

WHAT IS AN APPEAL?

An appeal is a request for a hearing before the State Civil Service Commission. Appeals may challenge any of 15 different personnel actions of a regular or probationary status civil service employee. Appeals may also be taken from adverse personnel actions claimed to be discriminatory or in violation of the Civil Service Act.

The term "grievance" refers to a claim that a collective bargaining agreement has been violated. State civil service employees who are covered by a collective bargaining agreement and want to challenge a contract interpretation should contact their Union Steward or Human Resources Office regarding the filing of grievances.

WHAT ACTIONS CAN BE APPEALED?

These personnel actions can be appealed to the State Civil Service Commission: appointment, promotion, reinstatement, transfer, removal, leave of absence, suspension, reclassification, resignation, furlough, demotion, retirement, extension or reduction of probationary period, Employee Performance Reviews, or compensation changes (except salary increments, general pay increases, or special pay for such things as overtime or out-of-class work).

Oral and written reprimands or Interim Employee Performance Reviews are **not appealable** personnel actions.

WHO CAN FILE AN APPEAL?

Any regular or probationary employee (appellant) may appeal any of the fifteen personnel actions stating special reasons

for the appeal. A non-civil service employee may only appeal a non-selection to a position in the classified service.

Any person adversely affected by an alleged discriminatory personnel action may appeal that personnel action.

The discrimination claimed must relate to unequal treatment based on one or more of the following: political affiliation, religious opinion, labor union, race, national origin, sex, age, disability, mistake of fact by the agency, illegal procedure or any other basis that is not related to job performance.

Everyone should be aware that when appeals are filed on the basis of discrimination, the person claiming discrimination bears the burden of proof and must state the specific acts of discrimination they are charging, and be prepared to go forward at hearing to present evidence of the alleged discrimination.

IS THERE A TIME LIMIT TO FILE AN APPEAL?

Appeals **must** be postmarked or received at the State Civil Service Commission offices within **twenty (20) calendar days** of the date the employee receives notice of the personnel action or becomes aware that discrimination has occurred. Only the Federal Post Office postmark is used to determine the official date of submission.

HOW SHOULD APPEALS BE FILED?

Persons desiring to file an appeal should obtain a copy of the State Civil Service Commission Appeal Request Form (Form SCSC 4112) from their Human Resources Office, from the Commission's offices in

Harrisburg, Philadelphia or Pittsburgh, or from the Civil Service Commission's website. www.scsc.pa.gov

The form will ask for specific details on the personnel action that is being appealed. It must be **signed** by the appellant and filled out carefully and completely, or the appeal may be delayed or denied by the Commission. The appellant should state on the appeal form the remedy being sought.

Probationary status employees may appeal only under Section 951(b) of the Civil Service Act, which relates to discrimination. All 951(b) claims must specify and describe acts of discrimination being appealed. Specific facts which should appear on the appeal form include: the acts complained of; how the treatment differs from treatment of others similarly situated; when the acts occurred; when and how the appellant first became aware of the alleged discrimination. Failure to be specific on the appeal form may result in denial of the appeal.

WHAT HAPPENS WHEN AN APPEAL IS FILED?

Appeal forms received by the State Civil Service Commission are initially reviewed for completeness. If the appeal form is not properly completed, the appeal may be delayed or dismissed.

If the form is found complete, the Civil Service Commissioners review the appeal to determine whether the appeal was filed within the time limits and whether the personnel action is one which can be appealed under the Civil Service Act.

If a hearing is granted, the appellant and the agency charged with the violation (the

appointing authority) will be notified by United Parcel Service of the date, time and place of hearing. Hearings are held in the Commission's Harrisburg, Philadelphia and Pittsburgh Offices. If granted, the appeal will be scheduled as soon as possible.

If the request is denied, the person submitting the request will be notified, and will have fifteen (15) calendar days from the mailed date to request that the Commission reconsider its Order. In submitting the reconsideration, the person should furnish **additional** information to support their request. The Commission's denial of an appeal may also be appealed to the Pennsylvania Commonwealth Court within thirty (30) calendar days of the mailed date of the Order.

MUST AN APPELLANT BE REPRESENTED BY AN ATTORNEY?

Appellants are NOT required to hire an attorney. It may be advantageous to have an attorney, but it certainly is not required. Appellants may represent themselves, but they cannot be represented by non-legal advisors. The appointing authority WILL be represented by an attorney.

Appellants are responsible for securing their own attorney. Many county bar associations have a Lawyer Referral Service. The Lawyer Referral Service can assist an appellant in identifying an appropriate attorney, but the appellant is entirely responsible for negotiating and paying the attorney's fee.

Before a hearing, the appellant should carefully study Chapters 105, 109, and 110 of the Rules of the State Civil Service Commission. Copies of these Rules are

enclosed with every hearing notice and are available on the Commission's website. www.scsc.pa.gov

Parties are encouraged to contact one another and to voluntarily exchange documents prior to the hearing. If desired, subpoenas to compel the attendance of witnesses or the production of documents may be obtained by writing to the Commission's Harrisburg office. If witnesses are requested, parties must contact the Commission at least three work days prior to the hearing.

WHAT HAPPENS AT A HEARING?

To facilitate the submission and consideration of issues and facts, the Commission may schedule a pre-hearing conference and direct that the parties participate in the proceeding. This usually occurs when both parties are represented by legal counsel.

If the appellant has limited English proficiency or is deaf or hard of hearing, an interpreter can be provided upon request. The request should be made prior to the hearing. The cost of providing the interpreter will be paid by the Commission.

A Civil Service hearing follows procedures similar to, but not quite as formal as a regular courtroom proceeding. The hearings are open to the public. Witnesses are sworn in, evidence is introduced and both sides have an opportunity to cross-examine witnesses. The Commission cannot base a finding of fact solely on properly objected to hearsay. Hearsay is an out of court statement made by a person not present at the hearing which a party wants the Commission to accept as true. Hearsay

statements can be contained in a document or repeated by a witness as part of his/her testimony.

Presiding over a hearing will be any one or all of the Civil Service Commissioners or a Hearing Officer. Affidavits of witnesses are not accepted, except where a public official is certifying that a document is a true and correct copy from the public records. Documentary evidence (exhibits) to be considered by the Commission should be submitted in the form of an **original** and **two** copies.

Hearings are generally scheduled at least two hours apart. When either party believes that their presentation would take significantly more time, they should advise the Commission. Should a hearing be continued to another day, only witnesses originally identified prior to the first hearing are to return.

WHAT HAPPENS AFTER A HEARING?

After a hearing is complete, a transcript will be prepared and submitted to the Commission. Both parties may also have an opportunity to present written statements in the form of legal Briefs which are due within a period of time that is established by the Commission.

After the Briefs are received, the record is closed. Following the closing of the record, the Commission has ninety (90) calendar days to review the full record and issue a decision, which is called an adjudication. Adjudications are legal documents that contain findings of fact, a narrative explaining the reasons for the decision, conclusions of law and the Commission's final order. Copies of this document are

sent to the appellant, the appointing authority and any attorneys involved. A copy of the adjudication is also posted on the Civil Service Commission's website. www.scsc.pa.gov

CAN AN ADJUDICATION BE CHALLENGED?

Yes, any adjudication or decision made by the Commission may be appealed to Commonwealth Court within thirty (30) days of its mailing date. Decisions may also be resubmitted to the Commission for reconsideration within fifteen (15) calendar days of the mailing date.

CAN AN APPEAL BE WITHDRAWN?

An appeal can be withdrawn at any time prior to a hearing or the issuance of an adjudication by notifying the Commission in writing that the party wishes to withdraw their appeal. Once withdrawn, the appeal cannot be reinstated.

Contact Numbers:

Appeals Office: (717) 783-2924
(TRS): 711

Legal Office: (717) 783-1444
Fax: (717) 772-5120
E-Mail: ra-cs-legalsvcsQandA@pa.gov

Website: www.scsc.pa.gov

PBA Lawyer Referral Service
(800) 692-7375

Information About Civil Service Appeals

