

COUNTY OF ORANGE, VIRGINIA
PERSONNEL POLICIES MANUAL

LOUDERMILL HEARING – NOTICE AND OPPORTUNITY TO BE HEARD

POLICY NO.: 2.6

EFFECTIVE DATE: 8/11/09

PROVISIONS:

A. Disciplinary Action Defined:

For the purpose of this section, disciplinary action shall be defined as suspension for three (3) days or more, demotion, or termination.

B. Issuance of Notice

Whenever an appointing authority proposes to take disciplinary action against any employee subject to the County Grievance Procedure, such employee shall be entitled in every case to a pretermination notice of the reasons for the disciplinary action and an opportunity to present evidence and reasons why the disciplinary action should not be taken. This opportunity shall be known as a “Loudermill Hearing.”

C. Contents of Notice of Reasons for Disciplinary Action

A written notice and statement of the reasons for which an employee subject to the Grievance Procedure is to receive disciplinary action shall be provided prior to the disciplinary action. The notice shall include a statement that the disciplinary action is proposed for the reasons thereafter set forth, an explanation of the evidence against the employee, and a reference to the provisions of Section __ (Code of Conduct). All such notices and statements shall bear the following notation on the last page:

I wish to have a Loudermill Hearing with respect to the basis and justification for my proposed disciplinary action. I have read the provisions of Section ____ (this section) of the Personnel Regulations of Orange County and understand the requirements of that section in respect to such a hearing.

Employee Signature

Date

D. Schedule of the Hearing

Within 24 hours of receipt of notice of pre-disciplinary action (or by noon of the first working day following receipt of first notice, if the 24 hour period expires during the

weekend or a holiday), the employee shall indicate a desire for a hearing by signing a copy of the notice in the place provided and returning it to the County Administrator or other appointing authority. Within three (3) working days of receipt of the notice for a request for hearing, the appointing authority shall conduct a hearing at which the employee shall be entitled to make a statement either orally, or in writing, or both, stating why the reasons for the employee's discipline are not true, or why even if true, the employee should not be disciplined in any event. No counsel shall be permitted to either party at this hearing, but it shall be recorded and the recording shall be maintained by the Human Resources Office for two (2) years.

E. Purpose of the Hearing

The purpose of a Loudermill Hearing shall be to permit the employee to present the basis on which the employee believes that the decision to take the disciplinary action is mistaken, or that the disciplinary action is unjustified.

F. Conduct of the Hearing

The appointing authority need not conduct a full hearing on the issues set forth in subsection C and need not summon witnesses or review exhibits, nor determine finally whether the allegations against the employee are true in fact or that the decision to discipline is merited by the facts if true. If upon conclusion of the hearing, the appointing authority is of the opinion that there are reasonable grounds to believe that the allegations are true and, if true, support the proposed disciplinary action, the appointing authority shall so find in writing and the employee shall be disciplined, following review by the Human Resources Office, County Attorney, and County Administrator.

If the appointing authority determines that there are not reasonable grounds to believe that the allegations are true or, if true, that the disciplinary action is inappropriate, the appointing authority may impose a less severe adverse action consistent with findings or reinstate the employee in good standing.

G. Rights of an Employee Upon Receiving Disciplinary Action.

Any non-probationary employee being disciplined after a Loudermill Hearing shall be entitled to pursue a grievance in accordance with the County Grievance Procedure. The time for filing a grievance shall commence to run as follows:

- (1) Upon expiration of the period permitted for requesting a Loudermill Hearing if no request is made; or,
- (2) The date upon which the disciplinary action becomes final according to the terms of the notice of termination.

H. Prehearing Administrative Leave for the Good of the Service

In any case in which an appointing authority determines that circumstances are such as to warrant removing a non-probationary employee from the work site in advance of the Loudermill Hearing provided in this section, the appointing authority shall do so by placing the employee on administrative leave pending the completion of the hearing. Administrative leave is subject to the prior approval of the County Administrator or designee. In cases where administrative leave is denied, the employee will be allowed to remain on the worksite pending the hearing.

I. Evidentiary Nature of Statements Made at Loudermill Hearing

Statements made by or on behalf of either party during a Loudermill Hearing shall not be deemed confidential, and may be introduced in any subsequent grievance proceeding under the County Personnel Policy.