time to prepare a response.

III. HEARINGS

Career Service Council hearings are like a trial, but less formal. Evidence is presented by each party either as sworn testimony or as documents. At the beginning of the hearing, each party may make an opening statement to explain what the evidence will show. At the end of the hearing, each party may make closing arguments to explain why the Council should rule in their favor. After the hearing, the Council will review all of the evidence and issue a decision.

- A. Hearings before the Council are conducted with appropriate formality and decorum so that the due process rights of all parties are protected. The Utah Rules of Evidence and Rules of Civil Procedure are used as guidelines in the conduct of Council hearings, but are not strictly followed or applied. In keeping with its goal of obtaining all pertinent facts, the Council does not strictly apply rules of evidence regarding authentication, foundation, hearsay or relevance.
- B. Scheduling and Continuance of Hearings
 - i. Hearings are normally scheduled within 30 days from receipt of an appeal.
 - ii. The scheduling of hearings and the granting of continuances is a matter of concern to the Council. The Council will manage scheduling to minimize continuances and to assure a prompt and efficient resolution of cases. The granting of continuances is within the Council's discretion and is not a matter of right. Matters may only be rescheduled or postponed for reasonable cause.

- C. Open Meetings
 - i. Hearings are considered open meetings under Utah law, but may be closed to the public under the Open and Public Meetings Act (Utah Code 52-4).
 - ii. Closing a hearing must be through a motion by one of the parties and approved by a majority of the Council.
 - iii. Any member of the public or the news media, unless excluded under section G.i. below, may attend an open meeting provided they conduct themselves in an orderly manner, which includes no entrance or exit while the Council is in session.
- D. Subpoenas
 - i. Upon a request from either party, the Council may issue subpoenas to compel witness testimony or request documents. Requests should be made as soon as possible, but not less than two days prior to the required appearance. Any member of the Council may sign the subpoena. It is the responsibility of the requesting party to serve the subpoena
- E. Burden of Proof
 - i. The agency has the burden of proof for disciplinary actions. The appellant has the burden of proof in all other cases. The party with the burden of proof presents evidence to prove their case before the opposing party is required to present evidence.
- F. Standard of Evidence
 - i. "Substantial Evidence" applies to hearings before the Council.
- G. Witnesses
 - i. The parties must include a list of witnesses in their prehearing outlines. Additional witnesses may be included within 24 hours of the hearing, but notification to the Career Service Council and opposing counsel is required.
 - ii. The Council is sensitive to the concern that witnesses may not feel free to truthfully testify due to fear of retaliation from superiors. The Council advises the witnesses that their testimony should be given without fear of retaliation and if a "chilling effect" is experienced due to their testimony, it should be reported to the Council immediately.
 - iii. The Council will allow "leading questions" to expedite the hearing; however, caution will be exercised to ensure the witness is given an opportunity to fully explain their statements.
 - iv. The Council will allow "hearsay evidence" when deemed appropriate. The Council will assign the proper weight to the testimony and consider only that which it finds to be relevant, reliable, and substantive when making its decision.
 - v. Exclusionary Rule: Upon motion of either party, the Council may invoke the exclusionary rule for witnesses; however, one agency representative will be allowed to remain present at all times
- H. Exhibits
 - i. The Council accepts documents and other exhibits to obtain a full understanding of the grievance. Parties should come to the hearing prepared to provide seven copies of documents to be distributed as follows: one copy for each Council member, one copy for agency/counsel, one copy for the witness being questioned about the document, one copy for the appellant/counsel, and the one for the Council Coordinator (permanent record).

- I. Objections/Motions
 - i. The Council will hear objections at the time they occur and will rule either to sustain or overrule the objection. Occasionally, the Council will rule to note the objection for review and proceed with the hearing in order to expedite the matter. In its final decision, the Council will issue written rulings on significant motions and objections made during the hearing when the Council's decision was not made during the hearing.
 - ii. Since hearings are recorded, a ruling to "strike" a statement indicates the Council will not consider that testimony when making its decision. The statement will not be physically removed from the recording.
- IV. ADDITIONAL INVESTIGATION
 - A. The Council reserves the right to seek additional information following the formal hearing if it determines that such inquiries will provide needed clarification of the issues, fill in information gaps, or verify or disprove hearing testimony.
 - B. When needed, the Council may request post-hearing outlines or briefs of legal matters to clarify specific issues of an appeal.
- V. HEARING TRANSCRIPT
 - A. A digital recording of the hearing is kept on file in the Career Service Council Office
 - B. The Council will provide a copy of the recording to either party in an action upon request. The requesting party will be charged for reproduction of the recording.
 - C. If either party requests a verbatim record of the proceedings through a certified court reporter, the requesting party is required to make the necessary arrangements and pay the costs. If the Council requests a certified court reporter, the County will pay the costs.
 - D. If either party requests a written transcript of the hearing, the requesting party is required to make the necessary arrangements and pay the costs. The transcription must be made from the recording given only to a certified court reporter
 - E. The Council will provide copies of voice recordings to the media or members of the public upon request. The individual requesting the copy will be charged for reproduction of the recording.
- VI. DECISIONS
 - A. Following a hearing, the Council may draft written notes setting out findings of fact and the reasons for its decision.
 - B. The Council normally prepares the final decision, but may choose to provide its notes to the legal counsel or representative of the prevailing party to prepare a draft decision.
 - i. A draft decision prepared by the prevailing party will be provided to the non-prevailing party, who has seven calendar days to respond to the Council with comments or objections to the draft. After receipt of the written comments or objections, the Council will finalize the written decision.
 - C. The ruling of the Council is based on a majority vote of the members.
 - D. The final decision will be signed by the Council and dated for purposes of appeal, motion for reconsideration of other procedures.
 - E. Distribution of Decisions
 - i. A copy of Council decisions is provided to the County Human Resources Director, the County EEO Manager, the appellant/representative and the agency/representative.
 - ii. The Council will provide copies of its decisions to the media or members of the public upon request as allowed by the Government Records Access and Management Act.

VII. MOTIONS FOR RECONSIDERATION

- A. Decisions of the Council are final and binding; however, the Council may hear a Motion for Reconsideration filed by either party. The motion must include the specific issues to be reviewed. The Council may grant a motion when it is proven that: a witness testified falsely, relevant information has been discovered that was not available at the time of hearing, etc., and it is determined the information would impact the decision.
- B. Motions for reconsideration must be filed within 15 calendar days after a final decision is signed by the Council.
- C. The Council will determine whether the motion will be acted upon with or without a hearing. If a hearing is granted, it will be scheduled within 30 calendar days of receipt of the motion. The Council will issue a written decision granting or denying the motion.

VIII. WAIVER PROCEDURES

- A. The Council, on its own motion, may waive or modify any of the procedures outlined.

IX. APPEALS OF MERIT OR NON-MERIT EMPLOYEES OR VOLUNTEERS RELATED TO CLAIMS OF HARASSMENT, DISCRIMINATION OR RETALIATION ([Human Resources Policy 3-100, Workplace Harassment, Discrimination and Retaliation Complaint Procedures](#))

- A. The appeal process is limited to specific concerns about the way a review or investigation was handled such as a critical piece of information was missed, a key witness was not interviewed or a crucial piece of evidence was not considered. The appeal process is not designed to have the complaint re-investigated merely because an employee disagrees with the outcome.
- B. A complainant or an accused may file an appeal with the Career Service Council by citing a specific reason in writing within 15 calendar days of receipt of the findings of an investigation under Human Resources Policy 3-100.

X. APPEALS OF JOB APPLICANTS CONCERNING THE SELECTION PROCEDURES USED FOR CERTIFYING REGISTERS AND REMOVAL FROM A REGISTER ([Human Resources Policy 2-300, Recruitment and Selection](#))

- A. Applicants who fail to make the certified list may appeal to the Career Service Council using the [appeal form](#) within four calendar days of notification. The Career Service Council will consider the appeal and issue a decision.
- B. The Career Service Council's decision is binding within the County system.