

The college shall establish a process for hearing grievances by employees (ARS 15-1445).

Where appeal is provided for in these administrative procedures, a hearing officer will be utilized. The hearing officer will be selected from those approved and under contract through the State of Arizona Procurement Office. Within five (5) working days after the request for appeal has been received, Human Resources will contact the hearing officer and provide notice of required service.

The Hearing Process

1. Preliminary Matters

Once the hearing officer has received notice that he/she is to serve in a particular matter, he/she will, within two working days (1) review the record to determine the time likely to be needed for the hearing, (2) select a date, time and place for the hearing and (3) notify the Human Resources of the date, time and place of the hearing and its probable length.

All hearings will be convened no less than eight (8) business days after notice to the appealing employee and no more than eighteen (18) business days after the date the request for appeal is received in Human Resources. Human Resources will immediately notify the grievant, the accused college employee, and any witnesses, attaching a copy of these procedures to the notice. The date of the hearing may be postponed by stipulation of the employee and the College, or by and in the sole discretion of the hearing officer, or at the request of the grievant or the College for such reason as the hearing officer may deem appropriate.

2. Position Statements

The employee may be represented at the hearing by counsel, at the employee's expense.

Not less than three (3) days before the hearing date, the grievant and the accused college administrator will submit a written position statement setting forth a comprehensive summary of all facts and issues pertinent to the appeal, listing any and all witnesses expected to be called at the hearing and listing and attaching all documents, materials and exhibits which support the party's position.

For each witness listed a brief summary of the expected testimony will be included. The original and two copies of the position statement and all attachments will be submitted to the Office of Human Resources for distribution.

Failure to submit a complete statement or a complete list of witnesses and exhibits on the part of any party is grounds for limiting the presentation of that party's case at the hearing. The hearing officer will have the discretion to: 1) not allow a party to offer particular testimony 2) introduce a particular document or exhibit; 3) disregard the offending position statement, or; 4) vacate the hearing and recommend denial of the appeal or reinstatement of the appealing employee.

3. Closed Hearing

The hearing will be closed unless the employee requests that it should be conducted as a public hearing. Persons who have a right to attend a closed hearing include the hearing officer, legal counsel for the College, the employee and the supervisor and his/her legal representative. Witnesses will be allowed in a closed hearing during their testimony only.

Appealing parties who wish to have an open hearing will notify the office of human resources no less than five days before the hearing. The Office of Human Resources will notify the hearing officer that a request for an open hearing has been submitted and the hearing will be conducted in the open.

Record

The hearing officer shall, by use of a mechanical devise, make a record of the hearing.

Conduct of the Hearing

1. The College will present its case first, followed by the employee, unless the parties agree, or the hearing officer determines otherwise.
2. The hearing will be conducted in an informal manner without any requirement to adhere to normal rules of evidence.
3. All witnesses will testify under oath. Except for the employee, the college administrator, and their legal representation, all witnesses will be excluded from the hearing except when testifying and witnesses will be instructed not to discuss their testimony outside the hearing room.
4. The hearing officer will otherwise make rulings necessary to expedite the hearing process, including:
 - a. Rulings regarding the admissibility of evidence or testimony; i.e. the necessity, repetitiveness or relevance of the evidence or testimony.
 - b. The use of any reasonable mechanism to identify documents and exhibits for the hearing.
 - c. Whether there will be opening statements and closing arguments by the parties.

Decision of the Hearing Officer

The hearing officer shall prepare a written statement of findings and submit it to the President within ten (10) working days after the conclusion of the hearing.

The President is not bound by the findings, conclusions and recommendations of the hearing officer. After receipt of the findings, conclusions and recommendations of the hearing officer, the President will review the record of the proceedings and issue a written decision within ten (10) working days, under unusual circumstances as many as 20 days, and provide a copy of the decision to all parties and to Human Resources

The President's decision shall constitute the final agency action. Judicial review before a court of competent jurisdiction must be filed, if at all, within 30 calendar days of the date of the President's decision.

5.165

Hearings

5.165

Date of Adoption: Adoption of Manual

References: ARS 15-1445