

Effective  
June 1, 2013

## MERIT HIRE ALTERNATIVE DISPUTE RESOLUTION

The County of Lancaster has established and implemented policies and procedures to guide our employees and applicants regarding standards and expectations. Further, the County of Lancaster is dedicated to adhering to its policies and procedures when executing personnel actions.

The County of Lancaster encourages open and honest communication between employees or applicants and direct supervisors. Most conflicts and differences can typically be resolved by the employee or applicant and supervisor and/or department head directly confronting issues and jointly exploring resolution options. In cases where conflicts cannot be mutually resolved, the County of Lancaster has established an Alternative Dispute Resolution (ADR) procedure for the following departments – (excluding Directors, - Children and Youth Services, Lancaster County Behavioral Health and Developmental Services, The Office of Aging, Drug and Alcohol.) NOTE: Employees covered under a Collective Bargaining Agreement may choose to use their grievance procedure or the ADR but may not use both.

The County of Lancaster recognizes the importance of providing a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without prejudice or reprisal for initiating a complaint or participating in its settlement. Disputed matters should be processed through ADR only when either party feels that a fair and equitable solution has not been reached through normal channels of communication.

Regardless of any informal attempt to resolve areas of conflict, applicants and 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 and discharge which they believe to be arbitrary or discriminatory. Discriminatory action is defined as any based on race, color, religion, age, sex, national origin, genetic information or disability: (i.e. any non-merit factor).

### **STEPS OF THE ADR PROCEDURE**

#### **Initiating an ADR Request:**

An employee or applicant may initiate an ADR request by completing an ADR request form. NOTE: The employee or applicant is responsible for having the issue/dispute/appeal delivered to the proper person or office within the time periods, as specified. The form may be submitted electronically, hand delivered or via First Class US Mail.

### **First Step: Immediate Supervisor**

Within ten (10) business days of the time that the employee or applicant knows, or should have known, of an action or issue in dispute, the employee or applicant must advise the appropriate supervisor that he or she is initiating an ADR request. The employee or applicant must notify the supervisor in writing, using an ADR request form and must advise the supervisor of the specific issue in dispute, the facts in support of the employee's position, and the remedy requested. The supervisor is responsible for scheduling a meeting with the employee or applicant within ten (10) business days of the receipt of the complaint to facilitate a face-to-face discussion of the employee's or applicant's request. Within ten (10) business days following the discussion, the department head shall, in writing, grant, deny, or propose a modification to the requested remedy using an ADR reply form. The supervisor shall include notice to the employee or applicant of his or her right to appeal the dispute to the Second Step. NOTE: Should the issue or dispute involve alleged discrimination by the immediate supervisor and/or the department head, an employee or applicant has the ability to appeal directly to the Third Step of the ADR procedure, provided that a timely written waiver of the First Step and Second Step is provided to the Office of Human Resources

### **Second Step: Department Head**

If the employee or applicant finds the First Step response unsatisfactory, the employee or applicant may appeal the dispute in writing using an ADR form to the department head within ten (10) business days of receipt of the First Step response. The Second Step appeal must state the specific issue in dispute, facts in support of the employee's or applicant's position, the reasons the First Step response is unsatisfactory, and the remedy requested. Copies of the First Step correspondence must be included with the appeal to the Second Step.

The department head shall, with due consideration of the facts and circumstances of the dispute, meet with the employee or applicant within ten (10) business days in an effort to resolve the dispute at this level. Within ten (10) business days following the discussion, the department head shall, in writing, grant, deny, or propose a modification to the requested remedy using an ADR reply form. This response shall include notice of the employee's or applicant's right to appeal the dispute to the Third Step.

### **Third Step: The Office of Human Resources**

If the employee or applicant finds the Second Step response unsatisfactory, the employee or applicant may appeal the dispute in writing using an ADR form to the Third Step within ten (10) business days of receipt of the Second Step response. The Third Step appeal must state the specific issue in dispute, the facts in support of the employee's position, the reasons why the Second Step response is unsatisfactory, and the specific remedy requested. Copies of the Second Step correspondence must be included in the appeal to the Third Step.

The Office of Human Resources, in addition to considering the facts and circumstances of the dispute, shall conduct a thorough and complete investigation, including the solicitation of oral and/or written statements from persons of interest in the dispute. At the conclusion of the review and investigation,

Human Resources shall, in writing, grant, deny, or propose a modification to the requested remedy. This response shall include notice of the employee's or applicant's right to appeal the dispute to the Fourth Step.

#### **Fourth Step: Human Services Administrator and Board of Commissioners**

If the employee or applicant finds the Third Step response unsatisfactory, the employee or applicant may appeal the dispute in writing to the Fourth Step using an ADR form. This appeal must be submitted in writing to the Human Services Administrator within ten (10) business days of receipt of the Third Step response. This appeal must state the issue in dispute, the facts in support of the employee's or applicant's position, the reasons why the Third Step response is unsatisfactory, and the remedy requested. Copies of the Third Step correspondence must be included with the appeal to the Fourth Step.

The Human Services Administrator or his/her designee will review the appeal to determine whether time limits and procedural steps were followed. Having determined that the ADR procedure has been followed, the Human Services Administrator will forward the complaint to the Board of Commissioners for review. The Board of Commissioners shall, in writing, grant, deny, or propose a modification of the requested remedy. This response shall include notice of the employee's or applicant's right to appeal the dispute to the Fifth Step of the process. Should the Human Services Administrator determine that the employee or applicant did not follow the time limits and/or procedural steps of the ADR procedure, the Human Services Administrator will notify the employee or applicant, in writing, of the administrative errors. Any administrative errors caused by the employee or applicant shall render the appeal null and void.

#### **Fifth Step: Panel Review**

If the employee or applicant finds the Fourth Step response unsatisfactory, the employee or applicant may appeal the dispute to the Fifth (and final) Step. This appeal must be submitted in writing using an ADR form to the Director of Human Resources within ten (10) business days of receipt of the Fourth Step response. This appeal must state the issue in dispute, the facts in support of the employee's or applicant's position, the reasons why the Fourth Step response is unsatisfactory, and the remedy requested. Copies of the Fourth Step correspondence must be included with the appeal to the Fifth Step.

Upon receiving the appeal and determining that the appeal was made timely, the County Commissioners shall appoint a panel of six (6) members not affiliated with the County- preferably consisting of community leaders with non-profit organization, government experience or academic affiliation. The panel shall be appointed for a fixed term of 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 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 through four.

The Human Resources Director shall be responsible to notify panel members of the need for an ADR Hearing. The notice shall provide proposed meeting dates, time and location for the ADR Hearing. The notice shall also provide a contact for the employee or applicant and for the County. The first three (3) panel members to respond to the notice shall conduct a hearing on the complaint and will provide the opportunity for all parties involved to provide testimony relevant to the matter in dispute. The panel shall render a binding decision in writing to all parties within twenty (20) business days of the hearing. The panel's decision is final.

**Special Provisions:**

In cases where the position designated for a "step" is not filled or there is an absence, a designee may be selected by the Director of Human Resources, Chief Clerk or Human Services Administrator. Additionally, either party may request a time extension when those extensions are related to authorized leaves, absences or position vacancies. Additionally, either party may request an extension of time limits due to business necessity, emergencies or other relevant reasons.