



TOWN OF BLUFFTON NAME CLEARING HEARING POLICY

It is the policy of the Town of Bluffton to allow full- or part-time employees who have been involuntarily discharged an opportunity to review their termination record and request a hearing if they believe that stigmatizing, false statements that are damaging to their reputation could be made public. The procedures outlined below shall describe the criteria and timeline associated with the former employee's request.

Policy:

The purpose of this policy is to afford the former employee an opportunity to clear his or her name by responding to potentially stigmatizing statements. This purpose of this policy is not to serve as a grievance or appeal of any disciplinary action, nor may it be used to gain reinstatement. Issues involving job performance or employee attitude without allegations of stigmatizing statements are not addressed by this policy will not be heard via the procedure outlined below.

Definition of Stigmatizing Statement:

A name-clearing hearing is not required every time a Town employee is separated. Such a hearing is required only where a charge of improper conduct would “stigmatize” an individual so as to seriously damage his/her standing and associations in the community or foreclose his freedom to take advantage of other employment opportunities. The requisite stigma has generally been found where an employee is accused of dishonesty, immorality or moral turpitude, criminality, racism or similar charges impugning the employee’s moral character and impair his/her ability to obtain other employment. Examples of stigmatizing statements include:

- Where employee is alleged to have lied or engaged in other forms of dishonesty;
- Where the employee is accused of immoral behavior, including taking drugs and engaging in prostitution;
- Where the employee is accused of mental instability;
- Where the employee is accused of sexual or racial harassment;
- Where the employee is accused of using his/her Town position or obtain kickbacks or other special privileges.

Charges of incompetence, inability to meet expectations, or negligence are not sufficiently “stigmatizing” to trigger a name clearing. For example:

- Where the employee is discharged for being tardy, failing to schedule leave, and engaging in horseplay;
- Where the employee is discharged for disputing the authority of his supervisor;
- Where the employee did not meet performance standards;
- Where the employee failed to submit required documentation;
- Where the employee was a poor manager.



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Conditions Required to Invoke this Policy:

A name-clearing hearing will be offered whenever three conditions have been met: (1) an employee is separated; (2) there are potentially “stigmatizing” statements that may have been placed in the employee’s personnel file; and (3) the employee asserts that the statements are untrue.

Request for a hearing:

Former employees must submit a written request for a name-clearing hearing within seventy-two (72) hours from the effective date of the involuntary termination of employment using the form provided by Human Resources. The request must be provided to the Human Resources Director or designee and must identify the following:

- The specific stigmatizing statements that he/she contends are false;
- The basis upon which the former employee asserts that the statements were stigmatizing.

The failure of the former employee to timely request a name-clearing hearing, or to submit a timely request that complies with the requirements is a waiver of the former employee’s right to any name-clearing hearing process.

Hearing Procedure:

An employee alleging a “stigmatizing statement” will meet with the Human Resources Director or their designee. The sole purpose of the name-clearing hearing is to provide an opportunity for a former employee to clear his/her name. The following procedure will be used:

1. A hearing date and time will be set. The former employee may determine whether the hearing will be open to the public or closed to the public.
2. The Human Resources Department will determine the location of the hearing and appoint the hearing officer.
3. The former employee has the burden of proof to demonstrate that the statements are false.
4. An audio recording of the hearing may be made and maintained as part of the personnel record.
5. The employee’s supervisor may provide a brief written statement at least twenty-four (24) hours prior to the hearing in response to the written allegations provided by the former employee.
6. The hearing will be informal.
7. The Town may require the former employee’s supervisor or other appropriate personnel to participate in the hearing.
8. The former employee will be provided an opportunity to present evidence upon which the claims are based.
9. The Human Resources Director may ask questions during this process.
10. The former employee may question participants during the process.
11. The hearing will not exceed one (1) hour in duration.
12. The hearing will follow the principles of fundamental fairness.



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After the name-clearing hearing, the Human Resources Director or designee will consider the information submitted, to arrive at a decision concerning the former employee's allegations. A written decision will be provided to the former employee within ten (10) calendar days from the date of the hearing. The decision will set forth in writing the reasons for the determination. A copy of the decision will be placed in the former employee's personnel file.

The Human Resources Director's decision will not have any bearing or effect on the former employee's status with the Town. There is no appeal process.