

OFFICE OF JUVENILE AFFAIRS	POLICY #: P-03-05-900
Administrative Services	APPROVED: <u>Richard DeLaughter</u> , EXECUTIVE DIRECTOR
SUBJECT: Grievance Procedures- Purpose and scope	DATE APPROVED: 4/19/04

DEFINITIONS:

As used in the agency grievance procedures, the following definitions shall apply, [455:10-19-3]:

"Accept" means a determination by the grievance manager that the issue(s) meet jurisdictional requirements and will be forwarded to a decision-maker.

"Deny" means to refuse to grant a remedy requested, to determine an issue to be without merit, or to end a grievance without further consideration.

"Director" includes employees of OJA whom the Director has lawfully delegated authority to act on the behalf of the Director.

"Step Two Decision Maker" includes employees of OJA whom the Director has lawfully delegated authority to act on his or her behalf.

"Grant" means to find an issue to have merit and to give an appropriate remedy.

"Grievance" means a request for relief in an employment matter made by an employee, or a group of employees, which affects them and which is subject to control of the Director.

"Jurisdiction" means the authority to decide an issue within the agency grievance procedure. The time limit to file a grievance, an employee's eligibility to use the agency grievance procedure, and the issues raised are general factors in determining agency jurisdiction.

"OHRM" means the Office of Human Resource Management.

"Reject" means a determination by an agency grievance manager that a grievance or an issue does not meet agency jurisdictional requirements.

"Remedy" means the corrective action(s) sought by an employee or offered by a decision-maker or Director.

"Toll" means to temporarily stop or suspend applicable time limits.

PROCEDURES:

1. Purpose

- A. The purpose of this Section is to establish the guidelines for managing the agency grievance procedures as contained in Subchapter 19 of the Oklahoma Merit Protection Commission (MPC) Merit Rules (455:10-19 et al). The procedures provide standards and guidelines for the prompt and equitable resolution of grievances at the lowest possible level within the agency
- B. All classified employees of the Office of Juvenile Affairs shall have access to the employee grievance resolution process (455:10-19-2). No employee shall be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under these procedures, [74:840-6.2(C) and 455:10-19-8(a)]. A copy of these procedures will be provided to each agency employee, [74:840-6.2(B) and [455:10-19-20(b) (1)]].

2. Exclusions

- A. The provisions of this section shall not apply to any unclassified/exempt employee or any temporary employee, [455:10-19-2].

REFERENCES:

State Statutes: Title 74 O.S. § 840-6.2

OAC Rules: 455:10-19 et al

OJA Rules: 377:3-5-2

ACA Standards:

2-7027

3-JCRF-1C-02

3-JTS-1C-01

OFFICE OF JUVENILE AFFAIRS	POLICY #: P-03-05-901
Administrative Services	APPROVED: <u>Richard DeLaughter</u> , EXECUTIVE DIRECTOR
SUBJECT: Grievance Procedures- Management of the process	DATE APPROVED: 4/19/04

1. Supervisor responsibility

- A. Supervisors shall inform their employees of the internal agency grievance resolution procedure and the names of employee(s) designated by the Director to receive and process formal grievances, [455:10-19-21(1) and (2)].
- B. Supervisors shall ensure grievance time limits within their responsibility are met, [455:10-19-21 (3)].
- C. Supervisors shall informally discuss, address and resolve disputes brought to their attention, when possible, at the lowest level possible, [455:10-19-21 (4)].
- D. Supervisors shall provide the grievance manager with a summary of the efforts made to informally resolve the grievance in the event a formal grievance is filed.

2. Employee responsibility

- A. Any classified employee who has reason to believe his or her employment has been directly affected by unfair treatment, unsafe working conditions or erroneous application of agency policy, procedure, merit rule or law, has a responsibility to attempt to resolve the dispute informally. Thereafter, the employee has the right to file a formal grievance within the 20 day time limit set by Merit Rule, [455:10-19-23(a)].
- B. An employee filing a formal grievance has the responsibility to provide accurate, timely information to support his or her assertions and to make a good faith effort to resolve the dispute, [455:10-19-23(b)].
- C. The employee shall complete the "Internal Agency Grievance Resolution" form and required attachments in accordance with this procedure.
- D. Employees with knowledge of grievances filed shall refrain from disclosing information unnecessarily and treat grievance matters with discretion and professionalism, [455:10-19-23(c)].

3. Agency grievance manager responsibility

- A. The grievance manager shall provide advice, assistance and technical direction to the Director, administrators, supervisors, and employees on the internal agency grievance resolution procedure, [455:10-19-22(3)].
- B. The grievance manager shall review formal grievances and accept or reject them, [455:10-19-22(4)].
- C. The grievance manager shall ensure that time limits which apply to the processing and resolution of formal grievances are met, [455:10-19-22(5)].
- D. The grievance manager shall facilitate the prompt, equitable and timely resolution of grievances at the lowest possible level, [455:10-19-22(6)].
- E. The grievance manager shall determine how the issues of a grievance should be reviewed. Options include an internal investigation with recommendation(s) submitted to the Director for resolution, review by a step two decision maker, a grievance committee hearing or direct intervention by the Director.
- F. The grievance manager shall ensure the formal grievance is reviewed and addressed by a decision-maker who has the authority to resolve the dispute, [455:10-19-22(7)], and ensure the decision maker has a face-to-face meeting or telephone conversation with the employee, [455:10-19-6(c)].
- G. The grievance manager shall maintain the grievance records and statistics required by Merit Rules, [455:10-19-5].

4. Records

- A. Records of each formal grievance shall be filed in separate files, apart from other individual employee personnel files, [74:840-6.2(I) and 455:10-19-4(a)].
- B. Title 51 O.S. § 24A.1 et seq., Oklahoma Open Records Act, governs access to grievance records, [455:10-19-4(b)].
 - 1. An employee or former employee shall have a right to review the grievance file (s) he or she filed after the agency grievance procedure has been completed, [74:840-6.2(I) and 455:10-19-4(b)(1)].

2. Grievance records shall be maintained for three (3) years.

5. Location - Grievance Manager

A. The agency Grievance Manager is located at the:

Employee Services Unit, OHRM
Office of Juvenile Affairs
3814 N. Santa Fe
Oklahoma City, OK.

Mailing address is:

Grievance Manager, OHRM Employee Services Unit
Office of Juvenile Affairs
P.O. Box 268812
Oklahoma City, OK 7312-8812

B. The Director may appoint assistant grievance managers in OJA institutions and other work locations. Assistant grievance managers may assist employees in complying with the requirements of OJA procedures and merit rules in the filing of a grievance, may assist in the resolution of grievances at the local level, and perform other grievance management duties as assigned by the Grievance manager. Each facility and work location will post in a conspicuous place the name of staff who have been appointed as Assistant Grievance Manager.

6. Grievant rights

A. Grievant may be represented by one person of their choice at each step of the grievance procedure except during the initial informal discussion with their immediate supervisor. The employee is responsible for all costs and expenses of representation, [74:840-6.2(E)(3) and 455:10-19-39(a)].

B. Employees may request supervisory approval for a necessary and reasonable absence from work to gather information in preparation of a grievance and to process a grievance. The absence may be approved if the time away will not cause undue hardship or disrupt normal work operations. The absence will not result in a loss of pay or leave, if prior approval by the supervisor is granted.

C. Employees shall not be charged leave to attend meetings held to decide the employee's grievance if they provide the supervisors advance notice of meetings scheduled, [455:10-19-

D. Employees shall be reimbursed for approved travel incurred to resolve a formal grievance in accordance with the State Travel Reimbursement Act [455:10-19-38(b)].

7. Group grievances

A. Employees may file a formal grievance as a group, when the grievance issues and personal relief sought are the same or similar for each, [455:10-19-40(a)].

B. The group shall name a spokesperson who shall speak and act on behalf of the group. A grievance form, completed by the spokesperson, must be accompanied by a "Group Grievance" form to indicate the group members selection of a spokesperson.

C. The group is entitled to a representative, [455:10-19-40(a)].

D. The grievance manager may consolidate formal grievances containing the same or similar issues filed by two or more employees to effect a more efficient or timely processing and resolution of the grievances, [455-10-19-40(b)].

E. The grievance manager may join formal grievances filed by an employee to effect a more efficient or timely processing and resolution of the grievances, [455:10-19-40(c)].

REFERENCES:

State Statutes:

Title 51 O.S. § 24A.1 et seq.

Title 74 O.S. § 84-6.2

OAC Rules:

455:10-19-4(a)(b)

455:10-19-5

455:10-19-21(1) and (2)

455:10-19-21(3)

455:10-19-21(4)

455:10-19-22(3)(4)(5)(6)(7)

455:10-19-23(a)(b)(c)

455:10-19-38

455:10-19-39(a)

455:10-19-40(a)

OJA Rules:

377:3-5-2

ACA Standards:

2-7027

3-JCRF-1C-02

3-JTS-1C-01

OFFICE OF JUVENILE AFFAIRS	POLICY #: P-03-05-902
Administrative Services	APPROVED: <i>Robert E. Christian,</i> EXECUTIVE DIRECTOR
SUBJECT: Grievance Procedures - Grievable issues	DATE APPROVED: 1-24-2011

I. **Grievable issues**

Examples of grievable issues include, but are not limited to: classification; leave (except furlough); compensatory time; promotion; supervisory practices which violate policy, rule, state or federal law; discrimination; disciplinary actions; and other alleged violations of the Merit Rules, [74 O.S.2001,§ 840-6.2(D)].

A. **Promotion**

Any employee who feels that he or she has not been treated fairly with regard to a promotional action has the right to file a formal grievance. The employee must specify in the grievance why he or she believes the promotional process was unfair and not consistent with policy and/or procedures. The Merit Protection Commission will accept an appeal regarding a promotional action only after such complaint has been reviewed in the formal grievance procedures, [74 O.S. 2001, § 840-4.15(C)] and OAC 455:10-19-35b)].

B. **Discipline**

An employee who has reason to believe that discipline imposed was not uniform, appropriate, or in compliance with the agency progressive discipline policy, has the right to file a formal grievance. Except for suspensions without pay, involuntary demotions, or discharge of permanent classified employees, the Merit Protection Commission will accept appeals concerning discipline only after such complaints have been reviewed in the formal grievance procedure, [455:10-19-35(d)].

C. **Leave**

Any employee who feels that he or she has not been treated fairly with regard to annual, sick, or any other leave accrual, accumulation, use, or eligibility (including leave without pay and leave sharing) has the right to file a formal grievance. The Merit Protection Commission will accept an appeal regarding leave issues only after such complaints have been reviewed in the formal grievance procedure, [OAC 455:10-19-35(e)].

D. **Employee Performance Appraisal**

1. Any employee who disagrees with his or her individual service rating has the right to file a formal grievance, [OAC 455:10-19-35(f)].
2. Following the review of such complaint in the formal grievance process, the Merit Protection Commission (MPC) will accept a complaint regarding disagreement with the rating contained on the evaluation for Alternative Dispute Resolution (ADR) only, [OAC 455:10-19-35 (f) (1)].
3. MPC will accept an appeal regarding an alleged violation of the Oklahoma Personnel Act or Merit Rule in regard to the employee service evaluation only after such complaints has been reviewed in the formal grievance procedure, [OAC 455:10-19-35 (f) (2)].

E. **Classification**

1. A classified employee may file a classification grievance to resolve disputes pertaining to the assignment or required performance of duties and responsibilities, [74 O.S. 2001, § 840-4.3(B) and OAC 455:10-19-35(c)].
2. Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment or Job Family Descriptor; however, employees are not entitled to a higher job classification, [74 O.S. 2001, § 840-4.3(B) and OAC 530:10-5-4 (d)]. Employees are entitled to their current job classification and to be assigned, on a regular and consistent basis, job duties appropriate for that job classification, [74: O.S. 2001, § 840-4.3(C) (1) and OAC 530:10-5-4(a)].
3. Classification grievances are processed in the same manner as other grievances through step two. Corrective actions available to the step one and two decision makers include: modification of the duties so that the duties are consistent with the employee's classification, or in-class transfer of the employee to a position properly allocated to the class the employee currently holds.
4. If the grievance is not resolved at the step two process the employee may complete an Office of Personnel Management (OPM) Classification or Allocation Dispute Review Request Form (OPM-70) that will be transmitted to OHRM Personnel Operations for transmission to OPM for audit of the position in accordance with OAC 530:10-5-51(b), [OAC 455:10-19-35(c) (4)].

5. A classification grievance is ended with the transmission of the request for audit (OPM-70) to the OPM. In the event an OPM-70 results in a reallocation to a higher job classification, the position will be filled in accordance with OJA procedures.
6. If the decision includes the removal of the inappropriate job duties, back pay award may be ordered by the decision maker if it has been determined that an employee is entitled to compensation for performing duties on a regular and consistent basis which did not conform to their current job classification, [OAC 455:10-19-35 (c) (2)]. Back pay shall be limited to the date the employee filed the classification grievance pursuant to 74 O.S., 840-6.2

F. **Discrimination**

1. The grievance manager is assigned the responsibility of coordinating complaints alleging discrimination. Upon receipt of discrimination complaints, the grievance manager will refer them to the Affirmative Action Officer (AAO), who has the responsibility of reviewing them as defined in Merit Rules OAC 455:10-19-35(g) and OAC 530:10-3-20.
2. A complaint of discrimination must describe an adverse employment condition or action that the employee believes occurred, or was directed at him or her, due to the employee's political or religious opinions or affiliations, race, creed, gender, color, age (over 40), national origin, or handicap, [OAC 530-10-3-2-(a)].
3. Complaint of discrimination include allegations of sexual harassment that can be described as any unwelcome sexual advances, requests for sexual favors, and verbal graphic or physical conduct of a sexual nature when: (1) submission to such-conduct is made either explicitly or implicitly a term or condition of a individual's employment; (2) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, [OAC 530:10-3-3].
4. Grievances, which allege retaliation for any previous discrimination grievance filed, will also be processed as a complaint of discrimination.
5. Any employee filing a grievance alleging a complaint of discrimination is encouraged to complete MPC Form 900 "Internal Agency Grievance Resolution form and forward it to the grievance manager, [OAC 455:10-19-35(g)].

G. Pay movement mechanisms and other compensation issues

Any employee, who feels that a violation of law, rule policy or practice has occurred with regard to pay movement mechanisms or other compensation issues, has the right to file a formal grievance. MPC will accept an appeal regarding pay movement mechanism and other compensation issues only after such complaint has been reviewed in the formal grievance procedure.

II. Non-grievable issues

Examples of non-grievable issues include, but are not limited to: proposed disciplinary actions; disciplinary action resulting from an employees failure to comply with state income tax laws (Title 68 § 238.2); furloughs; and reductions-in-force.

REFERENCES:

State Statutes:

Title 74 O.S. § 840-4.3 (B)

Title 74 O.S. § 840-4.15 (C)

Title 74 O.S. § 840-6.2 (D)

OAC Rules:

530:10-3-2 (a)

530:10-3-3

530:10-5-4

530:10-5-54 (b)

455:10-19-35 (b) (c) (d) (e) (f) (g)

530:10-3-20

OJA Rules: 377:3-5-2

ACA Standards:

2-7027

4-JCF-6D-01

Revised: 09-27-2009, 1-24-2011

Administrative Services

APPROVED: Richard DeLaughter,
EXECUTIVE DIRECTORSUBJECT: Grievance Procedures- Grievance time
limits

DATE APPROVED: 4/19/04

1. Time limits

- A. A formal grievance shall be filed within 20 calendar days of the date of the act or incident; or within 20 calendar days of the date the employee becomes aware of or, with reasonable effort, should have become aware of a grievable issue, [455:10-19-42(a)(1)(2)].
- B. The grievance manager may extend the time limit for filing a formal grievance if the employee shows that he or she could not have otherwise timely filed, or if the employee provides evidence that he or she was making a good faith effort to resolve the dispute informally, or for other good cause shown, [455:10-19-42 (b)].
- C. All formal grievances will be filed with the grievance manager on the MPC Form 900, "Internal Agency Grievance Resolution Form."

2. Resolution time

- A. A formal grievance must be resolved within 45 calendar days after the filing of the grievance unless an extension is granted, [455:10-19-44(a)].
- B. The grievance manager may extend the resolution time up to an additional 15 days for good cause and will provide the grievant written notification of the extension before the expiration of the 45 calendar day time limit and include reasons for the extension, [455:10-19-44(a)(1)].
- C. The grievant and the grievance manager may mutually agree to extend the grievance time limit up to an additional 30 calendar days for good cause. Any extension will be made in writing and include reasons for the extension [455:10-19-44(a)(2)].
- D. In no case shall the resolution time of a formal grievance exceed 90 calendar days, [455:10-19-44(a)(3)].

REFERENCES:

State Statutes: N/A

OAC Rules:

455:10-19-42

455:10-19-44

OJA Rules:

377:3-5-2

ACA Standards:

2-7027

3-JCRF-1C-02

3-JTS-1C-01

OFFICE OF JUVENILE AFFAIRS	POLICY #: P-03-05-904
Administrative Services	APPROVED: <u>Richard DeLaughter</u> , EXECUTIVE DIRECTOR
SUBJECT: Grievance Procedures- Grievance procedures steps	DATE APPROVED: 4/19/04

Grievance procedures steps

1. Step One - informal discussion

- A. The first step of a grievance shall be an informal discussion between the employee and the immediate supervisor to provide the employee and his or her supervisor an opportunity to address and resolve concerns and complaints at the lowest level possible, [455:10-19-61(a)(b)].
- B. If the supervisor is unable to resolve the dispute because it is not within his or her control or authority, the supervisor will refer the grievance to the person with the authority to resolve the dispute, [455:10-19-61(c)].
- C. The step one decision maker and grievant will consider mediation before exhausting efforts to informally resolve the dispute.
- D. The first step must be completed before 20 calendar days have lapsed following the incident which prompted the informal grievance.

2. Step two - formal grievance

- A. If the dispute is not resolved informally, the employee may file a formal grievance within the 20 calendar days time limit specified in this Section, and give a copy to his or her immediate supervisor, [455:10-19-62(a)].
- B. The step one decision maker will provide the grievance manager with a written summary of the informal discussion(s) held.
- C. The grievance manager will make a determination whether the grievance is acceptable, and if rejected, provide the employee with reasons in writing, [455:10-19-22(4)].
- D. If the grievance is accepted and if other employees are potentially affected by the outcome of the grievance, the grievance manager will provide the affected employee with a copy of the

grievance.

- E. The step two decision maker is the designated administrator or institutional superintendent who has the authority to obligate the agency to resolve the grievance, [455:10-19-62(b)]. To assist the step two decision maker in making a decision, the grievance manager may request that an investigation be conducted or that a grievance hearing be convened. [Refer to SP-03-05-901(3)(e).]
- F. Within 21 calendar days or less after receipt of the grievance statement, the step two decision maker shall review the grievance and have a face-to-face meeting or telephone discussion with the grievant, [455:10-19-62(c)]. The step two decision maker shall provide a written decision to the employee and submit a copy to the grievance manager after completing step two. This time frame may be extended for a good cause in accordance with these procedures.
- G. The decision must address the issues raised in the formal grievance [455:10-19-45(a)] and be delivered personally or by mail, [455:10-19-45(b)].
- H. The decision should be implemented by the affected parties at the earliest opportunity.
- I. If the grievant does not accept the step two decision, the grievant may appeal in writing to the Director within seven calendar days of receiving the step two decision. The appeal shall be filed with the grievance manager. The grievant must provide evidence in the appeal that the resolution was not correct, did not address the issues of the grievance, and further relief is warranted. The Director or designee will make a review and issue a final decision on the appeal within 10 calendar days of receipt of the appeal. (To assist the Director in making a final decision, he or she may direct an investigation by conducted or request that a grievance hearing committee be convened). The 10 calendar day time frame for this process may be extended for good cause in accordance with these procedures.

3. End of grievance procedure

A. The grievance will end when:

1. the grievance is withdrawn in writing by the grievant; or
2. the resolution proposed by the employee in the written statement of the grievance is accepted in writing by an agency official who has the authority to obligate the agency; or
3. a resolution is reached at any step of the procedure and agreed to in writing, and signed by the employee and an agency official who has the authority to obligate the agency; or

4. the grievant fails to comply with any time limits specified in these procedures without an approved time extension; or
 5. a final decision on the grievance is provided to the grievant by the step two decision maker or by the Director, if the decision is appealed according to these procedures.
- B. The grievance manager will notify the grievant and the appropriate agency officials that the grievance procedure has ended.
- C. The resolution of any grievance must be in agreement with the Oklahoma Personnel Act, merit rules, and OJA policy and procedures.

4. Merit Protection Commission

The grievant may file an appeal with the Merit Protection Commission in accordance with the time provisions of Merit Rule 455:10-19-46, **Filing an appeal after a formal grievance**, if the grievant can provide evidence the final decision was not correct, did not address the issues of the grievances, or that violations occurred during the processing of the formal grievance.

REFERENCES:

State Statutes: None

OAC Rules:

455:10-19-22
455:10-19-45
455:10-19-46
455:10-19-61
455:10-19-62

OJA Rules: 377:3-5-2

ACA Standards:

2-7027
3-JCRF-1C-02
3-JTS-1C-01

OFFICE OF JUVENILE AFFAIRS	POLICY #: P-03-05-905
Administrative Services	APPROVED: <u>Richard DeLaughter</u> , EXECUTIVE DIRECTOR
SUBJECT: Grievance Procedures- Use of voluntary mediation	DATE APPROVED: 4/19/04

1. Purpose

- A. The purpose of this Section is to establish responsibility and procedures to utilize the Oklahoma Merit Protection Commission (MPC) Voluntary Mediation Program, [455:10-17-8].
- B. Voluntary mediation provides an opportunity for employees to voluntarily settle employment disputes and conflicts. Mediation allows parties to a dispute to arrive at a resolution acceptable to all parties, rather than having a decision imposed by a third party reviewer, [12 O.S. § 1801 et al].
- C. Referrals to mediation may be initiated by the grievance manager, by any of the parties to a dispute, or by any supervisor or manager involved in the efforts to resolve a dispute. It is not necessary for a grievance to be filed before requesting or using voluntary mediation.

2. Time limits

After acceptance of a request for voluntary mediation, all applicable time limits will be suspended pending completion of the voluntary mediation process, [12 O.S. § 1806 and 455:10-17-8(e)].

3. Request

- A. Requests to MPC for mediation will be submitted on the MPC Request for Voluntary Mediation form. Once MPC has received a request for mediation, they will coordinate with the other parties identified or involved to secure their agreement to mediate.
- B. If during the grievance resolution process, grievant or a decision maker involved in the grievance wishes to request voluntary mediation, he or she should contact the agency grievance manager.

4. Time limits for continuation of grievance

- A. An employee who participates in mediation after filing a formal grievance may continue with his or her grievance by notifying in writing the grievance manager within four calendar days of the conclusion of the mediation process.
- B. Upon receipt of the written request, the employee's grievance will be processed in accordance with the steps and time limits established by the grievance procedures.

5. Leave to attend mediation session

- A. Employees participating in a mediation session in accordance with the policy in this Section are not charged leave to attend the mediation session, and are eligible to receive travel reimbursement.
- B. Employees must notify their supervisors in advance of the scheduled mediation session for approval of the absence.

REFERENCES:

State Statutes: 12 O.S. § 1801 et al

OAC Rules: 455:10-17-8

OJA Rules: 377:3-5-2

ACA Standards:

2-7027

3-JCRF-1C-02

3-JTS-1C-01