



Civil Service Division – Frequently Asked Questions

What is the Civil Service and Human Capital Modernization Act?

The Civil Service and Human Capital Modernization Act was established through the passing of House Bill 1146 [62 O.S. § 34.301 (OSCM 2021), Civil Service and Human Capital Modernization Act]. This bill created several changes to the rules and processes for state employees:

- Created the Civil Service Division to mediate and hear employee complaints.
- Created a training program to certify state employees to be mediators.
- Decommissioned the Merit Protection Commission effective Dec. 31, 2022.
- Established the Office of Veterans Placement.
- Created a confidential Whistleblower Program.
- Authorized OMES to establish rules to perform the duties and functions of 62 O.S. § 34.301.

What happened to the classified and unclassified employee designation?

Employees are no longer classified or unclassified in accordance with Oklahoma State Statute, 62§ 34.301. All employees are now called state employees and are governed by the Civil Service Rules.

What happened to the Oklahoma Merit Protection Commission?

In accordance with Oklahoma State Statute, 62 § 34.301, the Oklahoma Merit Protection Commission continued to receive and close out appeals through Dec. 31, 2021. Effective Jan. 1, 2022, MPC no longer has the authority to receive new complaints or appeals. The Civil Service Division handles all complaints and appeals.

What is a complaint?

As a verb, the filing of a complaint petition; as a noun, the procedure takes place after a complaint petition is filed.

What is a complainant?

A state employee who files a complaint through the Civil Service Division.

What kinds of disputes can be mediated at the Civil Service Division?

CSD will hear mediations stemming from the following disciplinary actions:

- Written reprimands.
- Punitive transfers.
- Suspension without pay.
- Involuntary demotions.
- Termination.

Can employees file a complaint with the Civil Service Division for anything other than terminations, suspension without pay, involuntary demotions, written reprimands or alleged punitive transfers?

No. Other types of complaints may be heard through an agency's internal process. Please check with your agency's human resources team to see if they offer an internal complaint process.

When can an employee file a complaint with the Civil Service Division?

All complaints shall be filed online with CSD within 10 business days of the date of termination, suspension without pay, involuntary demotion, written reprimand, or alleged punitive transfer. You can find the online complaint form on the [Civil Service Division portal](#) or on the [Civil Service Division webpage](#).

How do I request a continuance?

A request for continuance must be filed in writing within three calendar days of your appointment and shall include the cause for the request and a statement of agreement or disagreement by the other party(s). A prehearing conference or hearing may be continued or adjourned by the Civil Service Division or the administrative law judge. A continuance shall be granted only in those instances where extraordinary circumstances exist and have been shown. If granted, a continuance shall be made to a specific date. A request for continuance that extends the hearing or mediation past the 30-business-day limit as set forth in 62 O.S. Section 34.301(C) will not be granted. You can find the Request for Continuance form in the Documents section of the [Civil Service Division webpage](#), or download it directly here: [Civil Service Division Request for Continuance](#).

After the hearing, when can I expect a decision?

The administrative law judge shall file a final order with the Civil Service Division within 10 calendar days after the record is closed. The final order shall include findings of fact and conclusions of law, written in clear and concise language.

What is progressive discipline?

Progressive discipline is designed to ensure the consistency, impartiality and predictability of discipline, and the flexibility to vary penalties if justified by aggravating or mitigating conditions. Penalties include written reprimand, suspension without pay, involuntary demotion, and termination. Based on the circumstances, a single incident may justify a higher step of discipline without proceeding through the lowest steps of discipline. Progressive discipline is a tool appointing authorities use to maintain a safe and productive working environment for all employees.

What are the appointing authorities' responsibilities for progressive discipline?

The appointing authority is responsible for using the progressive discipline standards unless the appointing authority has received an exemption from the Civil Service Division. To receive an exemption, the appointing authority must file a copy of any adopted progressive discipline plan the agency will follow in lieu of these standards with CSD.

The appointing authority shall furnish to each employee a copy of the progressive discipline policy, including revisions, used by the agency.

What about discipline records?

Agencies maintain documentation of disciplinary actions with complaint rights in the employee's personnel record. An agency must give a copy of any disciplinary document to the employee when the agency files the document in the employee's agency personnel record. The employee may review disciplinary documents in his or her agency personnel record at any time. The Civil Service Division shall have a right of access to disciplinary documents in the agency personnel file. Please be advised, rule 260:130-1-2 defines a disciplinary file as the record of all disciplinary actions leading up to a written reprimand, punitive transfer, suspension without pay, demotion or termination; the final action taken, and all relevant supporting documents.

To view the full Progressive Discipline Standards, please visit [Progressive Discipline Standards](#).

What is a written reprimand?

A written reprimand is a letter, memo or other document an appointing authority or supervisor gives an employee to record and correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior.

What is the process for a written reprimand to be mediated with the Civil Service Division?

The employee must file a complaint online with CSD within 10 business days of receiving the written reprimand.

- If filed timely, a mediation session will be held with the employee and agency representative. A mediator will help the parties explore remedies toward resolution.
- If a resolution is reached, a mediation agreement will be created and the process ends.
- If a resolution cannot be reached, the complaint will be dismissed, and the process ends.

What is a punitive transfer?

A punitive transfer is directed at and affects only one employee employed by the appointing authority. A punitive transfer must relocate the affected employee to a new worksite that is 50 or more miles from the employee's previous worksite. A transfer that results from a closure of worksite location or building or affects two or more employees does not qualify as a punitive transfer.

What is the process for an alleged punitive transfer to be mediated and heard with the Civil Service Division?

The employee must file a complaint online with CSD within 10 business days of receiving an alleged punitive transfer.

- If filed timely, a mediation session will be held with the employee and agency representative. A mediator will help the parties explore remedies toward resolution.
- If a resolution is reached, a mediation agreement will be created and the process ends.
- If a resolution cannot be reached, the complaint will be heard through the prehearing and hearing process. An administrative law judge will decide the outcome based on the evidence and testimony.

What is a suspension without pay?

A suspension without pay places an employee away from work for a specific number of days without pay and is received by a letter, memo or other document to correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior.

What is the process for a suspension without pay to be heard with the Civil Service Division?

The employee must file a complaint online with CSD within 10 business days of receiving a suspension without pay.

- If filed timely and requested, a mediation session will be held with the employee and agency representative. A mediator will help the parties explore remedies toward resolution.
- If a resolution is reached, a mediation agreement will be created, and the process ends.
- If a resolution cannot be reached, the complaint will be heard through the prehearing and hearing process. An administrative law judge will decide the outcome based on the evidence and testimony.

What is an involuntary demotion?

An involuntary demotion is the reclassification of an employee to a different job with a lower pay-band assignment or to a lower level within the same job family. The employee neither asked for nor agreed to the demotion.

What is the process for an involuntary demotion to be heard with the Civil Service Division?

The employee must file a complaint online with CSD within 10 business days of receiving an involuntary demotion.

- If filed timely and requested, a mediation session will be held with the employee and agency representative. A mediator will help the parties explore remedies toward resolution.
- If a resolution is reached, a mediation agreement will be created and the process ends.
- If a resolution cannot be reached, the complaint will be heard through the prehearing and hearing process. An administrative law judge will decide the outcome based on the evidence and testimony.

What does ending the employee/employer relationship mean?

This action is a termination of employment that is delivered through a letter, memo or other document and captures the violations of statute, rule, policy, practice or procedure regarding work performance or behavior.

What is the process for a termination to be heard with the Civil Service Division?

The employee must file a complaint online with CSD within 10 business days of receiving a termination.

- If filed timely and requested, a mediation session will be held with the employee and agency representative. A mediator will help the parties explore remedies toward resolution.
- If a resolution is reached, a mediation agreement will be created and the process ends.
- If a resolution cannot be reached, the complaint will be heard through the prehearing and hearing process. An administrative law judge will decide the outcome based on the evidence and testimony.

What is the State Employee Dispute Resolution Program?

The State Employee Dispute Resolution Program is a process where the parties of a conflict, with the help of a certified mediator, examine and explore different means of resolution and work toward reaching an agreement.

What is the purpose of the State Employee Dispute Resolution Program?

Mediation gives state agencies and employees an economical option for resolving conflicts stemming from disciplinary actions. Mediation gives the parties the opportunity to make decisions on the outcome of their complaint. You will not have this opportunity in the hearing process where a judge makes the decisions for you.

What are the advantages of mediation for me?

- It is less formal and intimidating than traditional hearings.
- It takes less time and money than formal hearings.
- A neutral expert helps resolve the conflict.
- All parties are directly involved.
- It offers more opportunities to preserve effective working relationships than formal hearings.
- It offers employees the opportunity to have some input on the resolution.

Will the Civil Service Division's State Employee Dispute Resolution Program provide conflict resolution for state employees and agencies?

CSD will only mediate cases that are connected to disciplinary actions with complaint rights.

What should I know about a mediation session at Civil Service Division?

- Each party will provide the mediator with a mediation statement that includes a proposed settlement offer.
- The mediation can be terminated because of disruptive behavior or conduct of a party or representative.
- Mediation is the only means to resolve a disagreement regarding a written reprimand.
- Mediation is not open to the public.
- Mediation is confidential.
- Mediation is informal but is structured by the mediator.
- Mediation gives you the opportunity to speak your mind and understand the other person's point of view.
- In mediation, you help create your own agreement.

How does mediation work?

Once a complaint is received, the Civil Service Division will schedule a mediation session and appoint a mediator. Each party shall provide to the mediator a copy of a mediation statement that includes a proposed settlement offer. The mediator will explain the rules of mediation, provide all parties the opportunity to tell their story, help clarify the issues and help identify possible solutions. The parties will have to explain their perspective, listen carefully to the other side, help generate possible solutions and select from the different options that both parties agree to reach a mutual settlement.

May I have someone represent me?

Yes. You must speak for yourself at the mediation session, but you may have your representative accompany you to act in an advisory role.

What is a prehearing conference?

It is a proceeding conducted by an administrative law judge with the parties to identify the issues, documents, witnesses and motions which will guide the administrative law judge in the conduct of the hearing.

The Civil Service Division will schedule a prehearing conference before a hearing. The prehearing conference is attended by the administrative law judge, the parties, and their representatives (if any). It is not open to the public. The prehearing conference is an opportunity to clarify issues with the administrative law judge.

What are my responsibilities at the prehearing conference?

At the prehearing conference, each party provides a copy of the following documents to the administrative law judge and the other party:

1. A statement of the case, including stipulations and requested remedies.
2. A list of witnesses the party expects to call at the hearing who have direct knowledge of the issue(s) in dispute.
3. A list of the names and addresses of witnesses the party seeks to subpoena, including a brief description of the testimony each witness will offer.
4. A list of exhibits and documents the party expects to introduce at the hearing, including a copy of each if available.

What is a hearing?

A hearing is a formal proceeding controlled by the administrative law judge. Each side has an opportunity to present testimony and evidence to support their case and to ask questions of the other side. The hearing is attended by the administrative law judge, the parties, and their representatives (if any). It is open to the public. A party may introduce witnesses and exhibits only with the approval of the administrative law judge.

How does the administrative law judge decide cases, and who has the burden of proof?

Administrative law judges decide cases based on a preponderance of the evidence. Preponderance of the evidence is defined as information or evidence that is more convincing or believable than the information or evidence offered in opposition.

In cases of termination, suspension without pay, involuntary demotion, and alleged punitive transfer, the burden of proof rests with the complainant, who must prove his or her case.

1. Upon a finding that a reasonable basis existed for the action taken and the discipline imposed was just, an administrative law judge shall dismiss the complaint.
2. Upon a finding that a reasonable basis did not exist for the action taken, an administrative law judge may order the reinstatement of the employee, with or without back pay and other benefits. An administrative law judge may also order that documentation of the disciplinary action be expunged from any and all of the employee's personnel records and disciplinary file.
3. An administrative law judge who orders reinstatement with back pay and other benefits listed in bullet 2 above may consider the deduction of any income the employee may have received for the period of time the employee was not performing his or her duties.

What can I do if I disagree with the final decision?

The final decision of the Civil Service Division shall be subject to rehearing, reopening or reconsideration. A petition for rehearing, reopening or reconsideration must be filed by the aggrieved party within 10 days from the date of the entry of the final decision. Such petitions and the resolution of such petitions must be in accordance with 75 O.S. Section 317 of the Administrative Procedures Act.

May I be represented at the prehearing conference and hearing?

Yes. Each party may have a representative who has knowledge of the case, has authority to negotiate a settlement, and is willing and available to serve. The representative need not be an attorney. The representative must be identified on the petition of the complaint or an entry of appearance must be filed. If someone represents you, you are bound by the acts and omissions of your representative. Therefore, you should carefully consider selection of a representative.

How do I file a whistleblower complaint?

The Civil Service Division will act as the central repository for all whistleblower complaints. All whistleblower complaints will be maintained as confidential and be routed to the Office of the Oklahoma Attorney General for review and disposition. Whistleblower complaints will be limited to agency or employee mismanagement and the misuse of state funds or property.