



# County of Bucks

## Merit Hire Overview

### **MISSION STATEMENT**

County of Bucks is a local government providing the services and administration for Bucks County residents. Our principle is to recruit, select, and advance employees based on their knowledge, skills and ability to serve the County of Bucks by employing the most qualified candidates. Provide training to employees to assure high quality performance and retain employees based on the adequacy of their performance.

The County of Bucks will assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair principle" includes compliance with Federal equal employment opportunities and nondiscrimination laws.

### **MERIT SYSTEM OPERATING POLICY**

This Merit System Operating Policy was established to supplement the overall Human Resources Policies, Collective Bargaining Agreements (CBA), Personnel Manual and to ensure the maintenance of a fair and just system to recruit, employ, promote and retain qualified persons for employment.

The County Commissioners have adopted these rules which preserve the principles of the merit system while being responsive to the principles of equal opportunity employment and sound labor-management relations. To the extent that there is a conflict between the provisions of this policy and a CBA, the provisions of this policy that are in conflict with the CBA will not be applicable to those employees who are covered by that CBA. CBAs, however, will not infringe upon merit principles. The County of Bucks does not prohibit employees from collective bargaining.

### **Responsibilities**

The County of Bucks agree that no provisions of this system will be applied to discriminate against any employee with respect to hiring, compensation, terms or conditions of employment, because of an employee's political affiliation, age, race, color, sex, national origin, disability or any other class or characteristic protected by applicable federal or state law. The Commissioners will not limit, segregate or classify employees in any way to deprive any employee of employment opportunities because of political affiliation, age, race, color, religion, sex, national origin or disability or any other class or characteristic protected by applicable federal or state law. The County of Bucks will provide reasonable accommodations for prospective and current employees in compliance with the Americans with Disabilities Act (ADA).

### **Political Activity Policy**

The County of Bucks employees will comply with The Hatch Act, United States Code, Title 5, Chapter 15 – Political Activity of Certain State and Local Employees. This requirement prohibits individual political activity by certain employees and political activity in county owned buildings.

The Hatch Act contains language regarding permitted and prohibited political activities and applies to employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by a federal agency. Employees in federally funded positions should be advised that the Hatch Act provisions apply to them.

All employees are regularly informed of their rights and responsibilities under the state and Federal laws.

Employees in federally funded positions should be advised that the Hatch Act provisions continue to apply and may prohibit them from running for the office of School Board Director. Information on the HATCH Act is posted in County departments as well as on the County website.

Elected Officials are strictly prohibited from political coercion. All employees are regularly informed of their rights and responsibilities under the State and Federal laws on an annual basis by email or employee newsletters.

## **ALTERNATIVE DISPUTE RESOLUTION**

Employees can use the Alternate Dispute Resolution as an appeal process to challenge any unfair treatment. Department of Human Services (DHS) required the County to develop an alternative process to afford employees the same protections they had the benefit of when governed by State Civil Service Commission. The County's response was the development of the five-step Alternative Dispute Resolution (ADR) procedure which covers the following employment actions: demotion, suspension, reduction in pay, non-selection and discharge which an employee believes to be arbitrary or discriminatory, furlough from employment, employee performance reviews and any personnel action that the employee believes to be based on non-merit factors or which the employee believes to stem from illegal discrimination. In the case of non-selection, external applicants for vacant covered Merit Policy positions in the Children and Youth, Mental Health/Mental Developmental Programs, Area Agency on Aging and Emergency Services may also avail themselves of these rights. The County of Bucks is dedicated to adhering to its policies and procedures when executing personnel actions with current employees and applicants.

The County of Bucks encourages open and honest communication between employees and their supervisors. Most conflicts and differences of opinion can be resolved by the employee and supervisor directly confronting issues and jointly exploring alternatives. In cases where conflicts cannot be mutually resolved, the County of Bucks has established an Alternative Dispute Resolution (ADR) procedure. The ADR procedure may be utilized instead of the grievance procedure outlined in the CBA. However, an employee has the option of choosing only one procedure.

The County of Bucks recognizes the importance of providing a prompt and efficient procedure for fair and equitable resolutions of areas of conflict without fear of prejudice or reprisal for initiating a complaint or participating in its settlement. To the extent possible, all complaints should be settled through informal discussion at the lowest administrative level, and disputed matters should be processed in a more formal matter only when either party feels that a fair and equitable solution has not been reached in the informal discussions.

Regardless of any informal attempt to resolve the areas of conflict, all candidates have the explicit right to pursue the five-step ADR procedure which covers the following employment actions: involuntary demotion, suspension, reduction in pay, non-selection, promotions, annual employee evaluations, furloughs, and discharge or any personnel action which they believe to be arbitrary or discriminatory. Discriminatory treatment is defined as any action based on political affiliation, race, color, national origin, gender, religious creed, age, handicap, or any factor not related to the person's ability to perform the duties of the position (i.e. any non-merit factor). The Department of Human Services will be provided with a copy of each appeal upon submission and a copy of the final written decision.

### **Timeliness**

All disputes must begin at the first step within ten (10) business days of the time the candidate knows, or should have known, of an action or issue that can be raised through the ADR procedure. The timeliness outlined in the following steps should be considered the maximum, as every effort should be made to ensure prompt and efficient consideration at each and every stage.

### **Applicant**

The County of Bucks is committed to maintaining the integrity of the application process and ensuring the equal treatment and consideration of all applicants, e.g. individuals who have applied for a job but were not selected. Therefore, an applicant for a covered Merit Policy position in the Children and Youth Services department, the Area Agency on Aging, or the Emergency Management Agency who is subject to non-selection which they believe to be unreasonably arbitrary or discriminatory as defined above may avail themselves of the ADR procedure. Notice of an applicant's intent to pursue the ADR procedure must be

provided, in writing to the Human Resources Department within ten (10) business days of the time the applicant or employee knows, or should have known, of an action or issue that can be raised through the ADR procedure. Unless otherwise specified, an applicant dispute will begin at the third step as defined below in “Third Step: Human Resources Investigation and Review”.

## **Direct Appeal**

The County remains committed to the transparency and integrity of the entire ADR process as written, and has intentionally crafted a series of steps that escalate both in authority and accountability. As such, the County would strongly encourage employees and applicants to avail themselves of the entire procedure; however, any employee who has been discharged and applicants who have not been hired do have the option to appeal directly to the Division Leader described in the fourth step (“Fourth Step: Division Leader”) and waive the first three steps in the process. The decision to waive steps one through three must be provided in writing to the Human Resources Department within ten (10) business days of the time the applicant or employee knows, or should have known, of an action or issue that can be raised through the ADR procedure.

## **Steps of the Procedure**

### **Initiating an ADR request:**

An applicant or employee may submit in writing a request at the first step. The statement must state the claim, the facts in support of the claim and the relief requested. NOTE: The applicant or employee is responsible for having the issue/dispute/appeal delivered to the proper person or Human Resources within the time periods, as specified. The steps can always be submitted directly to Human Resources to process to the next step.

### First Step: Supervisor

Within ten (10) business days of the time that the applicant or employee knows, or should have known, of an action or issue in dispute, the candidate must advise his or her immediate supervisor that he or she is initiating an ADR request. The candidate must notify the supervisor in writing, and must advise the supervisor of the specific issue in dispute, the facts in support of the candidate's position, and the remedy requested. The supervisor is responsible for scheduling a meeting with the candidate within ten (10) business days of the receipt of the complaint to facilitate a face-to-face discussion of the candidate's request. Within ten (10) business days of the face-to-face discussion, the supervisor is responsible for responding to the candidate's request. The supervisor shall include notice to the candidate of his or her right to appeal the dispute to the second step. Should the issue or dispute involve alleged discrimination by the immediate supervisor and/or the department head, the ADR request may be submitted directly at the second step or third step respectively.

### Second Step: Department Head

If the candidate finds the first step response unsatisfactory, the applicant or employee may appeal the dispute in writing to the department head within ten (10) business days of receipt of the first response. The second step appeal must state the specific issue in dispute, facts in support of the candidate's position, the reasons the first step response is unsatisfactory, and the remedy requested. Copies of the first step correspondence must be included.

The department head shall, with due consideration of the facts and circumstances of the dispute, meet with the applicant or employee 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. This response shall include notice of the candidate's right to appeal the dispute to the third step.

### Third Step: Human Resources Investigation and Review

If the applicant or employee finds the second step response unsatisfactory, the candidate may appeal the dispute in writing 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 candidate'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.

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 and within ten (10) business days, Human Resources shall, in writing, grant, deny, or propose a modification to the requested remedy. This response shall include the candidate's right to appeal the dispute at the fourth step.

#### Fourth Step: Division Leader

If the applicant or employee finds the third step response unsatisfactory or has been discharged and waives earlier steps, the candidate may appeal the dispute in writing to the fourth step. This appeal must be submitted in writing to the Division Leader within ten (10) business days of receipt of the third step response or discharge. This appeal must state the issue in dispute, the facts in support of the candidate's position, the reasons why the third step response is unsatisfactory if applicable, and the remedy requested. Copies of the third step correspondence must be included if applicable.

The Division Leader will review the appeal to determine whether time limits and procedural steps were followed. Within fifteen (15) business days after the next regularly scheduled Commissioner meeting, The Division Leader shall, in writing, grant, deny, or propose a modification of the requested remedy. This response shall include notice of the candidate's right to appeal the dispute to the fifth step of the process. Should the Division Leader determine that the candidate did not follow the time limits and/ or procedural steps of the ADR procedure, the designee will notify the candidate, in writing, of the administrative faults. Any administrative faults caused by the candidate shall render the appeal null and void.

The Division Leader is the Director that oversees the County administered programs. This position is appointed by the Bucks County Commissioners. An example of a division leader is the Director that oversees Human Services. The division of Human Services is established to oversee the County administered programs delivering social services and mental wellness to residents of Bucks County. These programs include: Area Agency on Aging, Children & Youth and Mental Health/Developmental Programs.

#### Fifth Step: Impartial Arbitrator: Pennsylvania Department of Labor & Industry Bureau of Mediation

If the candidate finds the fourth step response unsatisfactory, the candidate may appeal the dispute to the fifth and final step. This appeal must be submitted in writing 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 candidate's position, the reasons why the fourth step response is unsatisfactory, and the remedy requested. Copies of the fourth step correspondence must be included.

NOTE: As articulated in "Direct Appeal" above, an candidate or applicant has the ability to appeal directly to the fifth and final step of the ADR procedure, given that a timely written waiver of steps one through four is provided to the Human Resources Department complete with a fully executed ADR request form describing the claim, the facts in support of the claim and the relief requested.

Upon receiving the appeal and determining that the appeal was made timely, the Impartial Arbitrator will preside over the appeal process. The Alternative Dispute Resolution Impartial Arbitrator shall conduct a hearing on the complaint and will provide the opportunity for all parties involved to give testimony relevant to the matter in dispute. A written transcript of the hearing shall be transcribed. The Arbitrator shall render decision in writing to Human Resources within twenty (20) business days of the hearing and will contain the reason for the decision.