



ADMINISTRATIVE RULES OF MONTANA



2.21.8018 HEARING

- (1) A hearing shall be conducted at step III, if the grievance is filed as the result of a suspension without pay for more than 10 working days, a disciplinary demotion, or a discharge.
- (2) Within 10 working days of advancement of the grievance to step III, the designated management representative shall request either:
 - (a) a hearings examiner assigned by the office of the attorney general; or
 - (b) a list of three to five potential hearings examiners from the board of personnel appeals. An examiner shall be selected in one of the following manners:
 - (i) management and the grievant shall agree on one of the hearings examiners; or
 - (ii) each shall alternately strike names from the list and the remaining person shall serve as hearings examiner. The grievant shall strike the first name.
- (3) The hearings examiner shall set the time and place for the hearing. The parties shall receive notice of the hearing either personally or by certified mail not less than 5 working days before the hearing.
- (4) Both parties shall have:
 - (a) the right to introduce evidence;
 - (b) the right to cross examine;
 - (c) the right to be represented; and
 - (d) the right to a recommendation for resolution based on the recorded evidence and matters officially noticed.
- (5) Within 30 working days of the selection of the hearings examiner, the hearings process shall be completed, and the hearings examiner shall submit a written summary of findings and shall make a non-binding recommendation for resolution to the department head.
- (6) The agency shall pay all costs of:
 - (a) a hearings examiner;
 - (b) physical arrangements for a hearing; and
 - (c) management's witnesses and evidence.
- (7) The grievant shall pay fees and expenses of:

- (a) the grievant's representative; and
 - (b) the grievant's witnesses and evidence, unless the witness also is a management witness.
- (8) A recording shall be made of the hearing. Either party may request a transcript of a hearing. The party requesting the transcript shall bear the cost. If both parties request a transcript, they will share the cost.
- (9) The department head shall issue the final administrative decision within 10 working days of receipt of the hearing summary.

Authorizing statute(s): Sec. 2-18-102, MCA

Implementing statute(s): 2-18-102, MCA

History: NEW, 1988 MAR p. 2559, Eff. 12/9/88; AMD, 1990 MAR p. 377, Eff. 2/23/90; AMD, 1991 MAR p. 352, Eff. 3/29/91; AMD, 1997 MAR p. 1448, Eff. 8/19/97.