

Alternative Dispute Resolution (ADR) (for CYS and MH/DS employees only)

Lawrence County is committed to providing the best possible working conditions for our employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response.

Lawrence County strives to ensure fair and honest treatment of all employees. We expect supervisors, managers, and employees to treat each other with mutual respect. We encourage employees to offer positive and constructive criticism to each other.

Not every problem can be resolved to everyone's total satisfaction, but only through understanding and discussion of mutual problems can employees and management develop confidence in each other. This confidence is important to the operation of an efficient and harmonious work environment and helps to ensure everyone's job security.

The Alternative Dispute Resolution is another way for those employees in CYS or MH/DS to resolve problems.

Hearings

1.0

Hearings granted to employees due to furlough, resignation, removal, suspension, or from individuals alleging discrimination shall be public hearings. The County of Lawrence Department of Human Resources shall, within 60 days of receipt of the request for hearing, fix a date for said hearing. At least 10 business days notice in advance of the date of the hearing shall be tendered in writing to the individual affected and to the County of Lawrence and others interested in the case, informing them of the date, time, and place of the hearing. Notice of the hearing shall be posted on a bulletin board or other similar location in or near the office of the County of Lawrence Department of Human Resources. The Alternative Dispute Resolution (ADR) Panel may grant requests for continuances. The ADR Panel, on its own motion, may grant a continuance if the scheduled hearing lasts longer than two (2) hours.

2.0

- (a) Requests for hearings shall be:
 - (1) Made in writing consistent with the County of Lawrence ADR Procedure.
 - (2) Personally signed by the individual appealing.
 - (3) Received or postmarked within ten (10) business days of the individual's receipt of the fourth step response, as specified in the County of Lawrence ADR procedure, unless the appeal is made directory to the fifth step as outlined in Section C, #2 of the County of Lawrence ADR Procedure.
- (b) The person appealing shall clearly and concisely state:
 - (1) Grounds of interest of the person in the subject matter.
 - (2) Facts relied upon.
 - (3) Relief sought.
- (c) Appeals alleging discrimination which do not include specific facts relating to discrimination may be dismissed. Specific facts which should appear on the ADR Communication Form include:
 - (1) The acts complained of
 - (2) How the treatment differs from treatment of others similarly situated
 - (3) When the acts occurred

- (4) When and how the appellant first became aware of the alleged discrimination.
- (d) Acceptance of an amendment to an ADR Communication Form is strictly at the discretion of the ADR Panel

3.0 Form of hearing

- (a) The hearing shall be formal, but not all of the strict rules of evidence need be enforced. Evidence offered should be the best evidence available. Any document(s) which constitute reliable evidence or whose contents or meaning are in dispute should be brought to the hearing and entered into evidence. Whenever possible, the original document(s) should be available to be offered into evidence.
- (b) The hearing shall be formal, but not all of the strict rules of evidence need be enforced. Evidence offered should be the best evidence available. Any document(s) which constitute reliable evidence or whose contents or meaning are in dispute should be brought to the hearing and entered into evidence. Whenever possible, the original document(s) should be available to be offered into evidence.
- (c) Any member of the ADR Panel may conduct hearings.

4.0 Legal representation

- (a) The County of Lawrence shall be represented by counsel presently admitted to practice before the Supreme Court of Pennsylvania.
- (b) Appellants may represent themselves, or may be represented by anyone presently admitted to practice before the Supreme Court of Pennsylvania. This does not prohibit representation on behalf of either the County of Lawrence or an appellant by a legal intern certified under the Pennsylvania Bar Admissions Rules.
- (c) A person other than one noted in subsection (b) will not be permitted to represent an appellant at a hearing if the ADR Panel.
- (d) In all cases, where a legal representation represents either party, notices of the date of the hearing and of the decision, and other communication arising from the case, shall be directed to the legal representative. The communication shall have the same force and effect as though personally given to the represented party.

5.0 Subpoenas

- (a) Procedure for requesting subpoenas.
 - (1) Subpoenas for the attendance of witnesses or for the production of documents will be issued only upon written application to the ADR Panel with a copy to the opposing party.
 - (2) Written application shall specify as clearly as possible the relevance of the testimony or documentary evidence sought. As to documentary evidence, the request must specify to the extent possible the documents desired and the facts to be provided thereby. Failure to adhere to the requirements of this subsection may result in refusal by the ADR Panel to issue the requested subpoenas.
- (b) Service
 - (1) A subpoena shall be served personally upon the witness.
 - (2) Subpoenas for the production of documents shall be served personally or by first class mail upon the individual in possession of the documents, if known, or the agency head, which may designate a knowledgeable alternate as custodian of the documents.

- (3) Service of subpoenas for the attendance of witnesses shall be made at least forty eight (48) hours prior to the hearing, unless the witness agrees to waive the forty-eight (48) hour requirement. Subpoenas for the production of documents shall be served no later than five (5) business days prior to the date of the hearing.
- (4) Failure to adhere to the requirements of this subsection may result in a ruling by the ADR Panel denying the enforceability of the subpoena.

6.0 Depositions and discovery

- (a) Depositions. At the discretion of the ADR Panel, depositions – statements of witnesses under oath – may be transcribed and submitted in lieu of testimony at the hearing, where the witness will be unavailable to testify at hearing because of unavoidable absence from the jurisdiction, illness, or other compelling reasons. The cost of depositions shall be borne by the requesting party.
- (b) Discover of documents. At the discretion of the ADR Panel, relevant documents may be obtained from an opposing party prior to the hearing.
 - (1) Requests for discovery of documents shall be in writing and shall initially be serviced upon the opposing party or legal representative in sufficient time to allow completion of discovery prior to the hearing.
 - (2) If the parties are unable to agree upon a reasonable scope of discovery, requests for discovery may then be forwarded in writing to the ADR Panel, which may, at its discretion, issue appropriate subpoenas under this section.
- (c) Witness list. Each party shall attempt to determine witnesses they intend to call at the hearing and the names shall be provided to the ADR Panel no later than three (3) business days in advance of the hearing, with a copy to the opposing party. Calling a witness whose name does not appear on the list may be permitted at the discretion of the ADR Panel.

7.0 Settlement

- (a) Parties, at their discretion, may enter into agreements to settle or otherwise terminate a proceeding before the ADR Panel at any point in the process prior to adjudication. All parties shall notify the ADR Panel in writing in a timely manner of a settlement agreement. Upon receipt of notice from the appellant or the appellant's legal representative an appeal shall be deemed withdrawn.
- (b) Unless the ADR Panel is requested to review and approve the settlement, the ADR Panel will not be responsible for the enforcement of a settlement agreement.

8.0 Pre-hearing conferences

- (a) Pre-hearing conference. To facilitate the submission and consideration of issues and facts, the ADR Panel may schedule a pre-hearing conference and request the parties to participate in the proceeding. The conference may be conducted in person or by telephone, to consider the following:
 - (1) Simplification of the issues.
 - (2) Stipulations of fact and authenticity of documents.
 - (3) Admissibility and relevance of witness testimony.
 - (4) Admissibility and relevance of exhibits, which will be identified and exchanged at the conference.
 - (5) Subpoenas and all issues related to subpoenas.
 - (6) Offers of settlement or proposals for adjustment, if appropriate.
 - (7) Other matters that would facilitate the efficiency of the proceeding.
 - (8) At the hearing, the parties may be limited to those witnesses and exhibits set forth in the memorandum unless one (1) or more of the following apply:
 - (i) A supplemental memorandum I'd submitted to the ADR Panel at least one (1) business day prior to the hearing.
 - (ii) There has been proper notice to other parties and there is no showing of undue inconvenience or prejudice.
 - (iii) The parties have conferred and agree to the additional witnesses or exhibits or both.

9.0 Procedure for hearings on furlough resignation, removal, or suspension

- (a) The County of Lawrence bears the burden of proof and shall go forward to establish by a preponderance of the evidence the charge or charges on which the personnel action was based. If, at the conclusion of its presentation, the County of Lawrence has, in the opinion of the ADR Panel, established a prima facie case, the appellant shall then be afforded the opportunity of presenting a case.
- (b) If, after due notice, the appellant fails to appear at the scheduled hearing, the County of Lawrence has no burden to go forward and the appeal may be dismissed without the presentation of evidence.
- (c) While in each case the ADR Panel may adapt the procedures and conduct of the hearing in accordance with the requirements of justice and due process, generally the routine shall follow the following order:
 - (1) The presiding ADR Panel member shall open the hearing and shall enter as exhibits a copy of the document initiating the action taken by the County of Lawrence, the ADR Communication Form of the appellant, and evidence of proper notification to all parties in interest.
 - (2) The parties shall, subsequent to the presiding ADR Panel member's introduction of documents, present any preliminary motions.
 - (3) The County of Lawrence shall call witnesses to testify after being sworn by the presiding ADR Panel member.
 - (4) The County of Lawrence may, through witnesses or by stipulations, offer any other relevant evidence for introduction into the record.
 - (5) The County of Lawrence shall cite all relevant provisions of law and all relevant rules and regulations.

- (6) The appellant may object to questions directed to witnesses and to the introduction of any evidence offered.
- (7) The appellant shall be allowed reasonable opportunity to cross-examine witnesses.
- (8) At the conclusion of the County of Lawrence case the appellant may move to dismiss on the ground that no prima facie case has been established.
- (9) If no motion to dismiss is made, if the motion is denied, or if the ADR Panel defers ruling on the motion the appellant may present the defense by the testimony of witnesses, the introduction of relevant evidence, and the citation of relevant provisions of law, rules, or regulations.
- (1) The County of Lawrence may object to questions directed to witnesses and to the introduction of any evidence offered.
- (2) The County of Lawrence shall be allowed reasonable opportunity to cross-examine the witnesses.
- (3) When all evidence has been introduced, the ADR Panel shall hear oral argument.
- (4) The transcript of the record will be made available to the ADR Panel. A copy of the transcript shall be available for purchase by either party at the rate established by the stenographer assigned to record the hearing.
- (5) The parties may submit briefs within a period of time fixed by the ADR Panel. Failure by either party to file its brief within the fixed time may lead to the refusal by the ADR Panel to consider the brief in making its decision.
- (6) The record shall be considered as closed upon receipt of transcripts, depositions, and briefs and the hearing shall be deemed concluded at that time. The ADR Panel will determine the facts upon the evidence of record and decide relevant questions of law within twenty (20) business days after the closing of the record.
- (7) A copy of the adjudication in writing, containing finds and reasons, shall be prepared as a decision of the ADR Panel, and when signed by a minimum of two (2) of the members of the ADR Panel, shall be final. A copy of the adjudication will be sent to the County of Lawrence and the appellant. Said adjudication will be final and binding.

10.0 Procedure for hearing on discrimination

- (a) The appellant bears the burden of proof and shall go forward to establish by a preponderance of the evidence of the charge or charges of discrimination. If at the conclusion of this presentation the appellant has, in the opinion of the ADR Panel, established a prima facie case, the County of Lawrence shall then be afforded the opportunity to reply to the charges.
- (b) Apart from the order of going forward, the remainder of the procedure shall follow that prescribed in Section 9.0 (relating to procedure for hearings on furlough, resignation, removal or suspension). If an appellant fails to attend the hearing the appeal may be immediately dismissed for failure to prosecute.

DOCUMENTARY FILINGS

11.0 Praecept of appearance

- (a) Legal representatives for the County of Lawrence or appellants in appeals or hearings held under these rules shall file a Notice of Appearance with the ADR Panel, prior to the time of the hearing if possible.

12.0 Exhibits

(a) Parties presenting exhibits shall bring six (6) copies to the hearing.

13.0 Briefs

(a) The parties will be notified of the procedure and schedule for the submission of briefs. Parties submitting briefs shall submit the original and five (5) copies to the ADR Panel at the location specified by the ADR Panel. Briefs filed outside of the time period, sequence, or location specified will be considered only at the discretion of the ADR Panel.

14.0 Form of documents

- (a) *Typewritten.* Pleadings, submittals, briefs, or other hearing-related documents filed with the ADR Panel, if not printed, shall be typewritten on letter size paper, eight and one-half (8 ½) inches wide by eleven (11) inches long, with left hand margin not less than one and one-half (1 ½) inches wide and other margins not less than one (1) inch. The impression shall be on only one side of the paper unless there are more than four (4) pages and shall be double spaced except that quotations in excess of five (5) lines shall be single spaced and indented not less than four (4) spaces.
- (b) *Printed.* Printed documents shall be not less than ten (10) point type on unglazed paper eight and one-half (8 ½) inches wide by eleven (11) inches long with inside margin not less than one (1) inch wide and with double spaced text and single spaced, indented quotations.
- (c) *Binding.* Pleadings, submittals, briefs, and other hearing-related documents other than correspondence shall be bound on the left side only.
- (d) *Paper color.* Pleadings, submittals, briefs, and other hearing-related documents other than correspondence shall be on white paper.