



COUNTY OF CARROLL
OFFICE OF THE COMMISSIONERS

Administration Building
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Policy Title:	Procedure for Suspension and/or Discharge Right to a Hearing
Effective Date:	05/20/2014
Revision Date:	06/29/23
Reference(s):	

A. Definitions

As used here for the purpose of this procedure, unless otherwise indicated, the following words and phrases hold the following meanings:

- 1) Board – the Carroll County Board of Commissioners.
- 2) Chair – the Chairman of the Carroll County Board of Commissioners.
- 3) Employee – an employee of Carroll County who has, in accordance with Carroll county policy, been advised of his/her suspension and or possible discharge of employment.
- 4) Administrator – the elected or appointed authority or his/her designee, of the Mountain View Community, House of Corrections, County Farm, Registry of Deeds, County Attorney's Office, Sheriff's Office, Human Resources, Maintenance, or Finance Office.
- 5) Human Resources – the Director of Human Resources or his/her designee.
- 6) Hearing – any scheduled and properly noticed hearing held by the Carroll County Board of Commissioners, as provided for in RSA 28:10-a.
- 7) Party – either the Board or the employee as defined above.

B. Pre-Hearing Procedure

- I. **Administrator's Notice of Suspension and/or Recommendation of Discharge or Removal:** Per RSA 28:10-a, prior to the suspension and/or discharge or removal of any non-union employee who has been employed by the County for at least one year, the Administrator will provide the employee written notice of the action being taken. A copy of this notice must be provided to Human Resources. The written notice to the employee should include:

- 1) A summary of the reasons for the action being taken.
- 2) Citations to the applicable provisions of RSA 28:10-a, and citations to the County's applicable Personnel Policies and any other applicable workplace standards upon which the action is based.

- 3) Notification that the Administrator intends to address the action and/or recommendation at a Commissioners' hearing, including notification that the employee may be heard at said hearing.
- 4) Copies of applicable County policies

II. **Notice of Hearing:** The Administrator, or Human Resources, if requested, shall confer with the Executive Coordinator to request a date and time for the hearing. Upon confirming a date and time, the Administrator will request Human Resources to mail or hand deliver notification of the hearing and a copy of the Procedure to the employee. Every reasonable effort shall be made to ensure said notification shall be sent or delivered to the employee not less than ten (10) business days prior to the hearing. Once the Board has been advised of a pending hearing, all communications between the Administrator, the employees, and the Board shall be conducted through Human Resources, so as to eliminate the appearance of ex parte communications between the parties being adjudicated, or the parties adjudicating. Any person violating this stipulation may be precluded from participation in the remainder of the proceeding. If a member of the Department of Human Resources is either the Administrator, or the employee, the Board may request the County Attorney or other uninvolved thirty party to conduct communications.

III. **Witness Lists:** If either party wishes to present witnesses, that party must provide Human Resources with a list of the witness/s they intend to call. Said list must be provided no less than five (5) days prior to the hearing. Any witness not listed will not be allowed to testify, except at the discretion of the Board for good cause shown why this rule should be broken.

IV. **Requests for Continuance:** Requests for continuance by either party or by the Board may be granted for good cause at the discretion of the Board, upon receipt of written request not less than three (3) regular business days prior to the scheduled hearing.

C. Hearing Procedures

- I. **Collective Bargaining Agreements (CBA's):** If an employee is covered by a CBA, the employee's hearing under RSA 28:10-a, III shall be held pursuant to the terms of the CBA in question.
- II. **Record:** A verbatim record of the hearing will be maintained, such record to be taped. The taped recording shall not leave the Carroll County Administration Building except to be transcribed. A transcription of the taped record will be made only at the request of either party. The cost of the transcription shall be the responsibility of the requesting party.
- III. **Representation:** Each party will appear at the hearing pro se, which is represented by themselves, bearing in mind that this is not a legal proceeding but an internal hearing for the purpose of determining action of an employment or disciplinary matter.
- IV. **Testimony:** Testimony shall be under oath administered by a Notary or Justice. The Board reserves the right to have any member ask relevant questions of either party or

their witnesses when necessary for clarification and full understanding of the testimony being given.

V. **Burden of Proof:** The Administrator shall have the initial burden of proof going forward with evidentiary testimony, but the employee shall bear the ultimate burden of persuasion. (See Desmarais v. Personnel Commission, 117 NH 582, 488 (1977))

VI. **Order of Presentation:**

1. The Board shall inquire with the employee if he/she requests the hearing to be non-public. If the employee indicates he/she would like a public hearing, the Board shall immediately move for a continuance until such time as a public hearing can be scheduled.
2. If the employee, pursuant to Step 1, confirms the desire for a non-public hearing, the Board shall open the hearing by motion and vote on intent to move into non-public meeting pursuant NH RSA 91-A:3, para II (a) and (c).
3. The Administrator shall open first, outlining the reasons for his/her action or requested action, including violation/s of applicable RSA's, County policy/s, and/or facility-specific rules. Relevant evidentiary documents or other items shall be presented to the Board, if not already submitted. Witnesses for the Administrator shall give testimony and be questioned.
4. The employee shall follow the Administrator, outlining the reasons for his/her actions or lack thereof, or the reasons why he/she does not believe the action of the Administrator or the requested action of the Board should be approved. Relevant evidentiary documents or other items shall be presented to the Board, if not already submitted. Witnesses for the employee shall give testimony and be questioned.
5. The Board may ask questions as needed or recall any party or their witness/s in order to clarify an issue.
6. Following the testimony and presentation of evidence, all parties and their witness shall be excused for deliberations by the Board.

D. Board Deliberations and Determination

The deliberations of the Board in any such hearing, public or non-public, shall be private and non-public. In the event the employee has requested a public hearing, so too shall the determination be made public. It is required that for the hearing and deliberations to take place, a quorum of the Board must be present. The standard to be applied in reaching a determination shall be by a preponderance of the evidence on whether or not good cause exists for the suspension, discharge, or removal. Final determination shall be by a majority vote of those present. In the event of a split decision, a re-hearing shall be scheduled unless the employee requests a hearing in front of the County Personnel Committee.

If a majority of the Board decides in favor of the employee, the Board shall request Human Resources to provide the employee, within ten (1) business days, a written notice of their determination, and of the employee's expected date of return to work.

If a majority of the Board decides in favor of the Administrator, the Board shall request Human Resources to provide both the employee and the Administrator, within ten (10) business days, a

written notice containing a statement of determination, and the findings including applicable RSAs and County policy/s. A majority of the Commissioners shall sign this written notice.

E. Appeals Process

Within thirty (30) calendar days of the employee's receipt of written notice of the Board's determination, the employee may request in writing a public hearing before the County Personnel Committee. The employee will be provided with advance written notice concerning the date, time and location of the County Personnel Committee hearing.

If pursuant to such hearing, the County Personnel Committee finds that the Board of Commissioners had good cause for its determination to order or approve the discharge or removal of the employee, the County Personnel Committee shall approve the employee's discharge or removal.

If the employee is dissatisfied with the County Personnel Committee's decision, the employee has the right to a rehearing and/or appeal pursuant to the provisions of RSA 541. NOTE: RSA 541 CONTAINS VARIOUS DEADLINES AND OTHER REQUIREMENTS. THE EMPLOYEE SHOULD PROMPTLY CONSULT RSA 541 IF THE EMPLOYEE BELIEVES THAT HE OR SHE MAY WISH TO ASK FOR A REHEARING OR SEEK AN APPEAL OF THE COUNTY PERSONNEL COMMITTEE'S DECISION.



Terry McCarthy
Chairman



Matthew Plache
Vice-Chairman



Charles McGee
Clerk

Adopted: 06/29/2023