

SERENITY BEHAVIORAL HEALTH SYSTEMS

SUBJECT: GRIEVANCE PROCEDURE FOR CLASSIFIED EMPLOYEES
POLICY NUMBER: HR-13.01
EFFECTIVE DATE: January 2009
SUPERSEDES: N/A
LAST REVISION DATE: April 2010

POLICY:

It is the policy of Serenity Behavioral Health Systems (SBHS) to recognize the need for a process to review employee concerns. This procedure is established to provide classified employees with an orderly process for reviewing allegations of unfavorable employment decisions or conditions in a timely manner. Employees are encouraged to bring work-related concerns to the attention of their supervisors for review and possible resolution prior to filing a grievance.

ELIGIBILITY:

A classified employee who has attained permanent status during the current period of continuous service and whose employment averages twenty (20) or more hours per week shall be eligible to file a grievance. Any other employee, at the sole discretion of the Chief Executive Officer (CEO), may be included in the grievance process. An otherwise eligible employee who has been notified of termination shall not be eligible to file a grievance.

GRIEVABILITY:

The following shall be considered "Grievable Issues":

- I. Allegations of unlawful discrimination because of race, color, sex, national origin, disability, age, religion, sex (wages), genetics or retaliation
- II. Allegations of sexual harassment
- III. Harassment, retaliation or intimidation for exercising any right provided under the Rules of the State Personnel Board or policies of SBHS
- IV. Retaliation for using the grievance procedure
- V. Erroneous, arbitrary or capricious interpretation or application of personnel policies, procedures, rules, regulations, ordinances and statutes
- VI. Unsafe or unhealthful working conditions

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- VII. Any matter specifically included as grievable by SBHS policy or procedure
- VIII. Grievances alleging occupational exposure to hazardous chemicals shall be processed by the CEO in the same manner as all other grievances. Upon conclusion of the SBHS grievance process, if the employee is not satisfied with the decision of the appointing authority, the employee may file a grievance with the Commissioner of Labor.

NON-GRIEVABLE ISSUES:

- I. Issues which are pending or have been concluded by direct appeal to the State Personnel Board, the Georgia Commission on Equal Opportunity or through other administrative or judicial procedures;
- II. Issues which are subject to appeal, review or relief through other provisions of the rules;
- III. Performance responsibilities, expectations or evaluations;
- IV. Relocation of employees, except where the costs of relocation qualify for reimbursement under regulations promulgated by the Office of Planning and Budget;
- V. Temporary work assignments which do not exceed ninety (90) calendar days;
- VI. Permanent changes in work hours or duties and responsibilities, unless such changes are manifestly unsafe, illegal, or can be shown to adversely affect an employee's personal employment as defined in this policy,
- VII. Budget and organizational structure, including the number or assignment of positions in any program;
- VIII. Internal security practices established by SBHS;
- IX. The selection of an individual to fill a position, unless it is alleged that the selection is in violation of a written SBHS policy or the Rules of the State Personnel Board on filling vacancies;
- X. Demotion of an employee on working test as defined in Rule 24 of the Rules of the State Personnel Board;
- XI. Termination, demotion, reassignment, furlough, layoff from duties because of lack of work, or other actions resulting from a reduction in the work force or job abolition;
- XII. Any matter which is not within the jurisdiction or control of SBHS.

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ISSUES INVOLVING WRITTEN AND ORAL REPRIMANDS:

- I. Issues involving written reprimands or written confirmation of oral reprimands shall, upon request of an affected employee, be considered by a designated SBHS official(s).
- II. A designated official shall not be the immediate supervisor of the employee and shall have the authority to order such documents modified or removed from the employee's records.
- III. A written response shall be provided to the employee within five (5) workdays of receipt by the designated official.

NOTIFICATION:

SBHS shall post, in prominent locations, a notice to employees stating the eligibility to file a grievance. Such notice shall include a telephone contact for securing information and assistance regarding the grievance process and where the employee may review SBHS grievance procedure. SBHS shall make reasonable efforts to provide local access available for such assistance.

FILING REQUIREMENTS:

A classified employee may initiate a grievance by filing a SBHS Grievance Form with the Human Resources Department. A grievance must be filed within ten (10) workdays of the occurrence upon which the grievance is founded, or within ten (10) workdays of the date the employee became aware, or should have become aware, of the problem through the exercise of reasonable diligence. The CEO, in his/her discretion, may grant a waiver or extension of the filing deadline.

- I. The grievance shall contain:
 - A. A statement of the issue involved;
 - B. How the grievant's employment has been unfavorably affected;
 - C. The relief sought; and,
 - D. The date(s), if known, that the incident(s) or violation(s) occurred. If the grievance involves interpretation or application of rule or policy, the grievance shall identify the rule or policy at issue.

NOTE: "Work day" refers to Monday through Friday, excluding state holidays. The grievance must be received by the Human Resources Department no later than 4:30 p.m. on the 10th workday.

- II. The SBHS Classified Grievance Form must be delivered, mailed or faxed to the Human Resources Department:

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Human Resource Manager
3421 Mike Padgett Highway
Augusta, Georgia 30906
Fax # 706-432-7912

- III. Copies of the grievance form and any attached documents sent to Human Resources Department must be provided to the supervisor involved with the grievance and the Chief Executive Officer.

PREPARATION TIME:

A grievant shall be allowed up to four (4) hours of duty time, as approved by the supervisor, to prepare a grievance or to prepare for a hearing or mediation session. Such time shall be during regular work hours, without loss of pay or leave credits. Preparation time shall include such activities as meeting with witnesses and reviewing the grievant's personnel file. Under no circumstances shall any employee be granted more than twelve (12) hours per calendar year for such purposes. The Human Resources Department shall have the authority to resolve any dispute regarding the determination of reasonable and necessary time for processing a grievance.

- A. The supervisor should make reasonable efforts to grant the specific time period requested by the employee. If requested time cannot be granted due to workload, the supervisor will allow the employee to use grievance preparation time at another agreed upon time.
- B. Grievance preparation time should not interfere with the ordinary business of the work program, and the employee should remain in the general work area, unless specifically authorized by the supervisor to leave.

SBHS THIRD PARTY REPRESENTATION:

Employees may represent themselves or be represented by a third party of their own choosing. The CEO defines which employees may serve as third party representatives and the amount of duty time permitted to assist a grievant. Non-employee third party representation shall not be permitted unless required by law or rule.

- I. Staff designated to assist employees with filing grievances and Human Resource/personnel representatives cannot serve as SBHS Third Party Representatives.
- II. SBHS employees may serve as a SBHS Third Party Representative in no more than two (2) grievances per calendar year.
- III. Time spent in a grievance hearing is with pay and is not charged to accrued leave if the hearing takes place during scheduled work hours.

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- IV. If a SBHS Third Party Representative chooses to represent an employee or supervisor in a grievance hearing held outside of scheduled work hours, the SBHS Third Party Representative's schedule will not be adjusted and compensation will not be granted for time spent in the hearing.

GROUP GRIEVANCE:

Employees having a common grievance may sign and submit one group grievance, indicating not more than two (2) grievants as selected spokespersons. Group grievances shall eliminate the right of the grievants to pursue that grievance on an individual basis through this procedure.

- A. Only the spokesperson(s) for a group grievance may request to use grievance preparation time. If a group grievance has more than one spokesperson, the requested grievance preparation time is limited to a combined total of four (4) hours, as approved by the supervisor.
- B. All members of a group grievance must sign the SBHS Grievance Group Roster Form 888 certifying that each person's personal employment has been unfavorably affected and that they agree with the contents of the grievance. This roster must be submitted with the grievance.

MANAGEMENT RIGHTS CONSOLIDATE:

The Human Resources Department may consolidate grievances as follows:

- A. Multiple grievances filed by an employee may be consolidated into a single grievance, or;
- B. Separate grievances filed by two (2) or more employees regarding the same issue(s) may be consolidated into a group grievance.

REVIEWING AND DETERMINATION REQUIREMENTS:

- I. Within ten (10) work days of receipts of a grievance, the Human Resources Department shall review the grievance to determine the grievability of the issue(s) and shall notify, in writing and including specific reasons for the determination, the parties to the grievance that:
 - A. The grievance alleges unlawful discrimination and shall be processed in accordance with the provisions of Rule 24;
 - B. The issue is nongrievable, and that the process is being terminated; or,
 - C. The issue is grievable.
- II. If the issue is determined to be grievable, the notice shall specify the manner in which the grievance is to be processed. The notice shall also be provided to the first level of supervision having the authority to grant the requested relief.

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RESOLUTION PROCESS:

- I. Within twenty-one (21) calendar days of issuing a notice that an issue(s) is grievable, the Human Resources Department shall:
 - A. Attempt to resolve the issues by facilitating an exchange of information between the parties, clarifying and/or interpreting rules or policies, or exploring alternative resolutions;
 - B. Refer the parties to the Dispute Resolution Service or,
 - C. Request the Commissioner assign a Certified Grievance Hearing Officer.
- II. The total time permitted to complete the steps specified shall not exceed thirty-five (35) calendar days. If the Human Resources Department is unable to resolve the issues or a satisfactory resolution does not result from the Dispute Resolution Service, the grievant shall be notified that the services of a Certified Grievance Hearing Officer have been requested and the grievance shall proceed to a hearing.

INFORMAL RESOLUTION:

SBHS's CEO may require the SBHS Grievance Form 274 to be filed with the employee's immediate supervisor in order to attempt to informally resolve the issues.

- A. The supervisor shall file a copy of the form with the SBHS Human Resources Department;
- B. The levels of supervision that may be involved in the process
- C. The informal process may not exceed fifteen (15) calendar days; and,
- D. If the employee has not received a satisfactory resolution of the issues by the end of the informal process, the employee may, within five (5) workdays, direct Human Resources Department to proceed with the grievance.

MEDIATION:

At any step in the procedure, a grievance may be referred to mediation by the Human Resources Department when deemed appropriate to the issue of the grievance. Additionally, any party to a grievance may request that the grievance be referred to mediation; provided, however, that the Human Resources Department make the final determination regarding the appropriateness of mediation referral for the grievance.

SUSPENSION OF GRIEVANCE PROCEDURE:

In the event of an emergency situation, the CEO may, upon written notice to the Commissioner, suspend the right of grievance under this rule for all or part of SBHS for a period not to exceed thirty (30) calendar days, provided, however, that the written request of the CEO, stating the reasons therefore, the suspension may be extended as approved by the Commissioner.

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- A. A suspension of the eligibility to file a grievance as provided in this policy may delay but shall not otherwise prejudice any grievance filed before the effective date of the suspension, nor shall the period of suspension be construed as cause to deny or otherwise limit any grievance filed within fifteen (15) calendar days after the period of suspension has expired.
- B. If, in the opinion of the Commissioner, the reasons for suspension of the eligibility to file a grievance are specious, without merit or insufficient, the Commissioner may, upon written notice to the CEO, revoke the suspension and direct that grievances be processed as provided in this policy. The CEO shall comply promptly with such order of the Commissioner.

COMMISSIONER'S RESPONSIBILITIES:

- I. Within five (5) workdays of receipt of a request for a Certified Grievance Hearing Officer, the Commissioner shall assign a Certified Grievance Hearing Officer to conduct a hearing on the issues.
- II. The Certified Grievance Hearing Officer shall, within fifteen (15) calendar days of assignment, conduct a grievance hearing and shall, barring agreement of the parties, render a written recommendation for resolution. The recommendation shall be presented to State Personnel Administration (SPA) within fifteen (15) workdays of the date of the hearing.
- III. The State Personnel Administration (SPA) shall review the findings and recommendation(s) of the Certified Grievance Hearing Officer and shall issue a final decision within ten (10) workdays of receipt of the recommendation(s).

HEARING PROCESS:

- I. The Grievance Hearing Officer will direct the hearing in order to ensure the orderly presentation of relevant information.
- II. The Grievance Hearing Officer will tape record the hearing. No other tape recorders, court reporters or means of recording the hearing will be permitted.
- III. The employee and supervisor involved may speak for themselves or have a SBHS Third Party Representative speak on their behalf at the hearing. If a SBHS Third Party Representative(s) is used, the employee and supervisor must be present at the hearing to ensure that accurate information is presented.
- IV. Witnesses who are asked to testify in a hearing will attend the hearing only while testifying, unless otherwise approved by the Grievance Hearing Officer.
 - A. Appearance as a witness is voluntary, except as noted below in IV.B.

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- B. An employee may be required to provide witness testimony only by the Employment Practices and Concerns Section or Grievance Hearing Officer if it is determined that the employee's testimony is essential to making an accurate recommendation of the grievance.

RIGHT OF APPEAL TO STATE PERSONNEL BOARD:

- I. Upon receipt of a final determination of a grievance, if the grievant believes that the CEO has violated any provision(s) of these rules, the grievant may file an appeal in writing to the Office of State Administrative Hearings. The appeal must be filed in accordance with the provisions of Rule 24 and within ten (10) calendar days of receipt of the final determination. The appeal must include the specific provision(s) of the rule alleged to have been violated and any documentation that would support the allegation.
- II. Unless prohibited by the provisions of Rule 24, an employee who is subjected to unjust coercion or reprisal because of participation in an appeal or grievance proceeding authorized by the rules and regulations may appeal for relief to the Board as provided in Rule 24; provided, however, that if administrative remedy for the coercion or reprisal is available through the SBHS grievance procedure as outlined in Rule 24. The employee shall first seek such remedy and may appeal to the Board only at the conclusion of the procedure.

GRIEVANCE ALLEGING UNLAWFUL DISCRIMINATION:

Upon receipt of a grievance alleging unlawful discrimination based on race, color, sex or sexual harassment, national origin, disability, age, religion, genetics or retaliation, the Human Resources Department shall review and process the grievance in one of the following ways:

- A. Allow the grievance to proceed through the grievance procedure as set out in this policy;
- B. Investigate the grievance pursuant to SBHS procedure designed specifically for unlawful discrimination complaints, in which case the time limitations specified in other provisions of Rule 24 may be extended by thirty (30) calendar days; or,
- C. Advise the grievant, in writing, that SBHS has concluded processing of the grievance and that the grievant may present the matter to the Georgia Commission on Equal Opportunity or the U. S. Equal Employment Opportunity Commission.

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IMPROPER USE OF THE GRIEVANCE PROCEDURE:

Any state officer, supervisor, management representative or employee who knowingly supplies false or misleading information in a grievance, or who attempts to harass, intimidate, or retaliate against any employee, state officer, supervisor, or management representative as a result of filing a grievance, or providing testimony or evidence regarding a grievance, shall be subject to disciplinary action up to and including dismissal from employment.

EXTENSION OF TIME LIMITS:

Upon the agreement of all parties to a grievance, any time limit specified in this policy may be extended. The Human Resources Department or the Certified Grievance Hearing Officer may extend any time limit specified in this rule due to emergency, medical disability or legally mandated absence on the part of the grievant, third party or SBHS representative, a witness or the Certified Grievance Hearing Officer. The grievant shall be immediately notified of the period of extension and the reasons therefore.

FAILURE TO ADHERE TO TIME LIMITS:

A grievant may file a complaint with the Commissioner if, at any step in this procedure, the Human Resources Department, Certified Grievance Hearing Officer or CEO fails to adhere to specified time limits. The Commissioner shall review the complaint and take such action as is deemed appropriate.

WITHDRAWAL OF GRIEVANCE:

At the sole discretion of a grievant, a grievance may be voluntarily withdrawn at any point in the procedure. The grievance shall be considered terminated and may not be refiled.

MAINTENANCE AND AUDIT OF RECORDS:

SBHS shall maintain a record of each grievance filed, as well as the nature and disposition of all grievances filed. These records shall be subject to audit by the Commissioner. SBHS shall, upon the request of the Commissioner, file a report reflecting the number, nature, and disposition of grievances filed. The Commissioner must collaborate with SBHS in determining the categorization and the reporting format.

- A. The Commissioner shall submit to the Board, annual summaries of the issues raised through the grievance procedure. The summaries

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shall, at a minimum, contain information reported by each agency indicating the number of grievances, a categorization of the issues, and the timeliness of processing the grievances.

REFERENCE:

- I. Rules of the State Personnel Board – Rule 24

ATTACHMENTS:

- I. [SBHS Grievance Form 274](#)
- II. [Grievance Notice To SBHS Employees](#)
- III. [SBHS Grievance Group Roster Form 888](#)

APPROVAL SECTION:

Chief Executive Officer

Date

Committee Chairperson

Date

RESCISSION SECTION:

Chief Executive Officer

Date

REVIEW SECTION:

Committee Chairperson

Date

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Committee Chairperson

Date

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Date