

Final Administrative Grievance Review by State Human Resources Commission Policy

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§ 1. Requirements for a Hearing

The State Human Resources Act requires that certain conditions be met before a hearing can be held on an employee's grievance. These conditions are:

1. The employee must be either a permanent competitive service employee or be a career employee under the requirements of the State Human Resources Act or an applicant, where applicable (for more information on this, see Employee Appeals and Grievances in this Section).
2. The grievant must either have completed the agency grievance procedure; allege an issue that is appealable directly to the State Human Resources Commission; or, for an unlawful workplace harassment grievance, the employee must have submitted a written complaint to the agency and waited 60 days for the agency to take appropriate action; or, for a grievance arising under G.S. 126-14.2, the employee must have received a determination letter from the Office of Administrative Hearings, Civil Rights Division finding probable cause to believe that a violation of G.S. 14.2 has occurred.
3. The request for hearing, in the form of a petition for a contested case hearing, must be filed no more than thirty (30) calendar days after the grievant has received the final agency decision on the matter; or, if the grievant is alleging unlawful workplace harassment, the grievance, in the form of a petition for contested case hearing, must be filed no later than thirty (30) days after the sixty (60) day waiting period has ended. If the grievant is alleging an issue which is appealable directly to the Commission, the grievance, in the form of a petition for a contested case hearing, must be filed no more than thirty calendar days of notice of the alleged act. If the grievant is alleging a violation of G.S. 126-14.2, the grievance must be filed, in the form of a petition for a contested case hearing, within 15 days of the initial determination by the Civil Rights Division of the

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Office of Administrative Hearings that probable cause to believe that a violation of G.S. 126-14.2 has occurred.

4. The grievance must concern issues that are appealable as cited in G.S. 126-34.1. The above conditions are established by law and cannot be waived by either party.
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§ 2. Request for Hearing

In order to obtain a hearing, the applicant or employee must request that his or her grievance be heard. Employee or applicant requests for a hearing, in the form of a petition for a contested case hearing, should be directed to the Office of Administrative Hearings and the petition should also be served on the agency's Registered Agent for service of process on file at the Office of the Attorney General.

Advisory Note: The current address for the Office of Administrative Hearings is: Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. The street address for OAH is: 1711 New Hope Church Road, Raleigh N.C. 27609. The telephone number is: (984) 236-1850. The current telephone number for obtaining the name of an agency's Registered Agent at the Office of the Attorney General is (919) 716-6415. The address for the Office of the Attorney General is: N.C. Department of Justice, 9001 Mail Service Center, Raleigh, NC 27699-9001.

Advisory Note: Hearings on grievances appealed to the State Human Resources Commission are conducted by an administrative law judge assigned by the Office of Administrative Hearings. Requests for information on hearing procedures should be directed to: Chief Hearing Clerk, Hearings Division, Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

§ 3. Post Hearing Matters

After the hearing, the administrative law judge will make a recommended decision containing findings of fact, conclusions of law and a proposed order. This will be sent to both parties; the administrative law judge will also send it to the State Human Resources Commission, along with a complete record in the matter.

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§ 4. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-14.2;](#)

It is compliant with the Administrative Code rules at:

- [25 NCAC 01J .1300](#)
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§ 5. History of This Policy

Date	Version
	<ul style="list-style-type: none"> • First version.
June 11, 2011	<ul style="list-style-type: none"> • On June 25, 2011, Senate Bill 781 (Session Law 2011-398) was passed into law which took away the ability of the State Human Resources Commission (SHRC) to hear and render decisions in contested employee grievance cases. Prior to the ratification of this bill, the SHRC had the following duties: Conduct hearings regarding contested cases, Review the Administrative Law Judge's decision regarding contested cases, modify or accept the Administrative Law Judge's decision regarding a contested case, and render their own decision regarding contested cases.