

<b>Title</b>	<b>ALTERNATIVE DISPUTE RESOLUTION (ADR) POLICY/PROCEDURE FOR MERIT-BASED HIRING EMPLOYEES</b>
<b>Date Issued</b>	<b>APRIL 23, 2014</b>
<b>Last Revision</b>	

**BY DIRECTION OF: Dauphin County Board of Commissioners**

**I. PURPOSE**

To provide a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without fear of prejudice or reprisal for initiating a complaint. To the extent possible, all complaints should be settled through informal discussions.

**II. SCOPE**

This policy applies to union employees covered by the Pennsylvania Social Services Union (PSSU) and non-union employees excluding Human Services Directors in the following departments: Area Agency on Aging, Drug and Alcohol Services, Mental Health/Intellectual Disabilities, Social Services for Children and Youth, and Human Services Director's Office (HSDO). It also applies to applicants who apply for County employment in these Human Services Departments and are not selected as a result of what they believe to be an arbitrary or discriminatory decision.

**III. DEFINITIONS**

- A. **Dauphin County** - The County of Dauphin and the Dauphin County Board of Commissioners and all departments and agencies thereof.
- B. **Employee** - Any individual employed by Dauphin County.

**IV. POLICY**

Dauphin County encourages open communication between employees and their supervisors. Most conflicts and differences of opinion can be resolved by the employee and supervisor directly by discussing issues and jointly exploring alternatives. In cases where conflicts cannot be mutually resolved, Dauphin County has established an ADR policy/procedure for PSSU union and non-union employees excluding Human Services Directors in the following departments: Area Agency on Aging, Drug and Alcohol Services, Mental Health/Intellectual Disabilities, Social Services for Children and Youth, and the HSDO.

Dauphin County recognizes the importance of providing a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without fear of prejudice or reprisal for initiating a complaint or participating in its settlement. To the extent possible, all complaints should be settled through informal discussions at the lowest administrative level, and disputes should be processed in a more formal manner only when either party feels that a fair and equitable solution has not been reached in the informal discussions.

Regardless of any informal attempt to resolve areas of conflict, employees have the explicit right to pursue the five-step ADR procedure which covers the following employment actions: demotion, suspension, reduction in pay, non-selection, performance evaluation reviews, and termination and furlough which they believe to be arbitrary or discriminatory. Discriminatory action is defined as any adverse employment action based on political affiliation, race, color, national origin, gender, religious creed, age, disability, protected veteran status, or any factor not related to the person's ability to perform the duties of the position (i.e. any non-merit factor).

Appeals alleging discrimination which do not include specific facts relating to discrimination may be dismissed. Specific facts which should appear on the ADR Request 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 grievant first became aware of the alleged discrimination.

## **V. TIMELINESS**

All disputes must be initiated within ten (10) business days of the time the employee or applicant is informed of an employment action that can be raised through the ADR procedure. Every effort should be made to ensure prompt and efficient consideration at each and every stage. Either party may request an extension to the time requirement. The request for an extension must be in writing and management's request does not have to be mutually agreed upon. Extensions cannot exceed ten (10) business days from the last date to file or respond.

## **VI. APPLICANTS**

The County is committed to maintaining the integrity of the application process and ensuring the equal treatment and consideration of all applicants, e.g. individuals who have applied for a job but were not selected. Therefore, an applicant for a position in either Area Agency on Aging, Drug and Alcohol Services, Mental Health/Intellectual Disabilities, Social Services for Children and Youth, or the HSDO who is subject to non-selection, which he/she believes to be unreasonably arbitrary or discriminatory as defined above, may avail himself/herself of the ADR procedure. An applicant who wishes to pursue the ADR procedure must submit the ADR Request Form to the Director of Human Resources and a copy delivered to the HSDO within ten (10) business days of the time he/she is informed that he/she was not selected for the position. Unless otherwise specified, applicant grievances will begin at Step 3.

## **VII. DIRECT APPEAL**

Dauphin County remains committed to the transparency and integrity of the entire ADR process as written and has intentionally crafted a series of steps that escalate both in authority and accountability. As such, the County strongly encourages employees and applicants to avail themselves of the entire procedure; however, employees and applicants do have the option to appeal directly to the panel described in Step 5 and waive Steps 1 through 4 of the process. Persons wishing to waive Steps 1 through 4 must submit the ADR Request Form to the Department of Human Resources within ten (10) business days of the time the employee or applicant is informed of an employment action that can be raised through the ADR procedure.

## **VIII. STEPS OF THE ADR PROCEDURE**

### **Initiating an ADR request:**

An employee or applicant must utilize the ADR Request Form to initiate an ADR request. The form must state the claim, the facts in support of the claim and the remedy requested. The employee or applicant is responsible for having the issue/dispute/appeal delivered to the proper person or office and a copy to the HSDO within the specified time frames. Failure to do so could render the appeal null and void.

### **Step 1 – Immediate Supervisor**

Within ten (10) business days of the time that the employee is informed of an employment action in dispute, the employee must submit to his/her immediate supervisor the ADR Request Form to initiate the ADR request. A copy of the ADR Request Form should also be delivered to the HSDO. The supervisor is responsible for scheduling a meeting with the employee within ten (10) business days of the receipt of the complaint to facilitate a face-to-face discussion of the employee's request. Within ten (10) business days following the face-to-face discussion, the supervisor is responsible for providing a written response to the appeal. The supervisor's response must include that the employee has a right to appeal to the next step of the ADR process. Should the issue or dispute involve alleged discrimination by the immediate supervisor and/or the department head, the ADR request may be submitted directly to Step 2 or Step 3, respectively.

## **Step 2 - Department Head**

If the employee finds the Step 1 response unsatisfactory, the employee may appeal the dispute to Step 2 by submitting the ADR Request Form to the department head and a copy to the HSDO within ten (10) business days of receipt of the Step 1 response. A copy of the Step 1 response must be attached.

The department head will meet with the employee in an effort to resolve the dispute at this level. Within ten (10) business days following the discussion, the department head will, in writing, grant, deny, or propose a modification to the requested remedy. The department head's response must include that the employee has a right to appeal to the next step of the ADR process.

## **Step 3 – Director of Human Resources**

If the employee finds the Step 2 response unsatisfactory, the employee may appeal the dispute to Step 3 by submitting the ADR Request Form to the Director of Human Resources and a copy to the HSDO within ten (10) business days of receipt of the Step 2 response. Copies of Step 1 and 2 responses must be attached.

The Director of Human Resources will meet with the employee and management in an effort to resolve the dispute at this level. Within ten (10) business days following the discussion, the Director of Human Resources will, in writing, grant, deny, or propose a modification to the requested remedy. The Director of Human Resource's response must include that the employee has a right to appeal to the next step of the ADR process.

## **Step 4 - Chief Clerk/Chief of Staff or Deputy Chief Clerk/Deputy Chief of Staff**

If the employee finds the Step 3 response unsatisfactory, the employee may appeal the dispute to Step 4 by submitting the ADR Request Form to the Chief Clerk/Chief of Staff or Deputy Chief Clerk/Deputy Chief of Staff and a copy to the HSDO within ten (10) business days of receipt of the Step 3 response. Copies of Steps 1 through 3 responses must be attached.

The Chief Clerk/Chief of Staff or Deputy Chief Clerk/Deputy Chief of Staff will meet with the employee and management in an effort to resolve the dispute at this level. Within ten (10) business days following the discussion, the Chief Clerk/Chief of Staff or Deputy Chief Clerk/Deputy Chief of Staff will, in writing, grant, deny, or propose a modification to the requested remedy. The Chief Clerk/Chief of Staff's response must include that the employee has a right to appeal to the next step of the ADR process.

## **Step 5 - Panel Review**

If the employee finds the Step 4 response unsatisfactory, the employee may appeal the dispute to Step 5 by submitting the ADR Request Form to the Director of Human Resources and a copy to the HSDO within ten (10) business days of receipt of the Step 4 response. Copies of Steps 1 through 4 responses must be attached.

An employee or applicant has the ability to appeal directly to Step 5 of the ADR procedure, provided that a timely written waiver of steps one through four is provided to the Director of Human Resources with an ADR Request Form describing the claim, the facts in support of the claim and the remedy sought.

Upon receiving the appeal and determining that the appeal was made timely, the ADR Panel will be convened within sixty (60) days of receiving the appeal. The panel, appointed by the County Commissioners, will consist of the following: one (1) Human Resources professional from the public sector who is not in any way affiliated or under the employ of Dauphin County, one (1) Human Resources professional from an education institution, and one (1) Human Resources professional from the private sector.

The panel will consist of a Chairperson and two (2) additional members who have no interest in, or knowledge of the appeal. The Chairperson of the panel will be responsible for leading the hearing, preparing the final documentation and assuring that the grievance determination is timely. The panel will be comprised of persons who are regarded as able to listen impartially to the facts surrounding an issue, ask relevant questions of all parties and arrive at a reasonable, objective decision.

In addition, the panel will be appointed for staggered terms of one (1), two (2), and three (3) years; and will remain in place for any and all appeals that may arise during that term unless in the event of a clear and articulate conflict of interest in a given appeal, at which time the panel member would be replaced with a similarly qualified individual for the purposes of that appeal. Additionally, to ensure the autonomy of the panel it will also have the authority to hear any case at its sole discretion, whether or not it has gone through steps one (1) through four (4).

The ADR panel will conduct a hearing on the complaint and will provide the opportunity for all parties involved to provide testimony relevant to the matter in dispute. A complete stenographic, electronic, or other exact record of the proceedings may be made. In the event a party wants a transcript of the record, they must make arrangements with the stenographer and cover the associated costs. The panel will render a binding decision in writing to the Department of Human Resources' representative within thirty (30) business days following the hearing. The representative will forward the decision to the County Commissioners. The written decision must contain the reason(s) for the decision. The panel has the authority to grant necessary remedy based upon their binding decision in the context of granting back pay, retroactivity, or reinstatement when applicable.

The decisions of the ADR panel are final and not subject to review or modification by the County Commissioners or County Staff. The Commissioners will not have influence on panel decisions. No ADR panel member can be removed by an individual or majority of the Board of Commissioners for a rendered decision. The Department of Human Resources will notify the department head and the grievant of the panel's decision.

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 must notify the ADR panel in writing in a timely manner of a settlement agreement. Upon receipt of notice from the grievant or the grievant's attorney, the grievance will be withdrawn. The ADR panel may be requested to review and approve the settlement. The HSDO and the Department of Human Resources will be responsible for the enforcement of the settlement. Dauphin County will provide the Department of Public Welfare County Programs Section with a copy of each appeal upon submission and a copy of the final written decision at every step.

County Commissioners can reappoint the same panel members after their initial term, as long as they are rotated and remain in staggered terms. Members of the ADR administrative panel are not compensated and serve in a voluntary capacity to Dauphin County by providing their professional expertise. There may not be any reciprocal agreements with other County agencies to serve as panel members for each other.

## **IX. CONFIDENTIALITY**

Grievance record files are confidential and will be maintained by the Department of Human Resources separately from the employee's personnel file. All individuals involved in the process will respect the privacy of the grievant, witnesses, and the committee. All information disclosed during the grievance process and the determination of the committee is to be held in confidence by the members of the committee, and discussed only with the Commissioners and their administrative staff, upon request.

## **X. ROLE OF THE DEPARTMENT OF HUMAN RESOURCES**

The Department of Human Resources' representative will notify the ADR panel members to hear the grievance, and will contact the department head and the grievant to schedule a mutually convenient time to convene the grievance hearing. He/she will provide written confirmation to each participant of the time and location of the hearing. The representative will provide each panel member a copy of this ADR Policy, Hearing Rules and copies of the grievance. The representative may answer questions regarding the documentation, but will not offer any opinion regarding the legitimacy of the grievance, nor will he/she attempt to influence the panel in any way. The Department of Human Resources' representative will facilitate the communication of the decision of the ADR panel members as outlined above.