



SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

HEAD OFFICE

Private Bag X16
MUSGRAVE
4062

461 King Dinuzulu Road
BEREA
4062

Tel: (031) 201-8210/6219/6255
Fax: (031) 201-9788

E-mail: info@salgbc.org.za
Web-site: www.salgbc.org.za

17 October 2011

TO: ALL MUNICIPAL MANAGERS

THE PARTIES:

SALGA	Mr. X George	(012) 369 8001
SAMWU	Mr. J Nhlapo	(021) 696 9175
IMATU	Mr. J Koen	(012) 460 8444

REGIONAL SECRETARIES:

Gauteng Division	Ms. C Manda	(011) 333 8091
Eastern Cape Division	Mr. M Bodlani	(041) 585 0646
Western Cape Division	Ms. W Brink	(021) 930 9244
Northern Cape/Free State Division	Mr. T Mqobongo	(053) 831 3608
North West/Mpumalanga/Limpopo Division	Mr. E Shelembe	(012) 320 4136
KwaZulu-Natal Division	Mr. V Nzuzo	(031) 201 9752

Dear Sir/Madam

CIRCULAR NO. 10/2011 DISCIPLINARY APPEAL FORM

Kindly be advised that the Parties have approved the Disciplinary Appeal Form, as required in Clause 15.2 of the Disciplinary Procedure and Code Collective Agreement, at the Executive Committee Meeting held on 22 September 2011.

Every Municipality is required to use this prescribed Appeal Form and should place its letterhead on the prescribed Appeal Form. Employees will also be required to use this prescribed Form if an appeal is submitted in terms of Clause 15 of the Collective Agreement.

Please be advised that the cost of the Presiding Officer for the Disciplinary Appeal Hearing shall not be borne by the SALGBC if the Appellant and the Municipality agree to the appointment of a Panelist from the Divisional Panel of Conciliators and Arbitrators, as resolved at the Executive Committee meeting held on 29 September 2010.

Yours faithfully



Mr. S.S. Govender
GENERAL SECRETARY

Encl.

Address correspondence to the General Secretary

LETTERHEAD OF MUNICIPALITY
DISCIPLINARY APPEAL FORM (DAF1)

SECTION A:

Name of Employee:

Service or Employee Number:

Name of Department/Service Unit/Section/Cluster:

Date the employee received the written notification of the finding and sanction of the disciplinary enquiry:
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SECTION B: (GROUNDS OF APPEAL)

1. APPEAL AGAINST THE FINDING:

1.1 Procedural Fairness
(The appellant should tick the applicable ground/s to the appeal.)

- Was the enquiry instituted on time, as per clause 6.3?
- The employee was not afforded a fair hearing, as per clauses 6.4 or 7.
- The appellant did not receive the misconduct notice as per clause 6.8.
- The appellant was not afforded the right to be represented by a shop steward.
- The presiding officer was not a class of person as identified in clause 6.6.2.
- The employer representative was not a class of person as identified in clause 6.6.4.
- The employer representative did not formulate and serve the charge as prescribed in clause 6.7.
- The notice of misconduct is not in compliance with clause 6.8.
- The disciplinary hearing did not commence on time as prescribed in clause 6.10.
- The employer did not comply with clause 6.11.
- The presiding officer did not comply with clause 7.6.
- The municipality or the Municipal Manager has not complied with clause 7.7.
- The appellant has been re-charged for the same alleged misconduct.
- The employee was not afforded the right to resign retire or terminate his contract as per clause 9.
- The employer did not comply with clause 10 (for abscondment appeals only).

YES	NO

YES	NO

- Any other procedural irregularities (if yes, the appellant must state such irregularities.)

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**** The appellant must note that the above is a guide only and/or the appellant bears the onus and responsibility to ensure the proper grounds of appeal is submitted to the Disciplinary Appeal Hearing as stipulated in clause 15.3 of the Disciplinary Procedure and Code Collective Agreement.**

1.2 Substantive Fairness

Motivation for the finding to be changed.....

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2. APPEAL AGAINST THE SANCTION AS PER CLAUSE 15:

- 2.1 Written Warning
- 2.2 Final Written Warning
- 2.3 Suspension Without Pay
- 2.4 Withholding of the Salary Increment, not Exceeding One Year
- 2.5 Dismissal
- 2.6 Other (please specify) _____

Motivation for Reduction or Change in the Sanction:

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3. Any other additional information

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SECTION C: APPOINTMENT OF PRESIDING OFFICER - DISCIPLINARY APPEAL HEARING

- The municipality may appoint the Presiding Officer as per the Disciplinary Procedure and Code Collective Agreement.

- I hereby request to have my internal appeal hearing be considered by a panelist from the Divisional Panel of Conciliators and Arbitrators.
(Tick one box only)

SECTION D: STATEMENT OF CASE

1. Clause 15.11 states: *"A party shall deliver to the opposing party, and the Presiding Officer, a brief statement of case at least two (2) days prior to the date of Disciplinary Appeal Hearing. No further pleadings shall be exchanged unless otherwise agreed."*
2. The form required to be submitted in terms thereof is attached hereto as Annexure "A" to be submitted to (2) days prior to the appeal hearing.

SECTION E: RECORD OF DISCIPLINARY ENQUIRY

I, the appellant received a copy of the audio recording of the disciplinary enquiry.

YES	NO
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SIGNATURE OF EMPLOYEE

Name of Employee Representative, Trade Union Official or Shop Steward

**SIGNATURE OF EMPLOYEE REPRESENTATIVE,
TRADE UNION OFFICIAL OR SHOP STEWARD**

Date Appeal Form Submitted

NB: If the space on this appeal form is insufficient the appellant may submit such additional information stating the grounds for appeal on a separate sheet.

ACKNOWLEDGEMENT OF RECEIPT
(to be filled in by the municipality)

I _____ *(Name of Municipality/
Representative)* hereby acknowledge receipt of the disciplinary appeal submitted by
_____ *(Name of Employee)*
on _____ *(date)*.

SIGNATURE OF MUNICIPAL REPRESENTATIVE

PRESIDING OFFICER: DISCIPLINARY APPEAL HEARING
(to be filled in by the municipality)

I _____ *(On behalf of the Municipality)* hereby:

- Agree to the request by the employee/appellant that his or appeal shall be heard by a panelist from the Divisional Panel of Conciliators and arbitrators.
- or
- Decline the request by the employee/appellant and his or appeal shall not be heard by a panelist from the Divisional Panel of Conciliators and arbitrators.

**SIGNATURE OF MUNICIPAL MANAGER OR
HIS/HER NOMINEE**

DATE

STATEMENT OF CASE (CLAUSE 15.11)

A brief statement of case to be provided in writing to the opposing party and the Presiding Officer two (2) days prior to the date of the Disciplinary Appeal Hearing.

INTRODUCTION.....
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SUMMARY.....
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CLOSURE.....
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