

THE UTILITY AND FUNCTIONING OF PEER REVIEW BOARDS

by

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EDITOR'S NOTE: *Practicing mediators, as well as academics who study the theory and process of negotiation, have long recognized the phenomenon of "reactive devaluation," by which a suggestion or proposal is discounted by one party because it has been propounded by the other party, and therefore interpreted as self-serving. Good ideas are often heard more attentively if they come from someone the disputant trusts rather than someone whose motives are suspect. As Nancy Vanderlip explains, this phenomenon is addressed by assembling advisory panels of organizational peers.*

If a company is committed to open communication and participative problem solving, a peer review facility can be extremely effective. This process is designed to encourage collaboration among all employee levels, create opportunities to contribute ideas and facilitate effective problem solving. It will enhance, not replace, an open door policy which encourages communication between the employee and a supervisor or manager. This process is not intended to prevent employees from communicating with any level of management regarding work-related issues.

Purpose

Peer Review Panels function to review management actions affecting individual employees. They investigate problems concerning the proper and equitable application of

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organizational policies, procedures and practices. Panels have the authority to investigate relevant facts to ensure the applicable policies or practices were followed correctly and fairly. If a panel finds otherwise, it has full authority to change or remedy the management action so as to be consistent with company-wide policy provisions and past practices.

Limitations

Peer Review Panels should not review actions or issue decisions that involve changing policies and procedures, work rules, rates of pay, employee benefits or management actions that rely primarily on subjective criteria (such as job evaluations, performance reviews and promotions or demotions for salaried employees).

Authority

All decisions of the Peer Review Panel should be final and binding on the company, but not on the employee. To encourage full utilization of this internal dispute resolution option, the best practice is not to require employees to waive any rights as a precondition to utilizing Peer Review. The goal is to make Peer Review so appealing to employees that they choose this option rather than immediately pursuing litigation. The best way of doing so is to assure the employee that litigation remains an option if the Peer Review process proves unsatisfactory.

Results

In practice, few employees who use Peer Review eventually sue the company. Whether this is so because employees have had their “day in court,” or whether they have been persuaded by their peers’ determination that the challenged action was proper, most employees accept the decision of the Peer Panel. This is so *even though most of those decisions are adverse to the employee.*

In addition, the presence of a Peer Panel deters arbitrary or inconsistent action by managers, who are aware that their decisions can be reviewed and overruled if they are found to be arbitrary, capricious or spiteful. Some managers initially may object to the prospect of employees' second-guessing their decisions. Company legal counsel often can assist to overcome this objection by emphasizing that it is usually preferable that employees, rather than jurors, review these decisions, in a context where results adverse to management have limited consequences.

It is critical that systems designers have a realistic assessment of the culture of the company and a trust in the company's employees to make fair, unbiased determinations of managers who act in good faith. Many employees serving on a Peer Review Panel report a new appreciation for the difficult decisions managers must make. Thus this program can help to break down the barriers between management and other employees and to place the interests of the corporation paramount to the desire of the individuals involved to be vindicated.

Model

An example of a Peer Review Employee Communication Summary follows. This summary is typically distributed to employees in a brochure at a communications or training meeting describing the program. A statement briefly describing the program also is included in the Employee Handbook. When employees are disputing company actions, they can be given a new brochure and encouraged to take advantage of the program.

APPENDIX A.

Model Summary Explanation of Peer Review Process

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PEER APPEAL RESOLUTION PROGRAM

The Company has established a Peer Appeal Resolution Process. Team members who disagree with a performance commitment action or the application of company policies may request that a panel of their peers review the final decision.

What is Peer Appeal Resolution?

Peer Appeal Resolution is an extension of our Open Door Policy. In this process, team members are provided the opportunity to become directly involved in problem solving. The appealing team member has the opportunity to have a panel of their peers review the action taken and to grant, modify, or deny the team member's recommendation.

Who can use this process?

This process is available to all regular full-time team members with more than 90 days of service. Employees who have violated the Workplace Violence Policy or the Substance Abuse Policy will be disqualified from using the Peer Appeal Resolution process. The company reserves the right to exclude other appeals from the process at its discretion.

What are the steps you would take if you wanted to use Peer Appeal Resolution?

Peer Appeal Resolution is a four-step process. In cases involving suspension or termination of employment, steps 1 and 2 may be bypassed.

1. Informal discussion with your team leader

Within ten working days of becoming aware of a problem, your initial responsibility is to resolve the issue with your team leader.

2. Discussion with next level team leader

Should the issue remain unresolved, you may request a meeting with the next level team leader. This meeting should be scheduled within five working days from step 1. Upon reviewing the issue, the second level team leader will provide a response to you within three working days.

First and second level team leaders along with a representative from Human Resources are responsible for resolving differences during the above steps.

3. Written request for Peer Appeal

Should the issue remain unresolved through steps 1 and 2, you may submit a written request to have your appeal heard by a peer panel. This request will include your recommendation of how to resolve the issue. The written appeal needs to be signed and submitted to Human Resources within five working days from step 2.

4. Peer Panel Meeting

Human Resources will schedule a peer panel meeting within ten working days of the request. You and your team leader will be advised by Human Resources regarding necessary information and documentation required by the peer panel.

How are the panelists selected?

Panelists will be randomly selected from a pool of trained team members who have agreed to participate in the Peer Appeal Resolution Process. A panel will consist of five team members.

The panel for hourly and salaried non-exempt team members filing an appeal will be comprised of three hourly/salaried non-exempt and two salaried exempt team members. The panel for an exempt team member filing an appeal will be comprised of two hourly/salaried non-exempt and three exempt team members. In each case, one name drawn from the exempt pool will be a team leader.

Two alternate panelists' names will be drawn for each of the groups. Prior to the start of the peer panel process, the appealing team member will be informed of the names of the peer panel members. He/she may dismiss up to two (2) panelists who will be replaced by alternates from the appropriate group. The appealing team member will not know the alternate's identity prior to selection.

Can any employee be part of this panel?

All regular full-time team members with at least 90 days of service who have not received a written reminder or decision-making time off in the last 12 months are eligible to participate as members of the peer panel. Initially, panelists are required to complete a one-day training

course, and update their training every two years.

How does a panel make its decision?

After examining the facts and interviewing the team member, the team leader and any witnesses, the peer panel's decision is determined by a majority vote through a secret ballot process. The panel has the authority to grant, modify or deny a team member's appeal. The peer panel cannot modify a decision to make it more severe than the original action. The panel will present its decision in writing to the team member and team leader within five (5) working days of the final peer appeal resolution meeting. The panel's decision is final and binding, but is not precedent setting.

What is the role of the panelists?

The panel's role is to determine whether the existing policy has been applied fairly. Where specific policy does not apply, the decision will be based on the principles of what is ethical, fair and just.

Are there any issues the program cannot address?

The panel may not change company policies or benefits programs, modify work rules, or grant/modify pay increases, promotions, or performance ratings.

Can I be assured of a fair hearing?

All panelists must make a commitment to serve on a case only if they feel they can be impartial. To avoid conflicts of interest, panelists must disqualify themselves from the appeal process if they are:

- 1) related to the person filing the appeal, or
- 2) unable to maintain impartiality because of personal knowledge or association with the person filing the appeal.

Can I count on confidentiality?

Complete confidentiality is expected from all panel members. Information presented to panelists during the review meeting or investigation will remain confidential and all panel deliberations are private. Team members involved in this process accept the responsibility to maintain the privacy and the confidentiality of all those participating in the peer resolution process.

Confidentiality is critical to the success of the Peer Appeal Resolution Process. Team members who violate privacy and confidentiality issues may be subject to immediate termination.

If I have additional questions about the Peer Appeal Resolution Process, whom should I ask?

Contact your Human Resources Representative.