



LARIMER COUNTY POLICIES AND PROCEDURES

HUMAN RESOURCES POLICY AND PROCEDURE 331.8G

SUBJECT: CORRECTIVE AND ADVERSE ACTIONS; GRIEVANCE PROCEDURE; AND PROBLEM-SOLVING PROCESS

DATE: May 16, 2023

EFFECTIVE PERIOD: Until Superseded

REVIEW SCHEDULE: Annually, or as needed

CANCELLATION: Human Resources Policy and Procedure 331.8F; October 29, 2019

ENCLOSURE(S): None

REFERENCE(S):

- A. Human Resources Policy and Procedure, [331.4, Conditions of Employment](#)
- B. Human Resources Policy and Procedure, [331.2, Recruitment, Applications and Hiring, Section VII, Limited Term Employee](#)
- C. Governing Policy Manual: [Policy 3.2 - Treatment of Staff](#)
- D. Appointed Officials, [Appendix A](#)

PURPOSE: This Policy is intended to provide means for addressing and resolving issues arising out of employee performance or conduct.

SCOPE: This Policy and Procedure applies to all employees (reference C) of Larimer County and employees of the Office of the District Attorney, Eighth Judicial District, with the exception of employees of the Larimer County Sheriff's Office.

RESPONSIBILITY: The Human Resources Director administers this Policy.

SPECIFIC REQUIREMENTS: None

REVISION SECTION (Significant Changes from Prior Policy):

- Reference A (*deleted, was HR Policy 331.4.XVI*)
- Reference D (*deleted, was Sheriff Personnel Policy; which no longer exists*)
- Section I
- Section V, F and G
- Section VIII

- Section IX

POLICY AND PROCEDURE:

I. GENERAL POLICY:

This Policy and Procedure provides means for addressing and resolving issues arising out of employee performance or conduct. The processes and disciplinary actions (corrective actions, adverse actions) are non-progressive, and may be implemented based upon the perceived impact on the business unit, and may include considerations such as the range, severity, nature, frequency, risk, effect, or public perception of the performance or conduct concern.

II. TERMS:

Decision Maker: As used throughout this policy and procedure, "Decision Maker" refers to an Elected Official, Service Area Director or Department Head who makes the final decision on an Adverse Action.

III. EMPLOYEE STATUS:

- A. Temporary Employees: Employees in Temporary positions remain employed at the mutual consent of the employee and the County. Either the employee or the County may end the employment relationship at will, with or without cause at any time and without following any Problem Solving, Performance Improvement or Adverse Action process. Departments or Offices should consult with a Human Resources Generalist prior to separation.
- B. Regular and Limited Term Employees (reference B):
 1. Probationary: employees serve a probationary period in accordance with County policy (reference A). During the probationary period, employees remain employed at the mutual consent of the employee and the County. Either the employee or the County may end the employment relationship at will, with or without cause at any time and without following any Problem Solving, Performance Improvement, Adverse Action or Grievance process. The County may unilaterally extend an employee's probationary period. If the probationary period is extended, the employee remains in probationary status until the date specified in writing by the Decision Maker.
 2. Post-probationary: once an employee successfully completes the probationary period, the County may not end the employment relationship without cause.
- C. Appointed Officials: Employees in Appointed positions as identified in County policy remain employed at the mutual consent of the employee and the County (references A and D). Either the Appointed Official or the County may end the employment

relationship at will, with or without cause at any time and without following any Problem Solving, Performance Improvement or Adverse Action process.

- D. Elected Officials: Elected Officials are elected by the citizens of Larimer County and are not subject to this policy.

IV. PROCESSES:

Supervisors are responsible for managing the performance and conduct of their employees. When performance or conduct issues exist, supervisors should take action to address the situation. The following processes may be used to address performance or conduct.

- A. Corrective Actions are taken to assist employees in correcting job performance and improving conduct that is inconsistent with the expectations and standards established by Larimer County. Corrective Actions do not result in the employee losing or having a reduction in pay or grade. The nature of, need for, and number of Corrective Actions may be considered as a factor in imposing an Adverse Action.
- B. Problem Solving provides employees a process to discuss certain work-related matters.
- C. Adverse Actions are serious actions for job performance or conduct that is inconsistent with the expectations and standards established by Larimer County. Adverse Actions include suspension without pay, involuntary demotion, or dismissal. Adverse Actions need not be followed in progression. An Adverse Action may be instituted based on the frequency or severity of the situation.
- D. Grievance provides a non-probationary employee a process to review a suspension without pay, involuntary demotion, or dismissal.

V. BASIS FOR CORRECTIVE OR ADVERSE ACTIONS:

Larimer County expects all employees to conduct themselves in a manner that reflects favorably on County service. Employees may be subject to Corrective or Adverse Action for performance or conduct, including but not limited to those listed below.

- A. Unsatisfactory performance of job duties;
- B. Deliberate or careless conduct endangering the safety or well-being of employees or the public;
- C. Negligent or willful damage or waste of County property or resources;
- D. Refusal or failure to comply with County or department/office policy or procedure;
- E. Refusal or failure to comply with an instruction, direction, regulation or law;
- F. Inappropriate conduct toward County employees, the public, or others doing business with the County including conduct during non-work hours that impacts County operations;

- G. Possession (other than possession required in the performance of job duties), consumption, admission to being under the influence of alcohol or controlled substances, or testing positive for alcohol or a controlled substance, or the misuse of prescribed medication, while in a work status;
- H. Misuse of leave, unexcused absence, unreported absence, tardiness, or absenteeism;
- I. Conviction of, admission to, or entering a plea of *nolo contendere* (no contest) to a crime that impacts the employee's job duties or is a conflict of interest with the employee's job;
- J. A reasonable belief that an employee has committed or engaged in an act that is contrary to the interests of the County including, but not limited to, a criminal act;
- K. Soliciting or accepting bribes in the course of County work;
- L. Misuse of County funds or property;
- M. Misuse of or unauthorized disclosure of official or confidential information;
- N. Bullying, harassment and/or discrimination;
- O. Falsification or misrepresentation involving or related to County business or interests;
- P. Failure to obtain or maintain a required license, certification or qualification;
- Q. A reasonable belief that an employee has engaged in a lawful activity off the premises of the County during nonworking hours where the activity is a conflict of interest or appears to be a conflict of interest with the employee's job or relates to a bona fide qualification.

VI. PERFORMANCE EXPECTATIONS (Corrective Actions):

- A. Setting performance expectations is an intentional approach toward helping an employee improve their performance or conduct. This may include a verbal and/or written coaching, Performance Improvement Plan, Corrective Action and/or performance evaluation narrative.
- B. Supervisors will consult with a Human Resources Generalist prior to issuing any Performance Improvement Plan, below standard performance evaluation, or Corrective Action to an employee.
- C. If an employee disagrees with a Performance Improvement Plan, below standard performance evaluation, or Corrective Action, they may use the Problem-Solving Process under this Policy.

VII. PROBLEM SOLVING:

- A. Informal Problem Solving:
 - 1. If an employee has questions, concerns, or objections to a work-related matter, the employee is encouraged to promptly discuss the matter with their immediate

supervisor. The employee may consult with the Human Resources Generalist as needed.

2. The supervisor will listen to the employee's concerns and appropriately respond. The supervisor will consult with the Human Resources Generalist as needed.
3. If this informal process does not resolve the issue, the employee has the right to file a Formal Problem-Solving Request.

B. Formal Problem-Solving Request:

1. A Formal Problem-Solving Request will be submitted in writing to the Decision Maker or designee. No specific form is required.
2. The Formal Problem-Solving Request must:
 - a. be identified as a Formal Problem-Solving Request;
 - b. identify the requesting employee;
 - c. specifically describe the problem or concern; and
 - d. state the remedy sought.
3. The Formal Problem-Solving Request should be filed within thirty calendar days from the action or decision that gave rise to the Problem-Solving Request or the unsatisfactory resolution of the Informal Process.
4. The Decision Maker or designee will consult and provide a copy of the Formal Problem-Solving Request to the Human Resources Director or designee.
5. The Decision Maker or designee will meet with the employee to discuss the Formal Problem-Solving Request. This meeting will take place within ten business days from receipt of the Formal Problem-Solving Request, unless an extension is approved by the Human Resources Director or designee. The purpose of this meeting is for the Decision Maker or designee to listen and gather information from the employee regarding the issues raised in the Formal Problem-Solving Request.
6. The Decision Maker or designee will provide a written decision to the employee within ten business days from the Formal Problem-Solving Request meeting. The Human Resources Director or designee must approve the written decision before it is provided to the employee. The Decision Maker or designee must meet with the employee to discuss the written decision.
7. The Decision Maker's or designee's decision on the Formal Problem-Solving Request is final.

VIII. ADVERSE ACTION:

A. Types of Adverse Actions:

1. suspension: the temporary placement of an employee in a non-pay, non-duty status;
2. involuntary demotion: the involuntary placement of an employee in a job with a lower grade and/or rate of pay for disciplinary reasons; or

3. dismissal: the involuntary separation of an employee from County service .
- B. The supervisor considering Adverse Action must prepare a written Pre-Adverse Notice:
 1. identifying the employee;
 2. the performance and/or conduct that is the basis for the possible Adverse Action, including relevant dates, policy violations, and any necessary explanation of the business impact; and
 3. the time and place for a mandatory meeting between the Decision Maker, Human Resources, and the employee.
 - C. The Pre-Adverse Notice will be reviewed by the Human Resources Director or designee and the County Attorney's Office prior to being issued to the employee.
 - D. The Pre-Adverse Notice must be delivered to the employee in a manner that will reasonably ensure and establish the employee's receipt.
 - E. The Decision Maker or designee may place the employee on leave with pay until a final decision is made.
 - F. At the Pre-Adverse Action meeting, the employee will have an opportunity to respond to the matters presented in the Pre-Adverse Notice. The Human Resources Director or designee will facilitate and record the meeting.
 - G. At the employee's expense, the employee may have an attorney at this meeting. If the employee is to be represented by an attorney, the employee must notify the Human Resources Director or designee within the time established in the written Pre-Adverse Notice that they will be represented, so the County Attorney, or designee, may attend.
 - H. After the meeting, the Decision Maker will consider the information offered by the employee as well as all other information deemed relevant. The Decision Maker's final determination, Decision Notice, will be reviewed by the Human Resources Director or designee and the County Attorney or designee prior to being issued to the employee.
 - I. Within a reasonable time after the meeting, the Decision Maker will render a written, Decision Notice, regarding the adverse action. The written Decision Notice will be delivered to the employee in a manner that will reasonably ensure and establish the employee's receipt. The written Decision Notice shall contain the following:
 1. A statement of the grounds for the action, including findings about the performance and/or conduct, relevant dates, policy violations, any necessary explanation of the business impact, and any necessary credibility determinations;
 2. A statement of the action to be taken;
 3. The effective date of the action;
 4. A statement that the employee has a right to grieve the adverse action, including a specific reference to the County Grievance Procedure below.

5. A copy of this policy.

IX. GRIEVANCE:

- A. The Grievance Procedure is the method by which an employee may seek review of a Decision Maker's Adverse Action decision. The review of the decision includes whether the Decision Maker committed an error in applying County policy, failed to apply this policy, failed to consider relevant evidence, considered irrelevant evidence, and/or if the Decision Notice does not adequately establish the reasoning for the decision.
- B. The Grievance must be submitted in writing to the Human Resources Director or designee, Human Resources Generalist, and Decision Maker.
 1. The Grievance must clearly state:
 - a. the basis on which the employee objects to the adverse action decision to include:
 - i. Policy application error or failure to apply policy in the adverse action process or decision making process.
 - ii. Relevant evidence or information that was not considered in the decision making process.
 - iii. Irrelevant evidence or information that was considered in the decision making process.
 - iv. The Decision Notice does not adequately establish the reasoning for the decision.
 - b. the employee's requested resolution.
 2. Time Period for Filing
 - a. A Grievance must be filed within seven (7) days after the employee's receipt of the written decision. If the employee fails to file the Grievance within this time period, the Grievance will be considered untimely and a voluntary waiver of the employee's Grievance rights. The filing of a Grievance will not delay or otherwise affect the effective date of the Adverse Action.
 - b. The untimely filing of a Grievance may be waived upon a finding by the Human Resources Director if there is evidence of an unforeseen occurrence, an unavoidable hindrance or accident that prevented the timely submission of the grievance.
 3. Procedure:
 - a. The Human Resources Director, or designee, will review the Grievance and any additional information accessible to the Human Resources Director necessary to determine whether the decision was based on an error or not supported by the evidence, specifically pursuant to Section IX (A). Both the employee and the Decision Maker are required to participate in this process, including but not limited to, providing additional information, answering questions, and communicating with the Human Resources Director.

- b. The Human Resources Director or designee will issue a written decision within a reasonable period of time. The written decision will address issues raised in the Grievance, focused to the performance and/or conduct addressed in the Pre-Adverse Action and Decision Notice.
 - i. If the decision is to reverse or modify the Decision Maker's action, the decision will outline all actions that must be taken in order to resolve the Grievance.
 - ii. In no event may the Human Resources Director, or designee, impose a more severe action than that of the Decision Maker.
 - iii. If the decision is to affirm the Decision Maker's action, the decision must advise the employee that the decision is final.

Jody Shadduck-McNally
Chair, Board of County Commissioners
(Approved by BOCC – Consent Agenda – 05/16/2023)
(Signature on original filed in Records Management)

Distribution:
All County Departments and Elected Officials
Records Management SOP Manual (original)

BP/DA/CK/vl