

POST SRO COMPLAINT PROCESS

What should I do if I have been a victim of unlawful political discrimination after February 2, 2007?

Any individual who believes that he or she has been a victim of unlawful political discrimination in connection with hiring or any aspect of government employment with the County, including but not limited to promotion, job assignment, termination, other disciplinary action and overtime, at any time since February 2, 2007, may either (1) seek relief through the claim and arbitration procedure established by the SRO, or (2) pursue the claim under applicable law.

Under either option, the complainant should act quickly to protect his or her rights.

How do I seek relief through the claim and arbitration procedure established by the SRO?

The claim and arbitration procedure is a three step process:

(1) The complainant must first file a complaint with the Post SRO Complaint Administrator (“Complaint Administrator”) for investigation.

(2) The complainant seeking relief must then file a complaint with the States Attorneys Office for possible settlement.

(3) If no settlement is reached, then the complainant must file a request for arbitration.

(1) Filing a Complaint with the Complaint Administrator
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Any individual, whether he or she is already a County employee or is trying to obtain employment with the County, may file a complaint of unlawful political discrimination in connection with any aspect of employment with the County with the Complaint Administrator. The Complaint Administrator may establish certain procedures for the receipt of such complaints.

When must a claim be filed with the Complaint Administrator?

The SRO specifically requires a complainant to file his or her complaint of unlawful political discrimination within one hundred twenty days (120) after the date on which the Complainant learned or should have learned of the unlawful conduct.

Will the Complaint Administrator investigate the complaint?

The Complaint Administrator is responsible for conducting or directing the investigation of any complaints alleging unlawful political discrimination filed with that office after February 2, 2007.

Any complaint filed with the Complaint Administrator will remain confidential except as otherwise provided in the Supplemental Relief Order (SRO) and Section 2-289 of the IIG ordinance. These files will only be disclosed to the extent that is necessary to complete the investigation and in instances that involve potential criminal activity.

How long will the Complaint Administrator investigation take?

The Complaint Administrator is required to complete its investigation of the complaint within one hundred eighty (180) from the date the complaint is received. If the Complaint Administrator is unable to complete the investigation within that time frame, the Complaint Administrator must send a Notice of Rights to the complainant informing the complainant that if he or she wishes to seek relief for the alleged unlawful political discrimination, the complainant has two options: (1) wait for the Complaint Administrator to complete its investigation or (2) pursue his or her claim under applicable law by filing suit within forty-five (45) days.

What happens when the Complaint Administrator concludes its investigation?

Once the Complaint Administrator concludes his investigation of the complaint, he is required to report in writing the results of the investigation to the Compliance Administrator, the President, the SAO, the Class Counsel and the OIIG. If the complainant has alleged that he or she was harmed by the unlawful political discrimination, then the Complaint Administrator must also report in writing the results of the investigation to the complainant. If the Complaint Administrator finds that impermissible political factors were considered in an employment decision, his report must include the names of all individuals who he found were victims of the unlawful political discrimination as well as the individuals who were responsible for such discrimination.

(2) Filing a Complaint with the States Attorney to Obtain Monetary or Other Relief

In order to obtain relief for unlawful political discrimination in connection with any aspect of employment with the County, a complainant must file a Complaint Form with the SAO – Civil Actions Bureau within forty-five (45) days of the Complaint Administrator’s report or notice.

What must be contained within the Complaint Form filed with the SAO?

The Complaint Form filed with the SAO must contain a sworn statement setting forth the claim, including:

- (1) The date or dates of the alleged violation;
- (2) A narrative description of the alleged violation;
- (3) A description of the alleged damages;

- (4) The complainant's name, address, telephone number and social security number;
- (5) Copies of any supporting documentation that is within the complainant's possession; and
- (6) A statement of the relief requested including the amount of any damages the complainant seeks to recover or injunctive relief.

The SAO may request additional information from the Complaint Administrator within seven (7) days of the Complaint Form having been filed and the Complaint Administrator is required to provide such information to both the SAO and the complainant within seven (7) days.

What happens after the SAO receives all the necessary information?

Within 28 days from the date the Complaint Form was filed with the SAO, the SAO and the complainant must hold an in person settlement conference. The settlement conference is for settlement purposes only and the statements made and positions taken must not be disclosed in any subsequent arbitration. Settlement offers may include, but are not limited to, monetary damages, reinstatement, or other equitable relief.

What if no settlement is reached?

If the SAO and the complainant are not able to reach a settlement by the conclusion of the settlement conference, the SAO is required to provide the complainant with an Arbitration Request Form.

(3) Filing a Request for Arbitration

If the SAO and the complainant cannot reach a settlement, then the complainant may seek relief through arbitration.

When must the Arbitration Request Form be completed?

The Arbitration Request Form must be completed by the complainant and filed with the SAO within thirty (30) days after the SAO either makes a written settlement offer or provides written notification that no offer will be made. This thirty (30) day period may be extended only by written agreement between the complainant and the County.

What must be contained in the Arbitration Request Form?

The Request for Arbitration must state with reasonable specificity sufficient to put the County on notice of the actions that are alleged to violate the Consent Decrees or the SRO in addition to the relief sought.

Is there a fee for filing the Request for Arbitration?

Yes, there is a \$100 fee due at the time the Request for Arbitration is filed. If the complainant prevails at the arbitration, the complainant will be awarded the \$100 filing fee together with any other relief decided by the arbitrator. The arbitrator's fees and other costs of administration will be paid by the County.

Do I need an attorney for the arbitration?

A complainant may appear at the arbitration on his or her own behalf, be represented by an attorney, or be represented by any other representative of his or her choice.

Who selects the arbitrator and schedules the arbitration?

The Court will establish a panel of arbitrators. Within fourteen (14) days of receiving the Arbitration Request Form, the SAO must select one of the arbitrators from the panel and send the arbitrator a copy of the Arbitration Request Form. The arbitrator will provide the complainant and the SAO with a proposed schedule providing for pre-hearing production of documents and information. The arbitration must be completed within one hundred twenty (120) days of the selection of the arbitrator. The arbitration will be governed by the National Rules for Employment Disputes of the American Arbitration Association.

When will the arbitrator issue an award?

The arbitrator must issue an award within thirty (30) days of the completion of the arbitration hearing. The award must contain written findings of fact. A copy of the decision will be provided to the complainant. Prevailing complainants are entitled to reasonable attorneys' fees and costs. The arbitrator's award is final and binding upon all parties.

Can I still file a lawsuit if I am not satisfied with the arbitrator's decision?

No, the arbitrator's award is final and binding upon all parties. Any complainant who proceeds through the arbitration process waives any and all rights she or he may otherwise have arising from the alleged violation of the Consent Decrees or SRO set forth in the Arbitration Request Form.