

CHAPTER 22
APPEALS TO THE CAREER SERVICE COUNCIL

1.0 PURPOSE – This chapter outlines the jurisdiction, requirements and procedures of the Career Service Council (CSC) related to how merit employee grievances are reviewed. These processes serve to provide merit employees the opportunity to present an appeal of an appealable employment action to the CSC for determination. This chapter also outlines the appeals process for applicants who have been rejected for an interview.

2.0 APPEALABLE EMPLOYMENT ACTIONS – As outlined in Utah Code County Personnel Management Act and Davis County (DC) Ordinance Chapter 21, certain types of employment actions may be appealed to the CSC if timelines and requirements of the Grievance Procedure, outlined in Ordinance Chapter 21, are strictly met. The following provisions apply:

- A. Eligible for CSC Hearing:
 - 1. Disputes regarding a suspension without pay, transfer as a disciplinary action, demotion for cause or dismissal, as defined in DC Definitions Policy #100.
- B. Eligible for CSC Review:
 - 1. A written appeal in a case of an applicant rejected for an interview, in accordance with DC Ordinance Chapter 1.
 - 2. Dispute regarding the findings of a discrimination, harassment or retaliation investigation.
- C. The CSC may not hear any other personnel matter. Appeals shall not include disputes over corrective actions, probationary actions, performance evaluations, assignments or work schedules.
- D. In cases that involve both an appealable employment action eligible for CSC Hearing and an appealable employment action for CSC Review, the employee must choose either a CSC Hearing or a CSC Review and both appealable employment actions will be heard or reviewed in the chosen format in one hearing or one review. The outcome of the hearing or review finalizes the appeal process.
- E. Employees who are appealing appealable employment actions listed in section 2.0.A. may request a CSC Review in lieu of a CSC Hearing by submitting their request to the Human Resources (HR) Director. This decision cannot be reversed and the outcome of the CSC Review finalizes the appeal process.

3.0 SUBMITTING AN APPEAL FOR CSC HEARING – A merit employee who wishes to file an appeal with the CSC must comply with the following conditions:

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- A. A merit employee as defined by DC Policy Definitions #100, with an eligible grievance must file an appeal within five (5) working days after the receipt of the Step 2 decision or after the decision due date has passed, as outlined in Chapter 21.
- B. The written appeal is submitted to the CSC via the HR Director.
- C. The written appeal must include the following:
 - o Information, statements, or claims which may lend support to the appeal.
 - o Request for Remedy: modification of a disciplinary action letter or level of disciplinary action; or a reversal of the disciplinary action decision.
 - o DC employees anticipated as witnesses. Witnesses are limited to material witnesses only.
 - o An indication of whether the employee will be represented or conduct the case personally.
 - o Contact information (email, address and phone number) for the appellant.
 - o Contact information (email, address and phone number) for the appellant's representative, if applicable.
- D. The hearing will not proceed unless these conditions are met. If the notice of appeal does not satisfy the requirements of this section, the HR Director will notify the appellant and identify the deficiencies. The appellant shall comply with the instructions of the HR Director within five (5) working days. If the appellant does not comply within five (5) days, the appeal request shall be closed.

4.0 NOTIFICATION TO THE DEPARTMENT – CSC HEARING. The HR Director shall notify the applicable Administrative Officer when an appeal is received. The department shall identify the DC employees who will appear as witnesses and prepare information, statements or claims supporting its decision. The department must submit this information to the HR Director within five (5) working days.

5.0 HEARING PROTOCOL – This is an administrative process designed to bring out the facts related to a personnel issue. The procedures will not be so formal or fixed that they interfere with the purpose of the hearing. Additionally, the procedures of the CSC exist to allow the hearing to be conducted in an orderly and courteous manner. The hearing shall not be bound either by legal procedures or by legal rules of evidence.

To that end, the CSC will provide specific guidelines about how CSC hearings will be conducted which meet the following specific provisions and protections. The requirements which must be included in the CSC guidelines are:

- A. The hearing must be conducted in a timely manner. Scheduling, particularly when employee representatives are involved, can create understandable delays. However, the

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hearing must be conducted within a reasonable time as the circumstances of the parties dictate.

- B. A member of the Civil Attorney's office will be assigned as a consultant to assist with protocol, process, and decision options which include the ability to affirm, modify, vacate, or set aside a disciplinary decision. The assigned Civil Attorney will ensure the CSC's determinations are reasonable and follow County ordinances, policies & procedures and applicable state and federal employment laws.
- C. A pre-hearing meeting, which may be conducted via phone or electronically, will be completed prior to a hearing. This pre-hearing meeting will allow both parties to make final determinations about the witnesses who will appear and the documents to be provided to the CSC. A date and time for the hearing will be finalized at this time. All parties will receive a copy of the CSC procedural guidelines at this time.
- D. Each party (the appellant and the department) shall be responsible for notifying witnesses of the time and place of a hearing.
- E. The appellant may present their case personally or through a representative of their choice.
- F. An audio recording shall be kept of the hearing proceedings.
- G. The hearing will be conducted by the CSC Chair. The CSC procedural guidelines will specify opening announcements, reminders and a requirement for civility. The hearing will proceed with the employee's presentation. The department will then make its presentation. The requirements related to opening statements, opportunities for questioning and closing statements will be clarified in the CSC procedural guidelines.
- H. Each party will bear their own expenses.

6.0 SUBMITTING AN APPEAL FOR CSC REVIEW

- A. A merit employee as defined by DC Policy Definitions #100, with an eligible grievance must file an appeal within five (5) working days after the receipt of the Step 2 decision or after the decision due date has passed, as outlined in Chapter 21. An applicant rejected for an interview in accordance with DC Ordinance Chapter 1, must file an appeal within five (5) working days after being notified of the rejection.
- B. The written appeal is submitted to the CSC via the HR Director.
- C. The written appeal must include the following:
 - o Information, statements or claims which may lend support to the appeal,
 - o Request for a reasonable remedy.
 - o Contact information (email, address and phone number) for the appellant.
 - o Contact information (email, address and phone number) for the appellant's representative, if applicable.
- D. The review will not proceed unless these conditions are met. If the notice

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of appeal does not satisfy the requirements of this paragraph, the HR Director will notify the appellant and identify the deficiencies. The appellant shall comply with the instructions of the HR Director within five (5) working days. If the appellant does not comply within five (5) days, the appeal request shall be closed.

7.0 NOTIFICATION TO THE DEPARTMENT – CSC REVIEW. The HR Director shall notify the applicable Administrative Officer when an appeal is received. The department shall prepare information, statements or claims supporting its decision. The department must submit this information to the HR Director within five (5) working days.

8.0 REVIEW PROTOCOL – As in the case of a CSC hearing, this is an administrative process. A CSC review is designed to bring forward relevant facts about an issue and to allow the review process to be conducted in an orderly manner. The review shall not be bound either by legal procedures or by legal rules of evidence. The CSC will provide specific procedural guidelines about how a review will be conducted which meet the following specific provisions and protections. The requirements which must be included in the CSC procedural guidelines are:

- A. The review must be conducted in a timely manner. Scheduling, particularly when representatives are involved, can create understandable delays. However, the review must be conducted within a reasonable time as the circumstances of the parties dictate.
- B. A member of the Civil Attorney’s office will be assigned as a consultant to assist with protocol, process, and decision options. The assigned Civil Attorney will ensure the CSC’s determinations are reasonable and follow County ordinances, policies & procedures and applicable state and federal employment laws.
- C. The appellant or representative presents their case in the written documentation provided to the CSC. No hearing is conducted.
- D. The CSC will conduct individual conferences with both parties as deemed necessary.
- E. Each party will bear its own expenses.

8.0 DECISION OF THE CAREER SERVICE COUNCIL - The CSC shall, within ten (10) working days after the end of the hearing or review, make its decision in writing and transmit copies of such decision to the parties. At its option, the CSC may direct the prevailing party to draft the decision subject to its final approval. In each case, the decision of the CSC shall be final. The CSC shall report the findings of its hearing or review as a final, binding decision, in writing to the HR Director and the County Commissioners.