ARIZONA DEPARTMENT OF CORRECTIONS	CHAPTER: 500 PERSONNEL/HUMAN RESOURCES	OPR: DIR
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PURPOSE

This Department Order establishes procedures and time frames for affording each covered employee a systematic means of resolving an employee's disagreement with the receipt of a disciplinary action as outlined in this Department Order.

APPLICABILITY

This Department Order does not create a contract for employment between any employee and the Department. Nothing in this Department Order changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.

PROCEDURES

517.01 CRITERIA

1.1 The grievance procedure may be used to address an employee's disagreement with the receipt of a disciplinary action that is:

1.1.1 A written reprimand.

1.1.2 A suspension of 40 hours or less for a full authority peace officer.

1.1.3 A suspension of 80 hours or less for a covered employee who is not a full authority peace officer.

1.2 A grievance that includes an allegation of unlawful discrimination or harassment will be reviewed or investigated according to the provisions of the separate complaint process outlined in Department Order #527, Sexual Harassment and Employment Discrimination, and not the grievance system.

517.02 RESTRICTIONS

1.1 The grievance procedure does not apply to any of the following matters:

1.1.1 Retirement, Life Insurance, or Health Insurance.

1.1.2 Any recruitment, selection, promotion, or appointment, including exams.

1.1.3 Any classification action.

1.1.4 Any compensation action.

1.1.5 Any reduction in force.

1.1.6 A complaint alleging discrimination or harassment.

1.1.7 Internal investigations in progress.

1.1.8 Non-disciplinary actions (e.g., letters of instruction, performance appraisal entries, Notices of Necessity to Improve).

1.1.9 A disciplinary action that is either:

1.1.9.1 A suspension of more than 40 working hours if the employee is a covered full authority peace officer, or,

1.1.9.2 A suspension of more than 80 hours if employee is not a covered full authority peace officer,

1.1.9.3 An involuntary demotion, or,

1.1.9.4 A dismissal.

1.2 An employee may not submit a grievance challenging the management rights of the Department. The Department has the right to:

1.2.1 Direct its employees.

1.2.2 Hire, promote, transfer, assign, and retain employees.

1.2.3 Maintain efficiency of government operations and determine the methods, means, and personnel by which these operations are to be conducted.

517.03 **INFORMAL RESOLUTION** - An employee who disagrees with the receipt of a disciplinary action shall have an oral discussion with his/her immediate supervisor prior to initiating a formal, written grievance. The purpose of this discussion shall be to seek informal resolution.

1.1 The employee and supervisor shall discuss the employee's specific concerns in an attempt to reach an agreement.

1.2 If the supervisor and employee are unable to resolve the issue informally, the supervisor shall contact the Step I review authority, identified in Attachment A, for assistance.

1.3 Upon completion of the Informal Resolution Process the supervisor shall sign the appropriate area on the Employee Grievance, Form 517-1. The supervisor's signature shall be required documentation of the attempt to resolve informally.

517.04 **INITIATING THE FORMAL GRIEVANCE PROCESS** - When the issue cannot be satisfactorily resolved informally, the employee may seek resolution through the formal grievance process. To do so, the employee shall:

1.1 Obtain a Grievance Control Number from the Central Office Employee Grievance Coordinator assigned to the Director's Office.

1.1.1 Prior to issuing a Grievance Control Number, the Central Office Employee Grievance Coordinator shall verify the issue in question is a grievable matter, time frames have been met and that Informal Resolution has been attempted.

1.2 Prepare and submit a written grievance to the Step I authority within ten business days, after the occurrence of the action being grieved.

1.2.1 The date of occurrence of a:

1.2.1.1 Reprimand is the date the reprimand was issued to the employee.

1.2.1.2 Suspension is the first day of suspension.

517.05 **PREPARATION TIME** - An employee shall not be allowed the use of state time or state property to prepare a grievance, prepare for a meeting with agency management or to meet with a representative. Subject to supervisor approval, a grievant may request available compensatory or annual leave for this purpose.

517.06 **DOCUMENTS**

1.1 A grievance shall include:

1.1.1 A completed, signed and dated Employee Grievance, Form 517-1.

1.1.2 A complete statement of all the facts and circumstances involved and the specific redress sought.

1.1.3 A statement specifying the reason(s) that the employee's disagreement with the disciplinary action was not satisfactorily resolved informally as outlined in 517.03 of this Department Order. If this statement is not provided, the grievance shall be returned to the employee by the Step I review authority, directing the employee to provide the statement within the Step I submission time frames.

1.2 The Grievance Control Number shall be listed on each page/document of the grievance.

1.3 The original grievance documents shall be submitted at each step for review.

1.4 A copy of each original grievance and each subsequent Review Step Response shall be immediately forwarded to the Central Office Employee Grievance Coordinator.

1.5 Grievance documents shall not be filed in the employee's personnel file.

1.6 Once the grievance is referred to any step beyond the Step I review authority, it shall not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the review official may remand the grievance to the appropriate previous level for reconsideration.

517.07 **REPRESENTATIVES**

1.1 An employee may select a representative (non-legal counsel) at any step in the grievance process after the informal resolution discussion with the immediate supervisor(s) and other involved parties.

1.2 A representative who is a current state employee shall use annual or compensatory leave for the time required to represent the grievant. The representative shall not be:

1.2.1 A relative of the employee filing a grievance. Relative is defined by Arizona Administrative Code R2-5A-305.

1.2.2 A subordinate or an individual within the employee's direct chain of command.

1.2.3 An employee from Administrative, Backgrounds or Criminal Investigations Units, Human Resources, the Employee Relations Office or the Director's Office, unless the employee had no involvement in the disciplinary action.

1.2.4 A participant (i.e., principal, complainant, witness) in a current investigation, as outlined in Department Order # 601, Administrative Investigations and Employee Discipline, that relates to the disciplinary action being grieved.

1.3 Review authorities shall not meet with the representative without the grievant being present. Review authorities may meet with the grievant if he/she waives the presence of the representative.

517.08 REVIEW AUTHORITIES

1.1 Review authorities are established in Attachment A of this Department Order. If a grievance pertains to disciplinary action imposed by an individual higher than the Step I review authority, the grievant shall directly petition that individual.

1.2 Grievance actions shall not stop due to a review authority's absence. Review authorities who are absent from their position shall appoint an acting review authority, who shall process grievances during the review authority's absence.

517.09 TIME FRAMES

1.1 Employees shall adhere to the time frames listed in Attachment B of this Department Order for submitting and responding to grievances.

1.2 The established time frame may be extended at any step, subject to the following conditions:

1.2.1 The person requesting the extension shall provide sufficient justification, in writing, to the other party involved. Extension requests shall be directed to the individual who is responding at that step.

1.2.2 The revised deadline shall be agreeable to both parties involved. If agreement cannot be reached, the request for an extension shall be forwarded to the next higher review authority for a decision.

1.2.3 An extension at one step shall not automatically apply to a higher step.

1.3 If, at any step, a response has not been received by the established deadline, and an extension has not been agreed upon, the employee may submit the grievance to the next step. The receiving step shall, with input from the lower step, make a determination.

1.4 Time frames shall normally be suspended if the grievant is on approved leave or Family Medical Leave Act (FMLA) in accordance with Department Order #519, Employee Health – FMLA, ADA, Industrial Injury, FFD and Alternate Assignment, and shall resume when the grievant returns to work.

517.10 STEP I REVIEW

1.1 The Step I authority shall:

1.1.1 Review the grievance documents.

1.1.2 Meet with the grievant and any other individuals the Step I authority deems appropriate.

1.1.3 Review applicable Department written instructions, rules and regulations.

1.1.4 Provide a written response to the employee within ten business days of receipt of the grievance. Original grievance documents shall be returned to the employee.

517.11 STEP II SUBMISSION AND REVIEW

1.1 The employee shall not proceed to Step II if the employee agrees the resolution at Step I fully resolves the employee's grievance. If the employee does not agree that the resolution at the current step fully resolves the grievance, the employee may elevate the grievance to the next step. The employee shall:

1.1.1 Submit the grievance to the Step II authority within five business days of receipt of the Step I written response.

1.1.2 Include a signed statement specifying the reason(s) the Step I response was unsatisfactory.

1.2 The Step II authority shall:

1.2.1 Review the grievance documents. If the grievance does not include a statement specifying the reason(s) the Step I response is unsatisfactory, it shall be returned to the grievant, who may resubmit the grievance, with the required statement, to the Step II authority within the prescribed time frames.

1.2.2 Meet with the grievant and any other individuals the Step II authority deems appropriate.

1.2.3 Review applicable Department written instructions, rules and regulations.

1.2.4 Provide a written response to the employee within ten business days of receipt of the grievance. Original grievance documents shall be returned to the employee.

517.12 STEP III SUBMISSION AND REVIEW

1.1 The employee shall not proceed to Step III if the employee agrees the resolution at Step II fully resolves the employee's grievance. If the employee does not agree that the resolution at the current step fully resolves the grievance, the employee may elevate the grievance to the next step. The employee shall:

1.1.1 Submit the grievance to the Step III authority within five business days of receipt of the Step II written response.

1.1.2 Include a signed statement specifying the reason(s) the Step II response was unsatisfactory.

1.2 The Step III authority:

1.2.1 Shall review the grievance documents. If the grievance does not contain a written statement specifying the reason(s) the Step II response is unsatisfactory, it shall be returned to the grievant, who may resubmit the grievance, with the required statement, to the Step III authority within the prescribed time frames.

1.2.2 Shall have the grievance further investigated/reviewed. If the Director deems an interview with the grievant necessary, the grievant shall be allowed to bring a representative.

1.2.3 May have an impartial individual, inside or outside the Department, review the grievance.

1.2.4 May request assistance from any relevant Department resource deemed appropriate.

1.2.5 Shall provide a written response to the employee within ten business days of receipt of the grievance.

1.2.5.1 The original grievance documents shall be returned to the employee.

1.3 The decision by the Director is the final step in the grievance process.

517.13 RESOLUTION OF GRIEVANCES

1.1 When a grievance is resolved at either Step I or Step II, the grieving employee shall provide the Central Office Employee Grievance Coordinator with the following information:

1.1.1 The grievant's name, job title and work location.

1.1.2 The Grievance Control Number.

1.1.3 The grievance category (e.g., reprimand or suspension).

1.1.4 The step at which the grievance was resolved.

1.2 The Central Office Employee Grievance Coordinator shall use this information for tracking purposes and for preparing periodic reports for the Director.

517.14 WITHDRAWING GRIEVANCES

1.1 An employee may withdraw a grievance at any point during the grievance process. To withdraw a grievance, the grievant shall complete the "Request To Withdraw Grievance" section of the Employee Grievance form and submit the form, through the appropriate review authority, to the Central Office Employee Grievance Coordinator.

1.2 Failure to present a written grievance for formal review within the specified time frames shall constitute a voluntary withdrawal and no further action shall be taken on the grievance. If the time frame has been extended as provided for in section 517.09 of this Department Order, failure to present a written grievance by the conclusion of the extended time frame shall constitute a voluntary withdrawal and no further action shall be taken.

1.3 An employee's grievance shall be considered "Withdrawn" at the time the grievant terminates employment with the state.

1.3.1 An employee of the Department who transfers, accepts or promotes to a position in another state agency, who has an active grievance, shall have the right to continue with the Department's grievance process.

1.3.2 All time frames and grievance process procedures in accordance with this Department Order shall apply to individuals continuing with the grievance process as outlined in section 517.09 of this Department Order.

517.15 PROHIBITIONS - No person shall directly or indirectly use or threaten to use any official authority or influence to discourage the use of the grievance system.

DEFINITIONS

BUSINESS DAY - For the purpose of this Department Order, are the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding observed state holidays.

FULL AUTHORITY PEACE OFFICER – A peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona Peace Officer Standards and Training Board (AZPOST) pursuant to Arizona Revised Statutes (A.R.S.) 41-741(9).

{Original Signature on File}

Charles L. Ryan
Director

ATTACHMENTS
Attachment A - Grievance Review Authorities
Attachment B - Grievance Time Frames

FORMS LIST
517-1, Employee Grievance
517-2. Employee Grievance Response

CROSS-REFERENCE INDEX

Department Order #108, Americans With Disabilities Act (ADA) Compliance
Department Order #109, Smoking and Tobacco Regulations
Department Order #501, Employee Professionalism, Ethics and Conduct
Department Order #510, Firearms Qualification/Firearms Instructor Certification
Department Order #512, Employee Pay, Work Hours, Compensation and Leave
Department Order #514, Performance Appraisal for Correctional Employees (PACE)
Department Order #519, Employee Health – FMLA, ADA, Industrial Injury, FFD and Alternate Assignment
Department Order #527, Sexual Harassment and Employment Discrimination
Department Order #601, Administrative Investigations and Employee Discipline

AUTHORITY

A.A.C. R2-5B-402, Grievance System
A.A.C. R2-5B-403, Grievance Procedures
U.S. Civil Rights Act of 1964, Title VII, 703, as amended, 42 U.S.C. 2000e-2

GRIEVANCE REVIEW AUTHORITIES

	UNIFORMED EMPLOYEES	ALL OTHER EMPLOYEES
STEP I*	Deputy Warden	Unit Administrator
STEP II	Warden	Bureau Administrator
STEP III	ADC Director	ADC Director

* The Step I **r**eview **a**uthority is the individual who issued or signed the disciplinary sanction. In most instances this is the Deputy Warden or Unit Administrator.

GRIEVANCE TIME FRAMES

	EMPLOYEE ACTION	RESPONSE
INFORMAL RESOLUTION AND STEP I	* Within ten business days of the occurrence of the action being grieved, complete the informal attempt and submit the grievance to the Step I review authority.	** Informal response provided before the elapse of the ten business days, Step I response within ten business days of receipt of the grievance.
STEP II	Within five business days of receipt of the Step I response.	Within ten business days of receipt of the grievance.
STEP III	Within five business days of receipt of the Step II response.	Within ten business days of receipt of the grievance.

* "Date of occurrence" is defined as the date the reprimand was issued to the employee for a Letter of Reprimand or the first day of a suspension.

** The grievant and immediate supervisor shall complete the "informal resolution" attempt in a reasonable time frame, beginning either before or after the effective date of the action being grieved (for example, beginning the attempt when notice is received of an impending suspension or other disciplinary action). A reasonable time frame will allow for a response from the immediate supervisor in sufficient time for the grievant to prepare and submit the grievance to the Step I review authority within ten business days of the occurrence of the action being grieved.

NOTE: The grievance shall be completed within 40 business days from the date submitted to the Step I review authority. Time Frames shall be suspended if the grievant is on approved leave or Family Medical Leave Act (FMLA) and shall resume when the grievant returns to work.