

**ARIZONA DEPARTMENT OF ADMINISTRATION
POLICIES AND PROCEDURES**

Policy Number: ADOA/HRD PB4.01	Issued: October 12, 2012
Subject: Covered Employee Grievance Process	Effective: October 12, 2012
Policy Section: Covered Employees	Revised:
Policy Owner: HRD – Shared Services Office	

Scope:

This policy applies to all covered Arizona Department of Administration (ADOA) employees.

Authority:

A.R.S. § 41-743, Powers and Duties of the Director
R2-5B-402, Grievance System
R2-5B-403, Grievance Procedures

Definitions:

“ADOA Ombudsman/Grievance Coordinator” means the Ombudsman within the Department who is responsible for receiving grievances, determining applicability under the grievance system, forwarding the grievance to the appropriate individual within the agency for review or investigation, and tracking the processing of grievances.

“Business day” means the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.

“Covered employee” is defined in A.R.S. § 41-741 and means an employee who:

- Before September 29, 2012, is in the state service, is not uncovered pursuant to A.R.S. § 41-742, subsection A and has remained in covered status without a break in service since that date.
- Before September 29, 2012, is in the state service, is employed as a correctional officer I, correctional officer II, correctional officer III or community corrections officer and has remained in covered status without a break in service since that date.
- Before September 29, 2012, is in the state service, is a full authority peace officer as certified by the Arizona peace officer standards and training board and has remained in that status without a break in service since that date.
- On or after September 29, 2012, is a correctional officer I, correctional officer II, correctional officer III or community corrections officer and is appointed to a position in the covered service, but does not include a position in any other class in the correctional officer class series or the community correctional officer class series or in any other correctional class series.
- On or after September 29, 2012, is a full authority peace officer as certified by the Arizona peace officer standards and training board and is appointed to a position that requires such a certification in the covered service.

“Director” means the Director of the Arizona Department of Administration, and the Director’s designee with respect to personnel administration.

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"Grievant" means the employee who files a grievance.

"Responding Authority" means the member of the management team who responds to the employee grievance at the respective step. For example, the Assistant Director or equivalent at Step I or the Director or designee at Step II.

"Supervisor" means the first-line supervisor of the employee.

Policy:

The Arizona Department of Administration (ADOA) provides a means to ensure a systematic and fair review of employee grievances pertaining to formal disciplinary actions ranging from a written reprimand or suspension of 80 working hours or less if the employee is a covered employee. The Department is committed to allow employees to seek resolutions of their concerns with a written reprimand or suspensions of 80 working hours or less that are non-appealable through a formal written procedure after informal attempts have proven unsatisfactory. This grievance procedure is designed around the philosophical commitment that grievances be resolved at the lowest possible level and in an equitable and efficient manner.

Any complaint alleging unlawful discrimination or unlawful harassment must be submitted in accordance with the procedures described in ADOA's Employee Complaint Process – Allegations of Unlawful Discrimination or Harassment and not under this policy.

Matters Subject to the Grievance Procedure:

Summary

This procedure may be used by a covered employee who disagrees with the receipt of a written reprimand or suspension of 80 working hours or less.

Restrictions

An employee may not submit a grievance challenging the following management rights: the agency's right to direct its employees; the agency's right to hire, promote, transfer, assign, and retain employees; and, the agency's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.

Non-Applicable Matters

A summary of issues which cannot be addressed through this procedure, include, but are not limited to: retirement issues; life insurance or health insurance issues; any classification action; any recruitment, selection, or appointment; any compensation action; a suspension for more than 80 working hours, demotion; dismissal; a complaint alleging discrimination or harassment; or any reduction in force action.

General:

Mandatory Oral Discussion

In accordance with Personnel Rule R2-5B-403(2), the employee shall have an oral discussion with the immediate supervisor in an attempt to resolve the employee's disagreement with a written reprimand or suspension of 80 working hours or less, prior to initiating a formal grievance. The employee shall clearly state to the supervisor the employee's intentions of filing a formal grievance, the issues involved, and the requested resolution. The purpose of the meeting is for both parties to explore the issues and the

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requested resolution. If the employee fails to take this step, the grievance will not be accepted through the formal grievance procedure. It is the employee's responsibility to remember that the Step I grievance shall be submitted within 10 business days after the occurrence of the action being grieved, and that these 10 days are not extended by the date on which the oral discussion takes place.

Amendments

Once a grievance is submitted to the first step in the grievance process, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the responding authority may remand the grievance to the appropriate previous level for reconsideration. It is the employee's responsibility to provide documentation to support the allegations raised in the grievance.

Confidentiality

Except as provided by A.R.S. § 39-128 (see below), the preparation, submittal, review, and response to a grievance are confidential. Copies of written responses sent at each step of the procedure are limited to respondents at the preceding steps, the Director or the Director's designee, and the ADOA Ombudsman/Grievance Coordinator, unless it is necessary to notify additional personnel because the response requires another individual to take some action. Correspondence regarding a grievance should be handled in a confidential manner, and envelopes containing grievance material(s) should be clearly labeled "confidential." No reference to the grievance shall be included in the employee's official personnel file.

A.R.S. § 39-128, Disciplinary records of public officers and employees; disclosure; exceptions, requires disciplinary actions, including the employee responses to the disciplinary action be open to inspection and copying, unless prohibited by law. Employee grievances subject to release under this statute are limited to grievances filed in response to a letter of reprimand or suspension of 80 hours or less. Any grievance released under this statute shall have personal or identifying characteristics or confidential information redacted prior to release.

Use of Official Authority

No person shall directly or indirectly use any official authority or influence in any manner to discourage the use of this procedure. Any person found to have acted in a manner to discourage the use of this procedure may be subject to discipline.

Representation

At any step of the grievance procedure after the mandatory pre-grievance oral discussion (see above), a grievant may select one representative to provide advice and/or speak for the grievant at any meetings determined necessary by management in the course of the grievance process. A state employee who serves as a representative is required to request and obtain prior approval for annual or compensatory leave for any time to represent a grievant. If a representative is chosen, the representative shall be identified on the grievance form.

Preparation Time

During the entire formal grievance process, an employee shall not use state time or state property to prepare a grievance, prepare for a meeting with agency management or to meet with a representative. Subject to supervisory approval and the operational needs of the unit, a grievant may request available compensatory or annual leave for this purpose.

Procedural Time Limits, Extensions, Signature and Explanation

The employee's time limit for submitting the grievance is 10 business days after the occurrence of the action being grieved. The date of occurrence is the date in which the reprimand was issued to the employee or the first day of the suspension if a suspension is being grieved. The date the action occurred is not counted when determining the time limit. The mandatory oral discussion shall take place within the 10 business day limitation.

The employee shall have a minimum of five business days after receipt of a response to forward the grievance at any step, sign the grievance at each step and state the reason the response at the previous level was not satisfactory.

The Director will respond to the grievant no later than 30 business days after receipt of the grievance at the first step. Within the 30 business day period, extensions of established time frames may be made if both the employee and the responding authority agree to the extension. If at any step, the response is not made within the prescribed time and no extension has been agreed upon, the employee may elevate the grievance to the next step.

Grievance Procedure:

An employee who disagrees with a written reprimand or suspension of 80 working hours or less shall have an oral discussion with the employee's immediate supervisor prior to initiating a formal, written grievance. The purpose of this discussion shall be to seek informal resolution.

When the employee's concerns with a written reprimand or suspension of 80 working hours or less cannot be satisfactorily resolved informally, the employee may seek resolution through the formal grievance process. To do so, the employee shall prepare and submit a written grievance. The time limit for submitting the grievance is 10 business days after the occurrence of the action being grieved. The date of occurrence is the date in which the reprimand was issued to the employee or the first day of the suspension if a suspension is being grieved. The date the action occurred is not counted when determining the time limit. The mandatory oral discussion shall take place within the 10 business day limitation. The employee shall use the attached form; state all of the specific facts, circumstances involved; provide all the appropriate documentation to support the allegations; and state the specific resolution which is sought. The employee shall submit the entire grievance packet to the ADOA Ombudsman/Grievance Coordinator, 100 N. 15th Ave., Suite 401, Phoenix, Arizona 85007.

Upon receipt of an employee grievance, the ADOA Ombudsman/Grievance Coordinator shall verify the issue in question is a grievable matter, time frames have been met, and that informal resolution has been attempted. If all of the criteria are met, the ADOA Ombudsman/Grievance Coordinator shall assign a Grievance Tracking Number to the grievance and forward the grievance packet to the Assistant Director of the Division where the employee is currently employed.

Step I:

The Step I responding authority is the Assistant Director of the Division or equivalent.

- At Step I, the Assistant Director has 10 business days to review the grievance and to issue a written Step I response to the employee. A copy of the grievance response shall be forwarded to the ADOA Ombudsman/Grievance Coordinator. Original grievance documents shall be returned to the employee.

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- If the employee is dissatisfied with the Step I response, the employee has five business days from the date of receipt of the Step I response to elevate the grievance to Step II. The employee elevating the complaint to Step II shall:
 - Sign the grievance on the bottom of the front page of the form;
 - Write and sign a cover memo to the Director, which specifically states the reason the Step I response is unsatisfactory;
 - Attach the entire original grievance packet to the cover memo; and;
 - Submit the original grievance packet to the Step II responding authority.

Step II (Final Step):

The Step II responding authority is the Director.

- The Director has 10 business days from the date of receipt of the grievance at Step II to review the grievance and to issue a written response. A copy of the grievance response shall be forwarded to the ADOA Ombudsman/Grievance Coordinator. Original grievance documents shall be returned to the employee.
- Step II is the final step in the grievance process.

Related Forms:

Employee Grievance Form

Corresponding Policies:

Arizona Department of Administration Policies and Procedures – Employee Complaint Process – Allegations of Unlawful Discrimination or Harassment

Contact:

If you have any questions related to this policy, please contact the Human Resources Division. hr@ada.state.az.us

Policy History (supersedes):