

Career Service Review Office (CSRO)

Frequently Asked Questions

Links to the CSRO's statute and rules may be found at <https://csro.utah.gov/>. When you file a grievance, you should review both the CSRO statute and rules.

You may request a hard copy of the Grievance Procedure Rules from the CSRO by emailing a request to amorgan@utah.gov. Familiarize yourself with the CSRO's statute and Grievance Procedure Rules which govern this process. If you have questions about the procedures that are not answered below, call or email the CSRO. The office cannot give you legal advice but can answer procedural questions.

Below are the answers to the questions most frequently asked. These answers are provided as general information. **The information on this website is not legal advice and should not be treated as a substitute for legal advice.**

How do I file a grievance?

The CSRO grievance form is available at <https://csro.utah.gov/>. You may also contact the CSRO office by telephone or email to obtain a copy of the grievance form. A completed grievance form may be filed directly with the CSRO within applicable time limits.

What are the time limits for filing a grievance?

There are different time limits for different grievances:

- For most grievances, an employee must file a grievance form within 10 working days after either (1) the most recent event giving rise to the grievance; or (2) the employee's knowledge of the most recent event giving rise to the grievance.
- Grievances brought under the Utah Protection of Public Employees Act must be filed within 30 days after the day on which the alleged retaliatory action occurs.
- A request for review of the findings of an abusive conduct investigation must be filed within 10 days after the employee receives notice of the investigative findings.
- After a grievance is initiated, there are additional time limits for advancing the grievance through Levels 1-4. Those time limits are set forth at Section 67-19a-402.

What are the levels in the grievance process?

There are 4 levels in the State's grievance and appeal procedures. Employees start the grievance process at Level 1 by submitting a written grievance to the employee's immediate supervisor (with a copy to the CSRO). At Level 2, either the agency or division director reviews the grievance. At Level 3, either the department head, executive director or commissioner reviews the grievance. At Level 4, the CSRO reviews the grievance and in some instances conducts an evidentiary hearing. The employee is responsible for advancing the grievance through the levels within applicable time limits. Time limits are set forth at Section 67-19a-402.

Can I skip any of the levels?

Yes. You may skip Level 1 if your supervisor is the subject of your grievance or complaint. You may skip Level 2 if your division director is the subject of your grievance or complaint. Also, the levels may be waived by mutual written agreement between the employee and the person to whom the grievance is directed.

What if the agency fails to respond to my grievance?

If the agency fails to answer a grievance within the time specified, you may proceed to the next level. It is always the employee's responsibility to advance the grievance through the levels within the required time limits. The employee's failure to advance the grievance results in a forfeit.

What is a Level 4 hearing?

The Level 4 hearing is an evidentiary hearing. An evidentiary hearing is a legal proceeding, like a trial, where evidence is presented to a decision maker. The CSRO is not a court of law but is a quasi-judicial state agency with authority over certain personnel grievances. Importantly, the CSRO is independent from other agencies. At the CSRO, the decision is made by a hearing officer instead of a judge. During the Level 4 hearing, each party may present evidence. The type of evidence presented varies but is most often in the form of witness testimony and documents. Witnesses testify under oath and can be compelled to appear by a subpoena. The hearing officer makes a decision based on the evidence presented by both parties. Your hearing may be conducted remotely on WebEx, unless one of the parties establishes a reason for an in-person hearing.

What happens at a Level 4 evidentiary hearing?

Generally, the hearing takes the following format:

- Each party (beginning with the agency) makes a brief opening statement. Opening statements may be waived.
- The agency presents evidence and calls witnesses under oath. The grievant may cross-examine the witnesses.
- The grievant presents evidence and calls witnesses under oath. The agency may cross-examine the witnesses.
- Each party has the opportunity to make one closing argument.

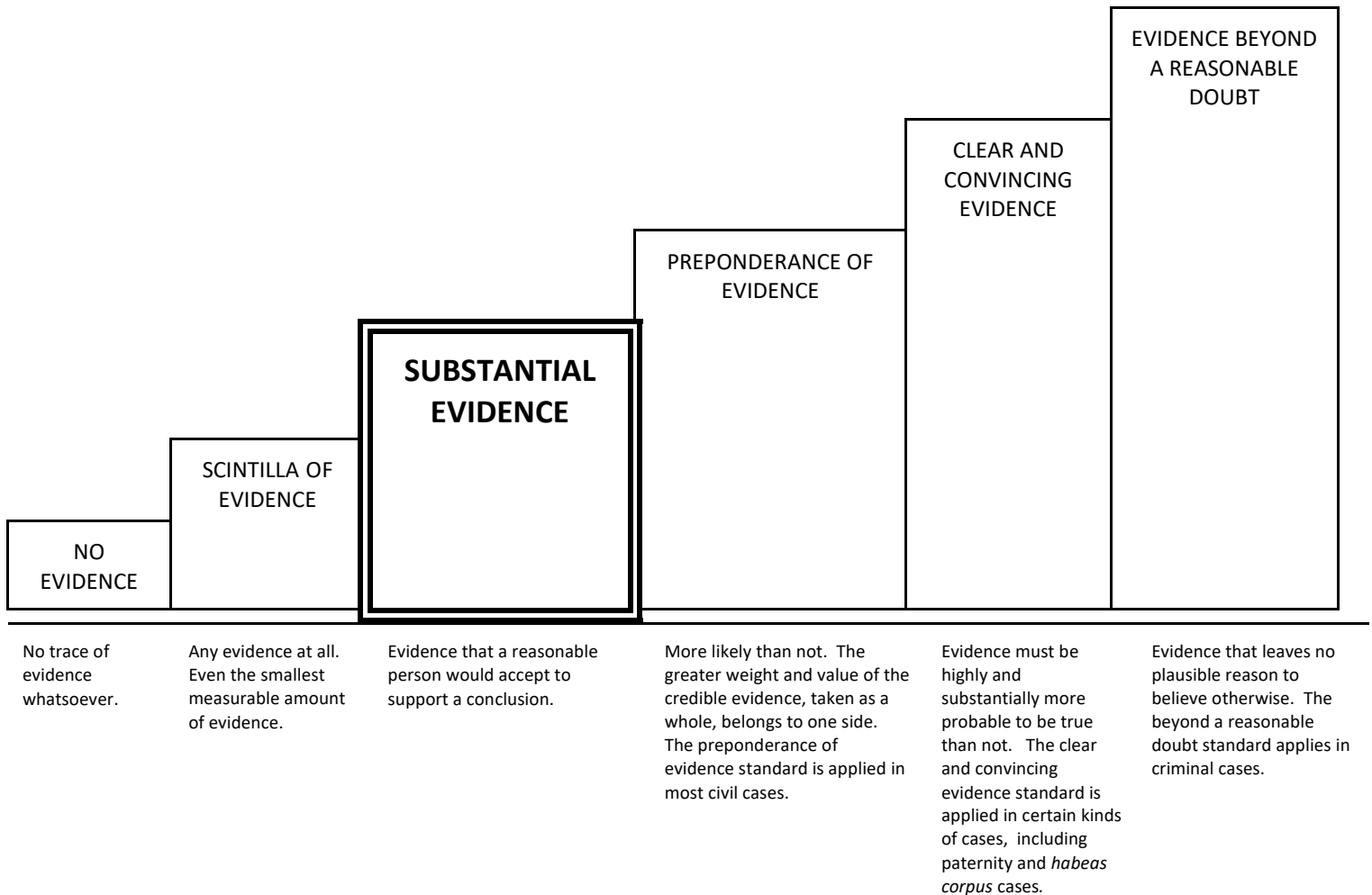
The CSRO records the hearing. The hearing is confined to the issue(s) presented in the filed grievance form. If a party fails to appear at the hearing, the hearing officer may dismiss the grievance or make a decision based on a review of the record and the presentation of the appearing party.

What must the agency prove at the hearing?

At the Level 4 evidentiary hearing, the agency must prove its case by "substantial evidence," which is defined as "evidence possessing something of substance and relevant consequence, and which furnishes substantial basis of fact from which issues tendered can be reasonably resolved. It is evidence that a reasonable mind might accept as adequate to support a

conclusion, but is less than a preponderance.”

In other words, the evidence should be such that a reasonable person could reach the same conclusion as the agency. The chart below compares the substantial evidence standard of proof to other commonly known standards of proof.



Who are the hearing officers?

The CSRO’s hearing officers are attorneys who contract with the CSRO to preside over and conduct administrative hearings. The CSRO administrator may also act as the hearing officer. The hearing officer reviews the evidence presented at a hearing and issues an impartial decision based on that evidence. By statute, the hearing officers have the power to affirm, modify or rescind the decision imposed by the agency.

What is a jurisdictional decision?

In law, jurisdiction describes a court's authority to review and decide cases. By statute, the CSRO has jurisdiction over specific personnel issues. When a grievance is filed, the CSRO conducts an administrative file review to determine whether it has jurisdiction. Your grievance may be dismissed if the CSRO lacks jurisdiction. If this occurs, the CSRO will issue a jurisdictional decision, which explains the legal reasons for dismissal.

What issues can be appealed to the CSRO?

The CSRO serves as the final administrative body to review a grievance from a career service employee of a decision regarding: a dismissal; a demotion; a suspension; a reduction in force; a dispute concerning abandonment of position; a wage grievance if an employee is not placed within the salary range for that employee's current position; a violation of the Utah State Personnel Management Act; or the equitable administration of certain benefits. Executive branch agency employees may also file a grievance if they qualify for protection under the Utah Protection of Public Employees Act (commonly known as Utah's Whistleblower Act). And the CSRO serves as the final administrative body to review the findings of an abusive conduct investigation. The CSRO's scope of authority is set forth at Section 67-19a-202.

Who is eligible to file a grievance?

Career service employees are eligible to file grievances for agency actions over which the CSRO has authority. Executive branch agency employees may file grievances brought under the Utah Protection of Public Employees Act. Eligibility to use these grievance procedures is set forth at Section 67-19a-301.

Can my employer retaliate against me for filing a grievance?

The employer is prohibited from retaliating against a grievant, a witness, or a representative who participates or is scheduled to participate in a grievance proceeding.

Who can attend the hearing with me?

CSRO hearings are generally open to the public. Unless the hearing officer closes the proceedings, anyone who is not scheduled to be called as a witness may attend.

Can the CSRO award damages or attorneys' fees?

The CSRO does not award either money damages or attorneys' fees. If the hearing officer does not affirm the agency action, the CSRO can award back pay and back benefits that you would have received without the agency action. More details about the calculation of back pay are set forth at Section 67-19a-406(5).

What happens after I file the Grievance Form?

If a Level 4 evidentiary hearing is necessary, the office will schedule the evidentiary hearing either within 30 days or no later than 150 days after the CSRO assumes jurisdiction. By statute, you may exercise the option to have your evidentiary hearing within 30 days of the date jurisdiction is established. Before you make the decision, be aware that you must present

evidence at the hearing, usually in the form of documents and witness testimony. As a practical matter, some people find that 30 days is not an adequate amount of time to collect evidence and prepare for an evidentiary hearing. If you have questions about the advantages and disadvantages of requesting a hearing within 30 days, you should seek advice from an attorney or administrative representative.

What if I file a request for review of an abusive conduct investigation?

If you file a request for review of an abusive conduct investigation, the CSRO will not schedule an evidentiary hearing. Instead, the CSRO is authorized to review and either uphold or overturn the decision made by the Utah Department of Human Resource Management. The procedures for administrative review of an abusive conduct investigation are set forth at Section 67-19a-501.

What is a Pre-Hearing Conference?

If the CSRO determines it has jurisdiction over your grievance and if there are preliminary issues requiring a decision from a hearing officer or the administrator, the CSRO may schedule a Pre-Hearing Conference, either by telephone or in person. The Pre-Hearing Conference is informal and intended mainly for addressing issues that arise in advance of the evidentiary hearing. Typically, you will not present either witnesses or evidence at a Pre-Hearing Conference. If a Pre-Hearing Conference is scheduled, you should appear at the date and time designated and be prepared to discuss your grievance generally. Pre-hearing conferences will generally be conducted remotely unless a party establishes cause for an in-person pre-hearing conference.

What is discovery?

“Discovery” is the legal term for the pre hearing process during which you can obtain relevant documents and information. During the discovery period at the CSRO, you may request relevant documents from the opposing party or other individuals and entities, which you may eventually seek to use as evidence at your Level 4 evidentiary hearing. Among other things, the discovery process allows the parties to anticipate what evidence the opposing side may introduce at the hearing. In the Scheduling Order, the CSRO will set deadlines, including deadlines for the completion of discovery.

Am I required to subpoena witnesses?

At the Level 4 hearing, you will have the opportunity to call witnesses to testify, just as you would at a trial. The CSRO has the authority to issue subpoenas to compel witnesses to attend the hearing. A subpoena is a formal document which summons a person to appear at a certain time and place to give testimony. You are not required to subpoena witnesses but should if you want to compel their attendance at the hearing. The parties are responsible for making timely requests for subpoenas.

What if I want to withdraw my grievance after it is filed?

You may withdraw your grievance at any time by sending a written request to the CSRO. In it, you should state clearly that you want to have your grievance dismissed.

Can I obtain a copy of the recording of the Level 4 hearing?

The CSRO makes and maintains a recording of every Level 4 evidentiary hearing. You may request a copy of the recording. The CSRO does not maintain hearing transcripts. If you appeal your case to the Utah Court of Appeals, you may use the CSRO's recording to have a transcript prepared by a certified court reporter. The requesting party bears the expense of the transcript.

Am I entitled to an attorney?

You may be represented by an attorney (at your own expense), a representative from an employee organization, or any other person you choose. Additionally, you may represent yourself. The CSRO does not provide attorneys.