

**COUNTY OF SAN MATEO
HUMAN RESOURCES DEPARTMENT
Inter-Departmental Correspondence**

DATE: April 2015

TO: All Management Employees

FROM: Nicole McKay, Employee & Labor Relations Manager

SUBJECT: Employee Relations Bulletin 2
Skelly Process

BACKGROUND

The Skelly decision (Skelly vs. California Personnel Board) determined that a permanent public employee has a property interest in his/her job, which is protected by "due process," entitling him/her to a hearing prior to discipline. In this context, discipline includes suspensions, demotions, and dismissals. The Skelly court concluded that, at a minimum, safeguards must include:

- (1) notice of the proposed action;
- (2) the reasons for the proposed action;
- (3) a copy of the charges and materials upon which the action is based; and
- (4) the right to respond, either orally or in writing, to the authority initially imposing discipline.

Requirements (1) and (2) above are met by issuing an "Intent" letter to the employee. This letter notifies the employee of the proposed action, and states the reasons for the proposed action. Please see sample Skelly Letters in the Employee Relations Handbook.

Requirement (3) is met by issuing to the employee the Skelly Intent letter along with the "material relied on" which is the evidence upon which you are basing the proposed discipline. The Skelly Intent letter states "All written materials, reports and documents upon which this action is based are attached." (See ER Bulletin #1 for more information on Materials Relied On.)

Requirement (4) is met by affording the employee an opportunity to present his/her side of the controversy before a reasonably impartial and non-involved reviewer. This reviewer must be a person with authority either to make the final decision on the proposed action or to recommend what that final decision should be. This hearing, if requested, must be held prior to issuance of the decision letter, and the decision letter should address issues raised in the hearing.

Procedures for the Skelly Process

1. Prior to initiating any disciplinary action, the supervisor and/or manager will conduct investigatory interviews with the employee and any witnesses to determine the facts involved.
2. Should the above interviews indicate that discipline is warranted, the Skelly Intent letter will be written and signed by a manager, at the Manager II level or above, who has reviewed the facts and concurs with the proposed discipline.
3. If the employee requests a meeting to respond to the charges, a reviewer will be appointed to hear the employee's response. This reviewer will be the Department Head, the Assistant Department Head, or any another manager not involved in the decision to issue the Skelly Intent letter. This same reviewer would also consider any written appeal submitted by the employee. Please see "The Role of the Skelly Officer" found in section 5 (<http://hr.smcgov.org/employee-relations-handbook>) of the Employee Relations Handbook.
4. Following the above hearing, the reviewer will, make a recommendation to the Department Head to either sustain the discipline proposed in the Skelly Intent letter, impose a lesser discipline, or impose no discipline at all. This recommendation and the decision of the Department Head must be based on: 1) the information contained in the Skelly Intent letter and the associated materials relied on; 2) the information provided in the employee's written response; and 3) the information provided in the hearing.
5. The Department Head will decide what, if any disciplinary action to impose. If the decision is to impose discipline, the Department Head will issue a "Decision" letter to the employee. Please see [sample Skelly Letters](#) in the Employee Relations Handbook. Note that this letter addresses the issues raised by the employee in the hearing.

The Employee Relations Division is available to assist you in all aspects of this process. Please feel free to call your Employee Relations Analyst.