

Title 16 Chapter 1

Grievance Procedure

16-1-1	General Policy
16-1-2	Applicability
16-1-3	Grievance Appeal Procedure

Sec. 16-1-1 General Policy

The Town of Arlington hereby establishes this policy and procedure to allow employees to address matters of concern regarding discipline, termination and workplace safety. However, the Town encourages its employees to raise any issues that they have at any time with their immediate supervisor.

Except as to employees subject to contract or subject to statutory dispute resolution procedures, this policy represents the exclusive procedure for filing and hearing grievances by employees of the Town. This grievance procedure does not create a legally binding contract and all employees of the Town are employed at will and may resign with or without reason unless otherwise explicitly provided for in an employment contract. Further, the Town may terminate its employment relationship at any time, with or without reason, unless specifically bound by an employment contract to the contrary.

Sec. 16-1-2 Applicability

This grievance procedure is available to all employees of the Town except employees subject to collective bargaining agreements, statutory or political appointees, elected officers, limited term employees, seasonal employees or independent contractors. All other employees may use this procedure to address concerns regarding discipline decisions, employee terminations or issues of workplace safety.

The following matters are not subject to this grievance procedure:

- (1) Layoffs, including general workforce reductions;
- (2) Non-disciplinary job transfers or demotions;
- (3) Terminations of employment during any probationary period;
- (4) Performance evaluations or reviews;
- (5) Administrative suspensions with or without pay, during any employment related investigation;
- (6) Non-disciplinary wage, benefit or salary adjustments;
- (7) Town actions or inactions with respect to any other employee;
- (8) The manner in which work shall be performed, except insofar as it implicates a workplace safety issue.

The Town's rules or policies are neither invalidated or subject to question on the basis that they may have been enforced selectively, inconsistently, sporadically or arbitrarily. A rule or standard of a policy is not waived despite its non-enforcement or inconsistent enforcement. Further, the Town remains free to modify or repeal any policy or rule after a grievance decision even if the effect of the Town's action is to overturn the grievance decision. Grievance decisions shall not have any precedential effect.

Sec. 16-1-3 Grievance Appeal Procedure

Any complaint or grievance which is not timely filed shall be barred. All timelines established herein are mandatory and may not be extended without the express written permission of the Town Board.

- (1) **Step 1.** Within three (3) business days after being notified of a disciplinary action; termination; or after observing, or having actual reasonable knowledge of a workplace safety issue, the employee may file a written request for grievance review with the employee's supervisor or the Town Clerk. Copies of all such communications shall be forwarded to the Town Board and a copy shall be placed in the employee's file.

Within five (5) days of receipt of such grievance review request, the supervisor or the Town Clerk, as appropriate, shall meet with the grievant and attempt to resolve the matter. Within five (5) days of such meeting, the Town Clerk or the employee's supervisor as appropriate shall provide a written response to the grievant.

- (2) **Step 2.** If the employee is dissatisfied with the written response to Step 1, the employee may file a written request with the Town Clerk for the appointment of an impartial hearing officer. The impartial hearing officer designated by the Town Board shall be the current chair of the Town of Lowville. If the Town of Lowville Chair is unable to serve in this capacity, the Town Board shall appoint another Columbia County Town Chair to serve as the impartial hearing officer. Within five (5) days of the filing of such a request, the Town Clerk shall contact the impartial hearing officer and arrange for a hearing with the employee and any other person deemed necessary to review of this subject of the grievance request. The hearing shall be held as soon as practical but in all cases within thirty (30) days of receipt of the Step 2 request unless the parties mutually agree otherwise. The Town shall compensate the hearing officer the sum of \$200.00 for conducting the hearing and rendering the decision.

Within twenty (20) days of any hearing held under Step 2, the impartial hearing officer shall prepare and file with the Town Clerk a written decision regarding the matter. A copy of the decision shall be filed in the clerk's office and a copy placed in the employee's personnel file.

The actions or omission by the Town, its supervisors or managers, shall be presumed to be valid. A hearing officer shall not substitute his/her opinion or judgment as to the matters before them, and his/her sole authority shall be to determine whether or not the Town, through its supervisors, managers or the Town Clerk, as appropriate, acted in an unreasonable, arbitrary or capricious manner. The grievant shall have the burden of proof to support their alleged grievance. Only matters raised in the grievance shall be heard by the hearing officer. The hearing officer shall not have the authority to issue, make-whole orders or to implement any specific remedy or obligate the Town in any fashion but may make any recommendation they feel appropriate.

- (3) **Step 3.** The employee, the employee's supervisor or the Town Clerk, as appropriate, may file a written request for an appeal to the Town Board within ten (10) days of the receipt of the hearing officer's decision. Upon receipt of such request, the Town Board shall schedule a meeting as soon as practical to consider the matter.

The Town Board may request testimony of specific individuals it deems necessary to review the matter fully, request that the parties supplement the record or consider the matter solely on the record before it. The Town Board may sustain, deny, or modify the recommendation of the impartial hearing officer.

All decisions of the Town Board involving the grievance shall be by simple majority vote and shall be in writing and filed with the Town Clerk within five (5) days of the date of the final decision. A copy of the final decision shall be delivered to the grievant and placed in the employee's personnel file. The Town Board's decision is final and not subject to further review.