

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

PURPOSE

McIntosh Trail CSB recognizes the need for a uniform process for reviewing employee concerns. This procedure is established to provide eligible employees with an orderly process for the addressing of unfavorable employment conditions or decisions of a non-disciplinary nature in a timely manner.

POLICY

Every employee eligible to file a grievance as defined in this policy may do so without fear of unlawful discrimination or reprisal. No person shall directly or indirectly use or threaten to use any official authority or influence to discourage an employee from exercising any right provided in this policy.

The employee and respective supervisor are encouraged to make reasonable effort to identify the issues involved and the remedy sought and to resolve any dispute before a written grievance is filed. The effort to resolve may include the use of mediation.

McIntosh Trail CSB assures that all employees are aware of this policy by posting a notice (see Attachment #1) in the Personnel Office and on bulletin boards of each service/program site.

Any state officer, supervisor, management representative, or employee who knowingly supplies false or misleading information in a grievance, or who attempts to harass, intimidate, or retaliate against any employee, state officer, supervisor, or management representative as a result of filing a grievance, or providing testimony or evidence regarding a grievance, will be subject to disciplinary action up to and including dismissal from employment.

I. **ELIGIBILITY**

- A. Any employee of McIntosh Trail CSB may file a grievance except for the following:
- Employees on initial working test.
 - Employees on temporary, intermittent, student, emergency, or other non-status appointment.
 - Part-time employees whose employment averages 20 hours or less per week.
 - Employees who have been notified of termination, suspension, demotion or disciplinary salary reduction.
 - Employees seeking relief on the same matter through other administrative or judicial means.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

II. **GRIEVANCE ISSUES**

- A. "Grievance" means a claim by an eligible employee that the employee's personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.
- B. Grievable issues include, but are not limited to, the following:
1. **Allegations of unlawful discrimination** because of race, color, creed, national origin, ancestry, citizenship, religion, political opinion or affiliation, age, disability, sex, pregnancy, childbirth or related condition, military or veteran status, or other status protected by federal, state or local law or regulation.
 2. **Allegations of sexual harassment** or other forms of harassment.
 3. **Harassment, retaliation, or intimidation** for exercising any right provided under the Rules of the State Personnel Board or policies of McIntosh Trail CSB.
 4. **Retaliation** for using the grievance procedure.
 5. **Erroneous, arbitrary, or capricious interpretation or application of personnel policies, procedures, rules, regulations, ordinances, and statutes.**
 6. **Unsafe or unhealthy working conditions.**
- C. Grievances alleging unlawful discrimination based on race, color, sex, or sexual harassment, national origin, disability, age, religious or political opinions or affiliation, will be reviewed by McIntosh Trail CSB Personnel Office and processed in one of the following ways:
- Allow the grievance to proceed through the grievance procedure.
or
Investigate the grievance pursuant to a departmental procedure designed specifically for unlawful discrimination complaints, in which case the time limitations specified may be extended by 30 calendar days.
or
Advise the grievant, in writing, that McIntosh Trail CSB has concluded processing the grievance and that the grievant may present the matter to the Georgia Commission on Equal Opportunity or the Equal Employment Opportunity Commission.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

II. **GRIEVANCE ISSUES (CONTINUED)**

D. Non-grievable issues include the following:

1. Issues which are pending or have been concluded by direct appeal to the State Personnel Board, the Georgia Commission on Equal Opportunity, or through other administrative or judicial procedures.
2. Issues which are subject to appeal, review, or relief through other provisions of the Rules of the State Personnel Board (classified employees only).
3. Performance responsibilities, expectations, or evaluations, work plans, or attendance plans.
4. Relocation of employees, except where the costs of relocation qualify for reimbursement under regulations promulgated by the Office of Planning and Budget.
5. Temporary work assignments which do not exceed 90 calendar days.
6. Permanent changes in working hours or duties and responsibilities unless such changes are unsafe, illegal, discriminating, a prohibited practice, or can be shown to adversely affect an employee's personal employment.
7. Budget and organizational structure, including the number of assignment of positions in any organizational unit.
8. Internal security practices established by McIntosh Trail CSB.
9. The selection of an individual to fill a position unless it is alleged that the selection is in violation of a written McIntosh Trail CSB policy or State Personnel Board rules on filling vacancies.
10. Demotion of an employee on working test (classified staff only).
11. Termination, demotion, reassignment, furlough, layoff from duties because of lack of work or other actions resulting from a reduction in the work force or job abolition.
12. Any matter which is not within the jurisdiction or control of McIntosh Trail CSB.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

III. **REPRESENTATION**

- A. Employees may represent themselves or be represented by a third party of their choosing, provided the third party is an employee of McIntosh Trail CSB who has been properly authorized for absence from regular work duties if a hearing takes place during work hours. McIntosh Trail CSB will make reasonable effort to authorize a third party representative to be absent and to provide up to four hours of duty time per grievance for the purpose of assisting the grievant. Such time shall be during regular work hours, without loss of pay or leave credits. No employee will be authorized to serve as a third party representative for more than two grievances per calendar year.
- B. A non-employee third party representative is not permitted unless required by law, rule, or regulation.

IV. **GENERAL PROVISIONS**

- A. Any party to a grievance may request that the grievance be referred to mediation. The Personnel Manager will make the final determination regarding the appropriateness of mediation referral for the grievance.
- B. At the sole discretion of a grievant, a grievance may be voluntarily withdrawn at any point in the procedure. The grievance will be considered terminated and may not be refiled. To withdraw a grievance, the employee should notify the Personnel Manager in writing.
- C. Employees needing assistance in processing a grievance may contact the Personnel Manager, 770-358-8264.
- D. Employees having a common grievance may sign and submit one group grievance, indicating not more than two grievants as selected spokesperson. Group grievances eliminate the right of the grievants to pursue that grievance on an individual basis through this procedure.
- E. The Personnel Manager may consolidate grievances as follows:
Multiple grievances filed by an employee may be consolidated into a single grievance.
or
Separate grievances filed by two or more employees regarding the same issues(s) may be consolidated into a group grievance.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

IV. **GENERAL PROVISIONS (CONTINUED)**

- F. Processing of a grievance will cease if the employee separates employment.
- G. If an employee seeks administrative or judicial relief after requesting the implementation of a grievance, the investigation of the grievance will cease until a decision is rendered by the administrative or judicial process.

V. **TIME PROVISIONS**

- A. A grievant will be allowed up to four hours of work time, as approved by the supervisor, to prepare a grievance or to prepare for a hearing or mediation session. Such time shall be during regular work hours, without loss of pay or leave credits. Preparation time shall include such activities as meeting with witnesses and reviewing the grievant's personnel file. No employee will be granted more than 12 hours per calendar year for this purpose.
- B. The Personnel Office shall have the authority to resolve any dispute regarding the determination of reasonable and necessary time for processing a grievance.
- C. Employee grievances will be resolved within 90 days. Time is counted in calendar days. If the last day of the time limit falls on a Saturday, Sunday, or a holiday, the time limit will be extended to the next regular work day.
- D. Upon agreement of all parties to a grievance, any time limit specified in this policy may be extended.
- E. The Personnel Office or the Certified Grievance Hearing Officer may extend any time limit specified in this policy due to emergency, medical disability or legally mandated absence on the part of the grievant, third party, departmental representative, a witness, or the Certified Grievance Hearing Officer. The grievant will be notified immediately of the reasons and the length of the extension.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

VI. **EMERGENCY PROVISIONS**

In the event of an emergency situation, the Executive Director of McIntosh Trail CSB may, upon written notice to the Commissioner of State Personnel Administration stating the reasons, suspend the right of grievance under this procedure for all or part of the agency for a period not to exceed thirty days. The Executive Director of McIntosh Trail CSB may request an extension, however, by writing the Commissioner of State Personnel Administration.

A suspension of the eligibility to file a grievance may delay but will not otherwise prejudice any grievance filed before the effective date of the suspension, nor will any grievance filed within 15 days after the period of suspension has expired be denied or otherwise limited.

VII. **PROCEDURE**

A. The grievance must be submitted on the **Standardized Grievance Form** (see Attachment 2) to the McIntosh Trail CSB Personnel Office within 10 working days after the occurrence upon which the grievance is founded or within 10 working days after the employee becomes aware of the problem. The Personnel Manager may grant a waiver or an extension of the filing deadline.

The grievance must contain a statement of the issue involved, how the grievant's employment has been unfavorably affected, parties involved, the relief sought, and the date(s), if known, the incident(s) or violation(s) occurred. If the grievance involves interpretation or application of rule or policy, the grievance must identify the rule or policy at issue.

B. Within 10 days of receipt of a grievance, the Personnel Manager will review the grievance to determine the grievability of the issue(s) and provide written notice to the parties that:

The issue is non-grievable, including the specific reasons for the determination, and that the grievance process is being terminated.

or

The issue alleges unlawful discrimination and/or harassment and will be processed according to the provisions of Paragraph II.C. of this policy.

or

The issue is grievable and specify the manner in which the grievance is to be processed. The notice will also be provided to the first level of supervision having the authority to grant the requested relief.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

VII. **PROCEDURE (CONTINUED)**

C. **Unclassified Grievants**

1. Within 15 work days of issuing notice that an issue is grievable, the Personnel Manager will conduct a grievance review.

The Personnel Manager may:

- a. Base the review on written statements and documents provided;
 - b. Interview grievants, witnesses and others;
 - c. Meet the parties to facilitate an agreement;
 - d. Clarify and/or interpret relevant agency policies;
 - or
 - e. Explore alternative resolutions.
2. Unless the parties have previously resolved the issue(s), the Personnel Manager will submit his/her findings and written recommendation(s) to the Executive Director (or designee).
 3. The Executive Director (or designee) will issue a written decision which will be final and will conclude the grievance process.

D. **Classified Grievants**

1. Within 21 days of issuing a notice that an issue is grievable, the Personnel Manager will:
 - a. Attempt to resolve the grievance by facilitating discussions between the parties, clarifying and/or interpreting rules or policies, or exploring alternative resolutions.
 - b. Refer the issue to the Dispute Resolution Service of the State Personnel Administration for possible mediation.or
Refer the State Personnel Administration to assign a Certified Grievance Hearing Officer to conduct a hearing.
2. If the Personnel Office is unable to resolve the issues or a satisfactory resolution does not result from the Dispute Resolution Service, the grievant shall be notified that services of a Certified Grievance Officer have been requested and the grievance shall proceed to a State Personnel Board hearing.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

VII. **PROCEDURE (CONTINUED)**

D. **Classified Grievants (Continued)**

3. The Certified Grievance Hearing Officer assigned may be an employee of McIntosh Trail CSB but will not be in the direct vertical managerial hierarchy of the grievant; will not have any familial relationship to any of the parties to the grievance; and cannot have any foreknowledge of the issues being grieved.

The grievant or the Personnel Office may object to the selection of the hearing officer by stating the reasons for the objection. The Commissioner of the State Personnel Administration will uphold the original selection or provide an alternative hearing officer. The decision of the State Personnel Administration Commissioner is final.

Within 15 days of assignment, the Certified Grievance Hearing Officer will conduct a grievance hearing. The hearing officer will submit a written recommendation for resolution of the grievance to the Executive Director of McIntosh Trail CSB within 15 days of the date of the hearing.

4. The Executive Director will review the findings and recommendations(s) of the hearing officer and issue a final decision in writing within 10 days of receipt of the hearing officer's recommendation. The decision of the Executive Director will be final except as follows:
- a. After receiving the final decision from the Executive Director, if the grievant believes that the appointing authority has violated any provision(s) of these rules, the grievant may file an appeal in writing to the Office of State Administrative Hearings. The appeal must be filed in accordance with the provisions of 478-1-.24(6) (a) (3) (v) and within ten (10) calendar days of receipt of the final determination. The appeal must include the specific provision(s) of the rule alleged to have been violated and any documentation that would support the allegation.
 - b. An employee whose grievance alleged unlawful discrimination may appeal the final decision to the Equal Opportunity Commission.
 - c. An employee whose grievance alleged occupational exposure to hazardous chemicals may appeal the final decision to the Commissioner of Labor.

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURE

EFFECTIVE
DATE: 04-06-11 (replaces 05-28-10)

APPROVED BY:

Reviewed (no changes): _____

Executive Director

VII. **PROCEDURE (CONTINUED)**

D. **Classified Grievants (Continued)**

5. A classified grievant may file a complaint with the Commissioner of the State Personnel Administration if, at any step in this procedure, the Personnel Office, Certified Grievance Hearing Officer or Executive Director of McIntosh Trail CSB fails to adhere to specified time limits set out in this procedure. The State Personnel Administration Commissioner will review the complaint and take such action as is deemed appropriate.

VIII. **DEFINITIONS**

"Grievance" means a claim by an eligible employee that the employee's personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.

"Certified Grievance Hearing Officer" or "hearing officer" refers to individuals who have been certified by the State Personnel Administration to hear grievances.

"Classified employee" means an employee who was in the classified service as of June 30, 1996, and who has remained in a classified position without a break in service since that date.

"Unclassified employee" means an employee who was hired July 1, 1996 or later under employment-at-will and includes all employees except those designated as classified.

ATTACHMENTS:

1. Notice to McIntosh Trail CSB Employees
2. Standardized Grievance Form