

COUNTY OF ORANGE, VIRGINIA  
PERSONNEL POLICIES MANUAL

**EMPLOYEE GRIEVANCE PROCEDURE**

POLICY NO.: 7.1

EFFECTIVE: 10/01/96  
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05/14/13

**Section 1.0 Objective**

The purpose of the Employee Grievance Procedure is to afford an expeditious and impartial method for the resolution of employment disputes that may arise between the County government and employees in the County service see §15.2-1507 of the Code of Virginia).

**Section 2.0 Coverage of Personnel**

A. This procedure shall apply to the following persons:

- (1) All permanent county employees except employees in their initial probationary period, and those employees addressed in section (B) below;
- (2) Employees of constitutional officers not otherwise exempt by law are covered under this policy if the constitutional officer requests that his employees be covered under this grievance procedure. If the constitutional officer does not so request, then such employees shall be covered by the State procedure.
- (3) Employees of the Orange County Department of Social Services, Library Board, Electoral Board, and other local boards whose employees are not appointed by the Board of Supervisors or County Administrator but who would otherwise fall under the State grievance plan and procedure, will be covered by this grievance procedure if the subject board so requests. If the board does not make such a request, then such employees shall be covered by the State grievance plan and procedure.

B. This procedure shall not apply to the following persons:

- (1) Any county employees appointed by the Board of Supervisors.
- (2) Department heads.

- (3) Executive assistants to the county administrator.
- (4) Members of boards and commissions.
- (5) Employees whose terms of employment are limited by law.
- (6) Seasonal, temporary, and limited term employees.
- (7) The County Administrator shall determine the officers and employees by position, excluded from this Procedure, and shall maintain in the Human Resources Department a list of such excluded positions.

**Section 3.0 Definition of a Grievance**

A grievance is a complaint or dispute related to a covered employee's employment which involves but is not necessarily limited to:

- A. Allegations of adverse action, which is defined as an action or consequence to which a person in the County service may be subjected for disciplinary purposes, including the following:
  - (1) Termination of employment;
  - (2) Suspension without pay;
  - (3) Administrative leave without pay;
  - (4) Involuntary demotion, except as permitted in Section 4.0 F. below;
  - (5) A written reprimand;
  - (6) Disciplinary transfer.

"Adverse Action" does not include any termination, lay-off or suspension of employment because of reduction in workforce, job abolition or expiration of a term of contractual employment; nor shall "adverse action" be deemed to include employee counseling concerning job performance or employee behavior that does not include one of the actions listed above.

- B. Disputes or complaints concerning the application of the Personnel Policies of Orange County ("Personnel Policies"), or rules, regulations, and policies and procedures adopted thereunder, including the application of policies involving matters referred to in Section 4.0 C. below. However, neither the content nor the consistent, non-discriminatory interpretation of the Personnel Policies, or rules, regulations, policies and procedures adopted thereunder shall be subject to employee grievance under this Procedure;

- C. Acts of retaliation as the result of utilization of the grievance procedure, participation in the grievance of another County employee or retaliation for assisting another employee in making or demonstrating a complaint of discrimination or harassment under Section E. below;
- D. Harassment of an employee by his supervisor;
- E. Discrimination or harassment on the basis of race, national origin, color, creed, sex, disability, age, or political activity or affiliation, or retaliation for making a complaint of such discrimination or harassment;
- F. Notwithstanding the provisions of Section 4.0 below, terminations resulting from formal discipline or unsatisfactory job performance;
- G. Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, or any ordinance of Orange County; has reported any violation of such law to a governmental authority; or has sought any change in law before the Congress of the United States, the General Assembly, or the Board of Supervisors.

**Section 4.0 Management Responsibilities**

Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, the following complaints are not grievable:

- A. Establishment and revision of wages or salaries including performance evaluations, and concomitant pay raises, position classifications or general benefits;
- B. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- C. The contents and/or consistent, non-discriminatory interpretation of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- D. Failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;
- E. The methods, means and personnel by which work activities are to be carried on;

- F. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition except where any of the foregoing actions affect an employee who has been reinstated within the previous six (6)<sup>1</sup> months as the result of the final termination of a grievance;

In any grievance brought under this exception, the action shall be upheld upon a showing by the agency that: (1) there was a valid business reason for the action, and (2) the employee was notified of such reason in writing prior to the effective date of the action;

- G. The hiring, promotion, non-disciplinary transfer, assignment, and retention of employees within the County service; and
- H. The relief of employees from duties in emergencies.

#### **Section 5.0 Standing to Pursue a Grievance**

A grievant must be personally and directly affected by an occurrence or condition before he shall be permitted to pursue a grievance. Thus, for example, no employee may grieve another employee's job performance unless such job performance directly and adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other dispute as to grievability.

#### **Section 6.0 Grievability**

- A. Decisions regarding whether or not a matter is grievable under this procedure, including the question of access to the procedure, shall be made by the County Administrator or his designee pursuant to procedures set forth below using Grievance Form C. Decisions as to grievability shall be made at the request of the grievant or his supervisor within 10 days of such request. A copy of the ruling shall be sent to the grievant, to the grievant's supervisor, and to the County Administrator.

Decisions by the County Administrator that an issue is not grievable may be appealed by the grievant to the Circuit Court for Orange County ("Circuit Court") as provided in §§15.2-1507 and 2.2-3006(B) VA Code Ann. Pursuant to those sections, proceedings for the review of the decision of the County Administrator shall be instituted by filing a notice of appeal with the County Administrator within ten (10) days after the date of his decision as to grievability, and by giving a copy of such notice to all other parties to the grievance. Within ten (10) days after receiving notice of appeal, the County Administrator shall transmit

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<sup>1</sup> Unless otherwise specifically noted, months and days are measured as calendar days.

to the Clerk of the Circuit Court a copy of his decision, a copy of the notice of appeal, and any exhibits which may have been provided in connection with the resolution of the issue of grievability. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the County Administrator to transmit the record within the time allowed shall not prejudice the rights of the grievant. The Circuit Court, on motion of the grievant, may issue a Writ of Certiorari requiring the County Administrator to transmit the record on or before a certain date as provided in §2.2-1306(B) VA Code Ann.

Within 30 days of receipt by the Clerk of Court of the records in the matter, the Court, sitting without a jury, shall hear the appeal on the record, and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court may receive such other evidence as the ends of justice may require. The Court will review any finding of law made by the County Administrator for error, and will review the findings of fact made by the County Administrator for abuse of discretion. Using these standards of review, the Court may affirm, reverse, or modify the decision of the County Administrator. The Court's decision shall be rendered no later than the 15th day from the date of conclusion of the hearing. The decision of the Court is final and is not appealable. All matters from the institution of a request that the County Administrator determine the issue of grievability, through the notation of appeal of an adverse decision by the County Administrator, shall be recorded on forms provided for those purposes by the Human Resources Office;

- B. The issue of grievability may be raised at any step of the grievance procedure prior to the fourth step hearing provided in Section 9.3, but once raised, the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the fourth step hearing or it shall be deemed to have been waived by all parties. A request that grievability be determined shall suspend the time limits under this procedure. Time limits shall begin to run again the day after the decision that a matter is or is not grievable is made by the County Administrator or the Circuit Court;
- C. The classification of a complaint as non-grievable by either the County Administrator or the Circuit Court shall not be construed to restrict any employee's rights to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the grievance procedure.

## **Section 7.0 Policy Generally**

- A. All stages of the grievance procedure beyond the first step provided in Section 9.0 shall be reduced to writing on forms supplied by the Human Resources Office. At any step beyond the second step both the grievant and his supervisor or the County Administrator may call upon appropriate witnesses and be represented by legal counsel or other persons, as may be provided in this procedure;
- B. Once an employee reduces his grievance to writing he must specify on the appropriate form the specific relief he expects to obtain through the use of this procedure. This requirement shall be deemed a substantive matter, and a failure to specify the relief expected shall be sufficient cause to terminate the right to further appeal. No notification required by Subsection D. below is necessary prior to termination of the appeal for this reason. When the employee decides to reduce his grievance to writing, he shall obtain the necessary forms from the Human Resources Office. A copy of the written grievance shall be given to the Human Resources Office. That office shall thereupon open a file on the grievance, assign it a number, and shall assist the grievant, the grievant's supervisor, and the County Administrator, in insuring that all papers are transmitted throughout this process in timely fashion;
- C. Failure of the grievant to comply with the time limitations in Section 9.0 to orally identify a grievance within 20 days after the occurrence or condition giving rise to the grievance or to file a grievance forecloses the employee from filing any grievance under this Procedure thereafter. Failure to appeal a determination regarding the grievance at any subsequent state within the time periods required by Section 9.0 will result in termination of the appeal. No notification required by Section D. below is necessary prior to termination of the appeal for any reason pursuant to this section;
- D. After the initial filing of the grievance, failure of either party to comply with a procedural requirement of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Administrator. Failure of either party without just cause to comply with all substantial procedural requirements at the Panel hearing shall result in a decision in favor of the other party. Decisions as to whether any employee or management has in fact

failed to so comply shall be made by the County Administrator upon the request of the grievant's supervisor or the grievant that such determination be made. The County Administrator, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. Compliance determinations shall be subject to judicial review by filing a petition with the Circuit Court within 30 days of the compliance determination.

**Section 8.0 Consolidation of Grievances**

In the event that more than one grievance is filed arising from the same transaction or occurrences, the County Administrator may, at any time prior to fourth step hearing, consolidate those grievances for joint processing. If the grievances are consolidated, all time limits set forth in this procedure shall thereafter be calculated from the date of the last filed grievance. Once consolidated, the grievances shall all be processed as a single matter.

**Section 9.0 First Step: Immediate Supervisor Level**

No later than 20 calendar days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance orally to his immediate supervisor. Within five (5) days of such presentation, the immediate supervisor shall give his response to the employee with respect to the particular grievance, or shall advise the employee that additional time is needed to render a decision. In the event additional time is needed, the immediate supervisor must render the decision within three (3) days after notice of the need for additional time is given.

The failure of an employee to identify the grievance within the time specified above shall constitute a forfeiture and a waiver of any rights to proceed under this Procedure;

**Section 9.1 Second Step: County Administrator Level**

If a satisfactory resolution is not reached by the First Step process, and the employee wishes to advance to Stage Two of this Procedure, the employee shall reduce his grievance to writing, identifying specifically, and in detail, the nature of the grievance and the expected remedy, on a form provided for that purpose by the Human Resources Office. It shall be the duty of the employee to obtain the necessary form from Human Resources.

A grievant shall be entitled, should he prevail in his grievance, to no more than the relief specifically requested. Such written grievance shall be presented to the County Administrator within five (5) calendar days of the supervisor's verbal reply to the First Step oral grievance.

If the grievant's immediate supervisor is the County Administrator, he shall pass by Step Two of this Procedure and proceed immediately to Step Three.

The County Administrator will then meet with the employee within seven (7) calendar days of receiving the submission or indicate that an extension is necessary. The extension shall not exceed three (3) additional calendar days except by mutual agreement. The employee may have witnesses present at the Second Step meeting but no legal counsel or other representative. The County Administrator may also have witnesses present. The County Administrator shall render a written response to the grievance within 10 days following the Second Step meeting. The Human Resources Office shall insure that a verbatim record (in writing or on recording tape) of such meeting is made and retained in his custody for not less than 12 months. The grievant shall be entitled to a copy of said record upon payment of a reasonable fee therefor. The County Administrator may designate that the grievance be heard by the Assistant County Administrator.

## **Section 9.2 Third Step: Board of Supervisors Chairman Level**

If a satisfactory resolution of the grievance has not been reached at the termination of the Second Step, the employee may so indicate on a grievance form provided by the Human Resources Office and submit the grievance to the Human Resources Office. It shall be the duty of the employee to obtain the necessary form from Human Resources.

Submission to the Human Resources Office must occur within five (5) calendar days following receipt of the second step reply. The Chairman of the Board of Supervisors or his designee on the Board ("Board Chairman") will then meet with the employee within seven (7) calendar days of receiving the submission or indicate that an extension is necessary. The extension shall not exceed three (3) additional calendar days except by mutual agreement.

The employee may have legal counsel or other representative and witnesses present at the Third Step meeting, but must bear his own costs for any counsel or assistance in presentation of his case. The County Administrator (or his designee) may also have witnesses present. If the grievant is represented by legal counsel, the supervisor and/or County Administrator likewise have the option of being represented by counsel.

The Board Chairman shall render a written response to the grievance within 10 days following the Third Step meeting. The Human Resources Office shall insure that a verbatim record (in writing or on recording tape) of such meeting is made and retained in his custody for not less than 12

months. The grievant shall be entitled to a copy of said record upon payment of a reasonable fee therefor.

### **Section 9.3 Fourth Step: Administrative Hearing Officer**

1. If a satisfactory resolution to the grievance is not reached at the Third Step, the grievant may submit the grievance to an Administrative Hearing Officer. The Administrative Hearing Officer shall be appointed by the Executive Secretary of the Virginia Supreme Court. The appointment shall be made from the list of administrative Hearing Officers maintained by the Executive Secretary of the Virginia Supreme Court pursuant to Title 2.2, Chapter 40, § 2.2-4024 of the Code of Virginia, and shall be made from the appropriate geographical region on a rotating basis.

Administrative Hearing Officers must meet stringent guidelines found in Title 2.2, Chapter 40, § 2.2-4024 of the Code of Virginia, otherwise known as the Administrative Process Act. The County is responsible for electing to use an Administrative Hearing Officer and payment of any expenses for an Administrative Hearing Officer.

2. The request for a hearing before a Hearing Officer shall be indicated by the grievant on a form provided for that purpose by the Human Resources Office, and submitted to the Human Resources Office within five (5) calendar days of receipt of the Third Step response. It shall be the duty of the employee to obtain the necessary form from Human Resources.
3. The Human Resources Office shall schedule the hearing as soon as possible. In the event that the Human Resources Director is a party to the grievance, the request form shall be submitted to the County Administrator, and the County Administrator or his designee shall make the necessary arrangements.
4. The employee may have legal counsel or other representative and witnesses present at the Panel hearing, but must bear his own costs for any counsel or assistance in presentation of his case. The County Administrator or his designee may also have witnesses present. The County Attorney will represent the County Administrator.

### **Section 9.4 Timeframes**

1. The hearing must be held within 30 calendar days of the appointment of the Administrative Hearing Officer. The Administrative Hearing Officer may grant a postponement or extend the 30-day period for just cause.

2. At least ten days prior to the hearing, the County Administrator, or his designee, shall provide the Administrative Hearing Officer with copies of the grievance record, and shall provide the grievant and his attorney with a list of the documents furnished to the Administrative Hearing Officer.
3. At least ten days prior to the scheduled hearing, the grievant and his attorney shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding.
4. At least ten days prior to the hearing, the grievant or his attorney shall provide the County and the Administrative Hearing Officer with the documents, exhibits, and lists of witnesses he intends to use at the hearing.
5. At the hearing, the County shall provide the grievant or his attorney with the documents, exhibits, and lists of witnesses it intends to use at the hearing.

### **Section 9.5    The Hearing**

1. It is the responsibility of the Administrative Hearing Officer to notify the parties, either in writing or at a pre-hearing conference, of the date, time, and place of the hearing. The hearing must be held in the County. The County must arrange a place for the hearing unless the Administrative Hearing Officer chooses to make the arrangements.
2. A hearing is to last no more than one day, unless the Administrative Hearing Officer determines that the time is insufficient for a full and fair presentation of the evidence by both sides.
3. The parties must appear at the hearing or request a postponement. The Administrative Hearing Officer has the discretion to grant or deny a request for a postponement. However, the hearing may go beyond the 30-day time limit only upon a showing of just cause. At the Administrative Hearing Officer's discretion, a hearing may proceed in the absence of one of the parties; a hearing so conducted will be decided on the grievance record and the evidence presented at the hearing.
4. Where a Step 4 hearing is recorded, the County is responsible for providing proper recording equipment, unless the Administrative Hearing Officer plans to provide it. The Administrative Hearing Officer is responsible for recording the hearing and preserving the recorded tapes as part of the grievance record. Either party may receive a copy of the recording, if requested, for the cost of reproduction. A court reporter is not required. If a party requests a court reporter, that party is responsible for the costs. Either party desiring a transcript should contact the court reporter directly.
5. The following rules shall apply to this step of the grievance process.

- A. Both the grievant and the County may be represented by legal counsel or other representative at the Administrative Hearing Officer hearing. Such representatives may examine, cross-examine, question, and present evidence on behalf of the grievant or the County before the Administrative Hearing Officer without being in violation of the provisions of Virginia Code § 54.1-3904.
- B. In addition to the legal representative referred to in 1 above, the County shall be allowed to have at least one management representative, of the County's choosing, and a representative from the Human Resources Department present during the entire hearing.
- C. The Administrative Hearing Officer shall have the discretion to limit the attendance at the hearing of persons not having a direct interest in the hearing. However, a hearing disabled employee shall be allowed to have an interpreter present during any and all procedural steps.
- D. Hearings are not intended to be conducted like proceedings in court and the rules of evidence do not necessarily apply.
- E. That Hearing Officer has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;
- F. Both the grievant and the County may call appropriate witnesses. All witnesses, including the grievant, shall be subject to examination and cross-examination. Witnesses shall be present only while actually giving testimony, except for the management and Human Resources representatives, who may remain throughout the hearing.
- G. Opening and closing statements may be made by each party.
- H. All evidence shall be presented in the presence of the parties, except by mutual consent of the parties.
- I. County employees who are necessary participants at grievance hearings shall not lose pay for time necessarily lost from their jobs and will not be charged leave because of their attendance at such hearings.
- J. The grievant shall not be entitled to recover more than that which he has lost.
- K. Where a grievant has obtained partial relief at one level of this grievance procedure but decides to appeal to the next higher level, the filing of a request form to the next higher level shall constitute rejection of, and relinquishment of any claim to, any and all relief granted at the previous level.

- L. At the request of either party, the hearing shall be private.
- M. The grievant shall not be entitled to damages or attorney's fees.

**Section 9.6 Decision of Administrative Hearing Officer**

1. A decision by the Administrative Hearing Officer shall be in writing. The Administrative Hearing Officer must send the decision by certified mail, return receipt requested, to each party.
2. The decision of the Administrative Hearing Officer should be rendered as soon as possible, but, in any case, not later than fifteen calendar days following the conclusion of the hearing.
3. The Administrative Hearing Officer shall have the authority, if he finds (based on the greater weight of the evidence) that the grievant has been denied a benefit or wrongly disciplined without just cause (where such cause is required) to reverse, reduce, or otherwise modify such action and, where appropriate, to order the reinstatement of such employee to his former position.
4. The Administrative Hearing Officer shall not have authority to do any of the following:
  - a. Formulate policies or procedures.
  - b. Alter existing policies or procedures.
  - c. Circumscribe or modify the rights of the County as outlined in this procedure.
  - d. Exonerate the employee from all discipline when the fault or responsibility of the employee is established by a preponderance of the evidence, or when the employee admits such fault or responsibility.
  - e. Grant relief greater than that which the grievant has requested in the request form, or grant relief which is inconsistent with law or County policy.
5. The decision of the Administrative Hearing Officer, acting within the scope of his authority, shall be final and binding, subject to existing policies, procedures, and law.

**Examples of relief which may be available:**

- a. Reinstatement to the employee's former position or, if occupied, to an objectively similar position;
- b. Upholding, reducing, or rescinding disciplinary actions;
- c. If requested in the grievance, an award of full, partial, or no back pay, from which interim earnings must be deducted;
- d. The restoration of full benefits and seniority; and,
- e. An order that the County comply with applicable law and policy.

**Examples of relief which are not available:**

- a. Damages or attorneys' fees;
- b. Hiring, promotion, transfer, assignment, or retention of any employee;
- c. Establishing or revising compensation, classification, or benefits;
- d. Establishing or revising policies, procedures, rules, or regulations;
- e. Taking any adverse action against an employee (other than upholding or reducing the disciplinary action challenged by the grievance);
- f. Directing the methods, means, or personnel by which work activities are to be carried out; or,
- g. Any other relief that is inconsistent with the grievance statute or procedure.

6. Review of Hearing Decisions

An Administrative Hearing Officer's original decision is subject to two types of administrative review. A party may make more than one type of request for review. However, all requests for review must be made in writing, and received by the County Administrator, within 10 work days of the date of the original hearing decision. A copy of all requests must be provided to the other party and the Human Resources Department at the time the request is provided to the County Administrator.

**Types of Review:**

- A. A request to reconsider a decision or reopen a hearing is made to the Administrative Hearing Officer, as the case may be. This request must state the basis for such request; generally, newly discovered evidence or evidence of incorrect legal conclusions is the basis for such a request. The

Administrative Hearing Officer will review and render a written decision within ten work days of receipt of the written request.

- B. A challenge that the hearing decision is inconsistent with written policy or law is made to the County Administrator or his designee, unless the County Administrator or his designee had a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth's Attorney. This request must refer to a particular federal, state or County law or policy. The County Administrator's authority is limited to ordering the Administrative Hearing Officer to revise the decision to conform it to law and written policy.

**Section 9.7 Implementation of Remedy**

- A. The County Administrator shall implement any remedy which may be ordered by the Hearing Officer, provided that such decision is consistent with law and written policies.
- B. The County Administrator is not required to implement a decision of the Hearing Officer which he determines is inconsistent with law and written policies;
- C. An Administrative Hearing Officer's original decision becomes a final hearing decision, with no further possibility of administrative review, when:
- The ten work day period for filing requests for administrative review has expired and neither party has filed such a request; or,
  - All timely requests for administrative review have been decided and, if ordered by the County Administrator, the Administrative Hearing Officer has issued a revised decision consistent with law and policy.
- D. Either party may petition the Circuit Court for an order requiring implementation of the decision of the Hearing Officer.

**Section 10.0 Computation of Time**

- A. Except where otherwise provided, time periods under this procedure shall be deemed to begin on the day following that on which any action is to be taken or report rendered, and to run on calendar days without regard to weekends or holidays. If a time

period herein ends on a weekend or holiday, the last day of the time period shall be deemed to be the end of the business day of the first working day following. Thus, for example, a written grievance under the First Step must be presented to the grievant's immediate supervisor within five (5) days of the supervisor's verbal reply to the informal grievance. The five (5) days shall begin on the day after receipt of the supervisor's verbal reply and terminate on the fifth (5th) day following regardless of whether that is a weekend or holiday. If in fact it is a weekend or holiday, the time period shall be deemed to terminate at the end of the next full working day;

- B. Time limits established under this procedure for unilateral action by either party, such as the filing of the grievance forms at various steps by the employee, or the completion of written decisions by employer representatives at various steps are substantive requirements and are intended to be strictly construed and enforced. However, in the interest of fairness, any such time limits for unilateral action may be extended if all parties agree to such extensions. While the Human Resources Office will make every effort to schedule any Panel hearings within the limits established by this procedure, it will also attempt to schedule those hearings at times agreeable to the members of the panel and all parties involved. The failure to arrive at an agreed-upon date in any case will not be held against either party as a substantial procedural defect, unless it can be shown that either party is acting in bad faith to delay the scheduling of the Panel hearing.
- C. The County Administrator or his designee may, at his option, require a clear written explanation for claims of just cause/good faith extensions or compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing petition with the Circuit Court within 30 days of the compliance determination.