

**ARTICLE 6. GRIEVANCE SYSTEM**  
**RULE 603. APPEALS FROM ALLEGED**  
**DISCRIMINATION, DISMISSAL,**  
**DEMOTION AND UNPAID**  
**SUSPENSION**

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**EFFECTIVE DATE: 05/04/98**  
**REVISED DATE: 08/14/02**

**A. MATTERS WHICH MAY BE APPEALED:**

1. A regular employee, who has completed his/her probationary period, may appeal an action resulting in administrative suspension without pay or disciplinary suspension, demotion or dismissal within ten (10) working days of the presentation of the notice of discipline. The Division Head may serve an amended notice of suspension, demotion or dismissal prior to the beginning of the appeal hearing. An employee who fails any type of probationary period has no right of appeal.
2. A probationary employee may appeal an action resulting in administrative suspension without pay or disciplinary suspension, demotion or dismissal within ten (10) working days of the presentation of the notice of such action in cases where such employee believes the action to be based on illegal discrimination as defined in these Rules.
3. Employees, without regard to probationary, regular, temporary, emergency, or intermittent status, may use this process to appeal from alleged illegal discrimination or harassment, provided that such appeal is filed within thirty (30) days of the most recent action or event which the appealing employee believes to qualify as discrimination or harassment. The thirty (30) day time limit may be waived in writing by the Presiding Judge or designee.
4. Actions not expressly identified as being subject to appeal through this procedure may not be appealed through it.
5. For purposes of this Rule, the term "Appellant" shall be interpreted to mean the employee who has filed the appeal, or such employee's designated representative. The term "Respondent" shall mean the Division Head of the Division in which the appellant was employed at the time of the action giving rise to the appeal, or the Division Head's designated representative.

**B. APPEAL PROCEDURE:**

1. **FILING THE APPEAL:** Appeals to the Hearing Officer must be filed with the Court Administrator in writing within the timeframe specified in Section A above. The appeal shall be considered filed when received by the Court Administrator. The appeal shall state in detail the facts upon which it is based, the identity of all persons or divisions concerned in the matter, and the remedy requested. The Court Administrator shall serve a copy of the appeal on the employee's Division Head.

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2. **ANSWER TO APPEAL:** No answer to the appeal needs to be filed by the Division Head. If an answer is filed prior to the hearing, a copy shall be sent by the Court Administrator to the employee.
3. **HEARING OFFICER:**
  - a. Assignment of a Hearing Officer shall occur from a pre-determined list of Hearing Officers maintained by the Court Administrator. The Court Administrator shall assign Hearing Officers from the established list. Based on unavailability or conflict of interest, the Court Administrator may move to the next listed Hearing Officer to achieve assignment.
  - b. Either the Appellant or Respondent will have one opportunity, for cause or otherwise, to challenge a Hearing Officer that has been selected from the pre-defined list. Said challenge of a Hearing Officer shall occur within five (5) calendar days from the Notice of Selection of Hearing Officer by the Court Administrator. If challenge of the first selected Hearing Officer occurs by either the Appellant or Respondent, the next hearing Officer on the list will be selected and Notice to parties will again occur by the Court Administrator. The next selected Hearing Officer may then be challenged within five (5) calendar days from the Notice of Selection of Hearing Officer by the Court Administrator, by the remaining party (whichever party did not challenge the first-selected Hearing Officer, if applicable) and the next Hearing Officer on the list will be designated by the Court Administrator. All notices of challenges to Hearing Officer by either the Appellant or the Respondent shall be in writing to the Court Administrator. Facsimile receipt of notices of challenge are acceptable.
  - c. When an appeal is assigned, the Hearing Officer is fully empowered to grant or refuse extensions of time, to set the proceedings for hearings, to conduct the hearing, and to take any action in connection with the proceedings as allowed by law or by these Rules other than making the final findings and decisions.
4. **AGENDA:** All matters to be presented for consideration by the Hearing Officer shall be placed upon the Hearing Officer's agenda without undue delay. The agenda will be mailed to the Appellant (or their designated representative) and the involved Division Head.
5. **TIME FOR HEARING:** Every hearing of an appeal shall commence within twenty (20) calendar days from receipt by the Hearing Officer unless the time is extended

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pursuant to these Rules, or unless the Hearing Officer is unable to hear it within the twenty (20) calendar days or for good cause. Under no circumstances shall a hearing be extended beyond 120 calendar days.

6. **NOTICE:** The Court Administrator will, unless extenuating circumstances prohibit, at least five (5) working days prior to the meeting, mail or cause to be mailed to the Appellant (or their designated representative) and the involved Division Head, a copy of the notice of the meeting of the Hearing Officer, and either an agenda for the meeting or information as to how an agenda may be obtained. Failure of an interested party, other than the Appellant (or their designated representative) or involved Division Head, to receive the notice and/ or agenda shall not affect the validity of the meeting or of any action taken by the Hearing Officer at said meeting.
7. **SERVING OF NOTICE:** Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any person or by the Hearing Officer or the Court Administrator, such notice, paper or document may be personally served, or it may be served by mailing it to the last known residence or business address of the addressee. Service is complete upon mailing.
8. **CONTINUANCE OF HEARING:**
  - a. Either the Respondent or Appellant may request that a hearing set pursuant to these Rules be continued. Such request must be submitted to the Court Administrator as administrative arm of the Hearing Officer, in writing with as much advance notice as possible, generally no less than five (5) working days prior to the date set for the hearing. Copies must be sent by the Court Administrator and to all concerned parties together with an Order for Continuance to be signed by the Court Administrator as administrative arm for the Hearing Officer or if the Court Administrator is a respondent in the appeal, then by the Hearing Officer.
  - b. Failure to request a continuance in conformance with these Rules and subsequent failure by either party to appear at the time and place set for hearing may result in dismissal of the case upon motion of either party, or on motion of the Hearing Officer.
9. **NATURE OF HEARING:** Each hearing shall be held pursuant to ARS 38-431 et seq. and shall be closed unless the Appellant requests an open hearing. The Appellant may represent him/herself, be represented by legal counsel, or anyone of his/her choosing. The Respondent may represent him/herself or be represented by

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legal counsel selected by the Court. The hearing shall be informal and technical rules of evidence and court procedure shall not apply to the proceedings, except that irrelevant, immaterial, incompetent, or unduly repetitious evidence, or evidence protected by the rules of privilege recognized by law, may be excluded. All testimony at the hearings shall be recorded manually or by mechanical or electronic device. The Court shall pay all charges incurred in connection with the presence of a court reporter or the utilization of mechanical or electronic devices, excluding, however, the costs of the preparation of all or any part of any transcript or copying of tapes. The cost of a copy or copies of any such transcription or tapes shall be paid by the requesting party or parties.

10. **POWER OF SUBPOENA:** The Hearing Officer may request the Presiding Judge to issue subpoenas to compel attendance of any person and the production of any books, papers, or any other evidence relating to any investigation or hearing authorized by these Rules.
11. **EXCLUSION OF WITNESSES:** Upon the motion of either Appellant or Respondent, or on the Hearing Officer's own order, witnesses shall be excluded from the hearing room except during the time of their examination. This rule of exclusion shall not apply to either Appellant or Respondent or their representatives.
12. **WITNESS FEES:** Witnesses, other than employees, who are subpoenaed to attend a hearing or investigation are entitled to the same fee as is allowed witnesses in civil cases of the State of Arizona. If a witness is subpoenaed by the Hearing Officer, fees and mileage may be paid by the Respondent Division upon presentation of a duly executed claim form. If a witness is subpoenaed upon request of the Appellant, the fees and mileage shall be paid by the party requesting the witness. Reimbursement to Court or Mohave County employees subpoenaed as witnesses shall be limited to payment of mileage, if appropriate, by the party requesting the witness.

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13. **DEPOSITIONS:** If a witness does not reside within Mohave County or within one hundred (100) miles of the place where the hearing or investigation is to be held, is out of State or is too infirm to attend the hearing or investigation, any party, at his/her own expense, may cause a deposition to be taken. If the presence of a witness cannot be procured at the time of the hearing or investigation, the deposition may be used in evidence by either party or the Hearing Officer.
14. **WITHDRAWAL OF AN APPEAL:** The Appellant may submit a written request to withdraw the appeal at any time prior to the decision by the Hearing Officer. Such request shall be sent to the Court Administrator.
15. **FINDINGS OF THE HEARING OFFICER:**
  - a. Within ten (10) working days from completion of the hearing, the Hearing Officer shall forward to the Presiding Judge, the Appellant (or the Appellant's designated representative) and the involved Division Head, written recommendations for disposition of the appeal. Such recommendation shall include findings of fact, applicable rules, policies, procedure, regulation and/or law and a recommended disposition. The findings of the Hearing Officer shall be taken under advisement by the Presiding Judge.
  - b. The Presiding Judge shall, within ten (10) working days from the date of receipt of the Hearing Officer's recommendation, render a final decision in the matter. The Presiding Judge may adopt, modify or overrule the Hearing Officer. If the Presiding Judge should modify or overrule the Hearing Officer, he/she shall do so in writing, specifying the reason(s) for so doing.
  - c. The order of the Presiding Judge shall be final and binding on all parties to the process.
16. **DEDUCTIONS FROM BACK PAY AWARD:** If an employee has been dismissed or suspended without pay, and, upon appeal, the final order of the Presiding Judge revokes or modifies said disciplinary order, and said employee is ordered reinstated with back pay, any interim earnings or amounts earnable with reasonable diligence, including unemployment compensation, shall be deducted from the back pay award.
17. **COMPLIANCE OF DIVISION HEAD:** Within ten (10) working days of a notice of decision by the Presiding Judge revoking or modifying any order of disciplinary action, the Division Head shall comply with the Presiding Judge's decision, and shall render a report indicating compliance to the Presiding Judge for the file.