



Procedure No: **CSB-300-01**

Description: **Discipline Appeal Process and Opportunity to Appeal**

Date Issued: **10.18.2018**

1.0 PURPOSE

The purpose of this procedure is to provide standard instructions for an employee and the Appointing Authority when initiating a formal notice of discipline appeal to the Civil Service Board office.

If an employee believe that the discipline is not for just cause, or that s/he did not violate a rule/policy/regulation, the employee has the right to file an appeal. The employee must begin the appeal by submitting a completed Civil Service Form 5A to the Civil Service Board no later than ten (10) calendar days following the official date of receiving the Notice of Discipline (Civil Service Form 5).

2.0 SCOPE

This procedure applies to the all agencies covered by the Appeal provisions of the Civil Service Act of Hillsborough County.

3.0 RESPONSIBILITIES

- 3.1 The originator of this procedure is the Civil Service Board Manager or designee.
- 3.2 The user shall have a basic knowledge of Civil Service Rules/Law and associated documents and forms identified below.

4.0 ASSOCIATED DOCUMENTS OR FORMS

- 4.1 Civil Service Rules (CSR) *revised to 05-28-2015*.
- 4.2 Civil Service Board Act (Section 1 > 25).
- 4.3 House Bill 1649.
- 4.4 House Bill 1397.
- 4.5 House Bill 2014.
- 4.6 CBS-300-01 Discipline Appeal Process and Opportunity to Appeal.
- 4.7 CS Form 5 - Notice of Discipline & Opportunity to Appeal.
- 4.8 CS Form 5A – Classified Employee Discipline Appeal Request.
- 4.9 CSR Form 15 – Consent to Electronic Service & Notice of Electronic Service Address.

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5.0 PROCEDURE

- 5.1** Except in extraordinary circumstances, before a disciplinary action is taken against a tenured classified service employee, the employer must first provide the employee with **written notice** of the intended action detailing the reasons it believes Civil Service Rule 11, and/or an agency policy or regulation has been violated.
- (1) When the most serious circumstances prevail, the Appointing Authority may elect to take action (5.6 below).
- 5.2** The employee must be given at least 5 working days to consider the written notice, and a pre-disciplinary hearing to respond to the allegations. The employee may request that the pre-disciplinary hearing be held earlier.
- 5.3** Following this period of consideration, the Appointing Authority schedules an **Informal Pre-Disciplinary Hearing**. The employee shall have an opportunity to respond to the Appointing Authority's reasons and allegations of violations of rule, policy, and/regulations.
- 5.4** At the conclusion the **Informal Pre-Disciplinary Hearing**, or when the most serious circumstances prevail and the Appointing Authority decides to take formal disciplinary action and suspend, involuntarily demote for cause, or terminate the employee, it shall conduct the **Formal Notice of Disciplinary Hearing** to provide the employee written notification of rule, policy, and/regulation violations by issuing **CS Form 5** "Notice of Discipline and Opportunity to Appeal" to the employee.
- 5.5** The employee should sign and date **CS Form 5** to acknowledge receipt. If the employee chooses not to sign and date CS Form 5 the Appointing Authority shall note said refusal and date of occurrence on CS Form 5. The employee shall receive a copy of CS Form 5.
- 5.6** At the conclusion of the Formal Notice of Disciplinary Hearing, the Appointing Authority shall forward **CS Form 5** and the completed Civil Service Personnel Action Change of Status Form (**CS Form 2**) to the Civil Service Office within five [5] working days of imposing the dismissal, suspension, or involuntary demotion for cause action.

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- 5.7** Under the Civil Service Act (Section 10), only Employees who have completed initial probation in the classified service have the right to appeal an Appointing Authority's disciplinary action to the Civil Service Board. Classified employees who unsuccessfully complete a "conditional probationary period" following promotion may not appeal such action to the Civil Service Board. The Civil Service Board Office will evaluate all appeals against this criteria and notify the employee of their right to appeal.
- 5.8** Remember the employees who files an appeal **must prove** that the appointing authority/department **did not have just cause** to discipline the employee.
- 5.9** The employee must obtain the latest forms as released and posted on the Civil Service Board website (<http://hccsb.org/>) when filing an appeal. Also the employee must file all forms within established timeframes as indicated below. **Failure to do so will compromise your right to appeal.**
- (1) Any concerns and/or questions should be directed to the Civil Service Board Office directly at 813-272-5625 or in person at 601 East Kennedy Blvd. 18th Floor Tampa Fl. 33602 (7:30 am – 4:30 pm Monday > Friday).
- 5.10 Downloading the Necessary Forms :**
- (1) The employee shall review instructions to initiate the Opportunity to Appeal by visiting the Civil Service Board website (<http://hccsb.org/>) **Home Page (header) »FILE AN APPEAL** SOP-300-01 Discipline Appeal Process and Opportunity to Appeal.
- (2) The employee is required to have access to a computer and Adobe Reader or Adobe Acrobat or Microsoft Word when completing the necessary forms as identified on the Civil Service Board website. You may download Adobe Reader DC (free) at Adobe's website or at the following link (<https://acrobat.adobe.com/us/en/acrobat/pdf-reader.html>). If you do not have computer access nor Adobe Acrobat Reader or Microsoft Word contact the Civil Service Board Office.
- a. **To download the forms** - Open the Civil Service Board website, click on FILE AN APPEAL, locate CS Form 5A and CSR

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Form 15 – download the form by highlighting the form name with the mouse cursor, then right click (mouse) the form and from the drop down menu choose “Save target as...” to save the required form to your computer.

- b. **Once downloaded and saved**, open the form using Adobe Reader, Adobe Acrobat or Microsoft Word to complete the required information on the form.
- c. Once the form is downloaded and saved to your computer it is the initiators responsibility to insure the latest most current version of CS Form 5A and CSR Form 15 as posted on the Civil Service Board website are used.

5.11 Instructions for Filing an Appeal:

- (1) **Remember** an employee has **ten [10] calendar days** from receipt of CS Form 5 indicating the dismissal, suspension, or involuntary demotion for cause to submit the necessary completed forms (CS Form 5A & CSR Form 15) to the Civil Service Board Office. The employee also must provide a copy of CS Form 5 as issued from the Appointing Authority.
 - a. CS Form 5A
 - b. CSR Form 15.
 - c. Copy of CS Form 5 (as issued by the Appointing Authority).
- (2) Complete **Civil Service Form 5A** then using Adobe Reader DC, Adobe Acrobat or Microsoft Word. The employee will be required to **complete all requested information** on the form as identified. Remember to sign and date the form prior to submitting to the Civil Service Board Office. When using the Adobe / Word Template - upload your completed form using the website “**Recourses:**’ link (**Upload files**) to send the completed form template to the Civil Service Board Office. It is recommended after sending to save the completed form to your computer for reference when needed.
- (3) Complete **Civil Service Consent to Electronic Filing form CSR 15 – Consent Form (CONSENT TO ELECTRONIC SERVICE, AND NOTICE OF**

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ELECTRONIC SERVICE ADDRESS), the employee will be required **to complete all requested information** on the form as identified. Remember to sign and date the form prior to submitting to the Civil Service Board Office. When using the Adobe / Word Template - upload your completed form using the website "Recourses:" link (Upload files) to send the completed form template to the Civil Service Board Office. It is recommended after sending to save the completed form to your computer for reference when needed.

- (4) The employee shall also upload a scanned copy of the signed and dated **CS Form 5** as received during the Formal Notice of Disciplinary Hearing to the Civil Service Board Office at this time. It is recommended after sending to save the completed form to your computer for reference when needed.
- (5) Within 3 days of the Civil Service Board Office receiving all required information (CS Form 5A, CRS Form 15 and a copy of CS Form 5) the employee will be notify the employee of their legal 'Right to Appeal'.
 - a. If the employee has a legal 'Right to Appeal' the Civil Service Director will send a Notice of Appeal to the Appointing Authority with a copy to the employee filing. This Notice will contain further instructions and dates related to the processing of the appeal.
 - b. If the employee does not have a legal 'Right to Appeal' the Civil Service Board Office will notify the employee and the Appointing Authority of the rejection.

5.12 Preparing for the Appeal Hearing:

The Civil Service Office compiles the supporting facts and evidence that has been forwarded to the Civil Service Board by the initiating employee and Appointing Authority. Notice to Appeal Hearings are scheduled in advance and are held after the normal monthly Civil Service Board Meetings. Both parties will be notified in advance of Appeal Hearing dates, location and schedule times.

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5.13 Conducting the Hearing

When the appeal is filed, the employee is referred to as the “Appellant.” An Appellant has the right to be heard publicly, to present evidence, and to be represented by legal counsel or an advocate who is not a witness in the case. The Appellant may present witness testimony or cross-examination of witnesses during a final evidentiary hearing, but not if the hearing is to consider a preliminary Motion.

- (1) The “Appellant” must prove during the hearing that the appointing authority/department did not have just cause to discipline the employee.
- (2) **At the beginning** of a hearing the General Counsel for the Civil Service Board will determine the order in which each party may make an opening statement. Opening statements are made to inform the Civil Service Board of the facts that the party believes will be shown by the evidence as they relate to the alleged violation(s) of Civil Service Rules(s) or Agency policy(ies) and/or procedure(s).
- (3) **During an evidentiary hearing**, the party’s present facts and objective evidence to support or deny the Appointing Authority claims for a rules or policy violation. The party’s may call witnesses after the opening statements. Each witness called by any party may be cross-examined by the opposing party. Re-direct examination shall be permitted but, re-cross examination shall be permitted only upon good cause. At the conclusion of examination by the parties, the Civil Service Board also has the opportunity to ask questions.
- (4) **After the conclusion of the evidence and examination**, each party is given the opportunity to present a closing argument. A closing argument is not evidence, but is designed to inform the Civil Service Board of each party’s position as to the facts demonstrated by the evidence and whether or not the alleged violation(s) of Civil Service Rules(s) or Agency policy(ies) and/or procedures(s) have been proven.
- (5) **After closing argument**, the Civil Service Board conducts its deliberations in open meeting. The Civil Service Board is required to vote separately on each alleged violation.

5.14 Appeal Hearing Outcome

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- (1) It is not part of the Civil Service Board's function to determine whether the degree or type of action is appropriate. Therefore, the Civil Service Board may not reduce, increase or otherwise modify the action imposed upon the employee by the Agency Head. If the conduct which is proven establishes a violation of at least one of the Civil Service Rules, the action taken must be upheld in its entirety. If the conduct which is proven does not establish a violation of the Civil Service Rules, or if the action taken is found not to be for just cause, the action must be vacated in its entirety and the appellant placed in the same position that he or she would have been in had the action not been taken.

6.0 DISTRIBUTION AND ARCHIVING

Current and previously issued or obsolete electronic copies of Civil Service Board SOP's are maintained per Hillsborough County Record Retention Policies and Procedures.

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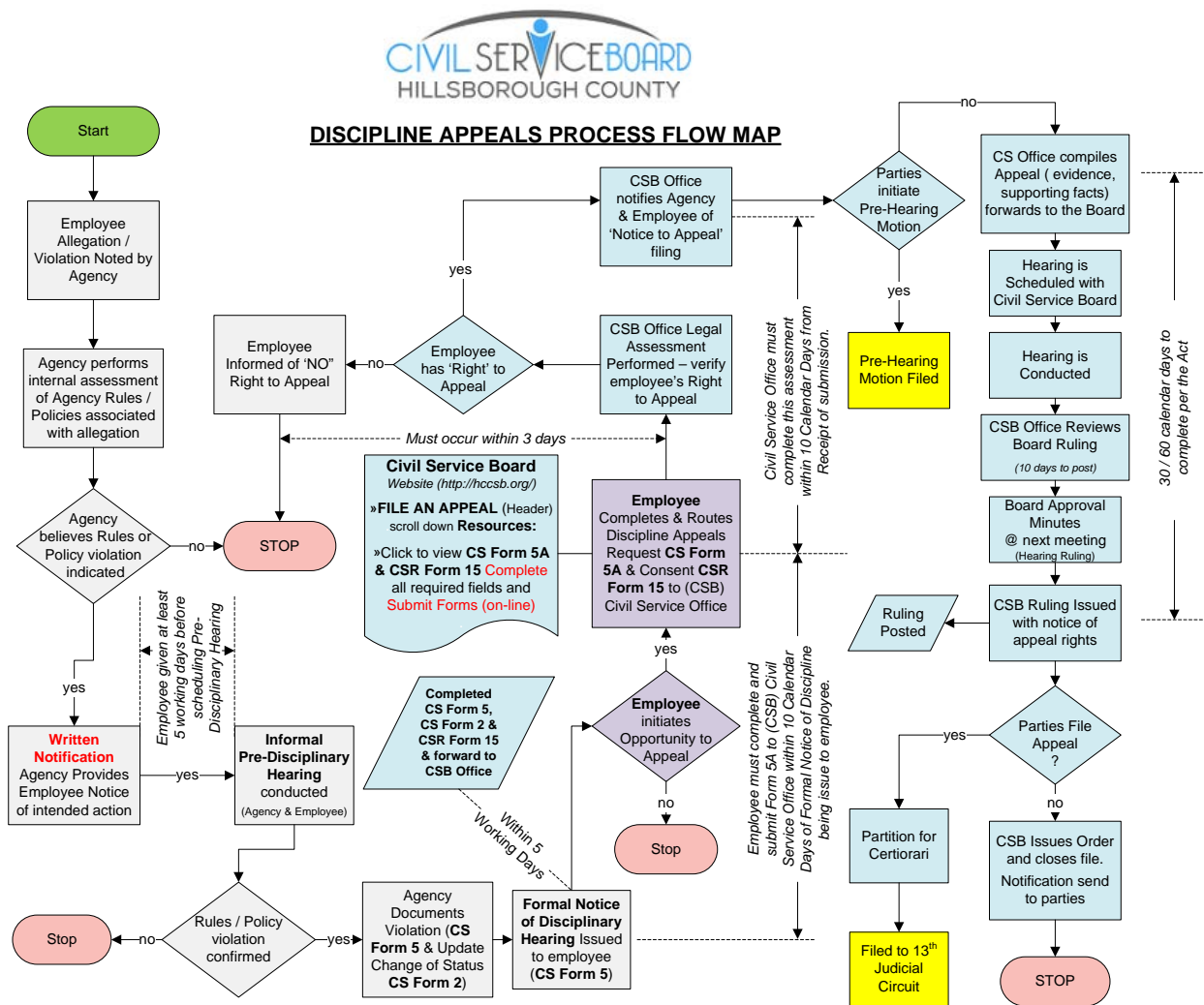
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Attachment: Overview of the Employee Appeals Process (*Filing an Opportunity to Appeal*).



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