

Personnel Reform
Agency Implementation Guideline # 9

Subject: Current Employee Grievances	Issued: September 28, 2012
	Effective: September 29, 2012

Summary:

Provides guidance to agencies for administering grievances that are in process as of September 29, 2012.

Background:

Grievance System

Under the Personnel Rules in effect prior to September 29, 2012, each agency adopted a grievance procedure to provide employees a systematic means of resolving complaints concerning discrimination, noncompliance with the Personnel Rules or other work-related matters which directly and personally affect the employee.

On and after September 29, 2012, under the State Personnel System Rules, only covered employees have grievance rights and those rights apply only to the employee's disagreement with the receipt of a disciplinary action that is either:

1. A written reprimand, or
2. A suspension of:
 1. 40 working hours or less if the employee is a full authority peace officer, or
 2. 80 working hours or less if the employee is a covered employee in any other capacity.

Complaint System

On and after September 29, 2012, under the State Personnel System Rules, each agency shall adopt procedures to address employee complaints concerning discrimination or harassment. Such complaints may be based on:

1. Unlawful discrimination based on race, color, religion, sex (including pregnancy), age, national origin, genetic information or on the basis of a disability.
2. Allegations of sexual harassment or other form of harassment.
3. Retaliation for filing a complaint.
4. Retaliation or intimidation for exercising any right under state or federal law.

Both covered and uncovered employees may utilize the complaint system.

Personnel Reform Agency Implementation Guideline # 9

Guidelines:

For employee grievances submitted prior to September 29, 2012:

Employee Status - Covered to Covered

1. If the employee is a covered employee who remains a covered employee on September 29, 2012, complete the current step of the grievance process according to the agency's grievance process in effect on September 28, 2012. At the end of the current step:
 - a. If the grievance relates to a written reprimand or suspension, the employee may continue to utilize the agency's grievance system in effect on September 29, 2012. The grievance shall be elevated to the next level after the level of the most recent response. The grievance shall not be remanded to any level of authority that has previously responded to the grievance.

Sample wording for grievance responses where an additional review step is available:

This concludes Step ___ of the grievance process. If you are not satisfied with this response you may elevate your grievance to _____.

Sample wording for grievance responses where the response is the final step:

In accordance with the State Personnel System Rules, this response concludes the grievance process.

- b. If the grievance does not relate to a written reprimand or suspension, the employee's grievance rights end. If the grievance alleges discrimination or harassment, the grievance shall not be addressed through the agency's grievance process but shall be addressed through the agency's complaint system in accordance with applicable State Personnel System Rules.

Sample wording for grievance responses where the grievance process is no longer applicable, but that allege discrimination or harassment:

For covered employees, the grievance process is only applicable for addressing disagreements with letters of reprimand/suspension [as applicable]. Your grievance does not concern a letter of reprimand/suspension; therefore, this response concludes the grievance process. However, because your grievance does contain allegations of discrimination or harassment, your complaint will be addressed in accordance with the State Personnel System Rules for complaints of discrimination or harassment. Accordingly, I will forward your grievance packet to the agency's complaint coordinator. See

Personnel Reform
Agency Implementation Guideline # 9

[insert agency policy title and/or number] for more information. [NOTE: The responding authority should forward the grievance packet to the agency's complaint coordinator.]

Employee Status - Covered to Uncovered

2. If the employee is a covered employee who becomes an uncovered employee on September 29, 2012, complete the current step of the grievance process according to the agency's grievance process in effect on September 28, 2012. At the end of the current step:
 - a. If the grievance does not relate to an allegation of discrimination or harassment, the employee's grievance rights end. Uncovered employees are employed at-will and do not have grievance rights.

Sample wording for grievance responses NOT alleging discrimination or harassment:

As an uncovered employee you are employed at-will and do not have grievance rights. This response concludes the grievance process.

- b. If the grievance alleges discrimination or harassment, the complaint shall be addressed through the agency's complaint system in accordance with applicable State Personnel System Rules.

Sample wording for grievance responses alleging discrimination or harassment:

As an uncovered employee you are employed at-will and no longer have grievance rights. This response concludes the grievance process; however, because your grievance contains allegations of discrimination or harassment, your complaint will be addressed in accordance with the State Personnel System Rules for complaints of discrimination or harassment. Accordingly, I will forward your grievance packet to the agency's complaint coordinator. See [insert agency policy title and/or number] for more information. [NOTE: The responding authority should forward the grievance packet to the agency's complaint coordinator.]

Additional guidelines and/or procedures may be issued after September 29, 2012.