

CHAPTER: 500

Personnel/Human Resources

DEPARTMENT ORDER:

517 – Employee Grievances

OFFICE OF PRIMARY
RESPONSIBILITY:

DD

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Department Order Manual

A handwritten signature in black ink, appearing to read "David Shinn".

David Shinn, Director

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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

1.0 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 letter of 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, Employment Discrimination and Harassment, and not the grievance system.

2.0 RESTRICTIONS

- 2.1 The grievance procedure does not apply to any of the following matters:
 - 2.1.1 Non-disciplinary actions (e.g., letters of instruction, Managing Accountability and Performance (MAP) entries, Notices of Necessity to Improve)
 - 2.1.2 A suspension of more than 40 working hours if the employee is a covered full authority peace officer
 - 2.1.3 A suspension of more than 80 hours if employee is not a covered full authority peace officer
 - 2.1.4 An involuntary demotion
 - 2.1.5 A dismissal
 - 2.1.6 Retirement, Life Insurance, or Health Insurance
 - 2.1.7 Any recruitment, selection, promotion, or appointment, including exams
 - 2.1.8 Any classification action

- 2.1.9 Any compensation action
- 2.1.10 Any reduction in force
- 2.1.11 A complaint alleging discrimination or harassment
- 2.1.12 Internal investigations in progress
- 2.2 An employee may not submit a grievance challenging the management rights of the Department. The Department has the right to:
 - 2.2.1 Direct its employees.
 - 2.2.2 Hire, promote, transfer, assign, and retain employees.
 - 2.2.3 Maintain efficiency of government operations and determine the methods, means, and personnel by which these operations are to be conducted.

3.0 PREPARATION TIME – An employee shall not be permitted 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 to utilize available compensatory or annual leave for this purpose.

4.0 REPRESENTATIVES

- 4.1 An employee may select a representative (non-legal counsel) at any step in the grievance process after the informal resolution discussion with the approving authority.
- 4.2 A representative who is a current state employee shall utilize annual or compensatory leave for the time required to represent the grievant. The representative shall not be:
 - 4.2.1 A relative of the employee filing a grievance. A relative is defined by Arizona Administrative Code R2-5A-305.
 - 4.2.2 A subordinate or an individual within the employee's direct chain of command.
 - 4.2.3 An employee from Administrative, Backgrounds, Criminal Investigations, Human Resources, Employee Relations, or the Director's Office.
 - 4.2.4 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.
- 4.3 Review authorities shall not meet with the representative without the grievant present. Review authorities may meet with the grievant if he/she waives the presence of the representative.
- 4.4 Limitations
 - 4.4.1 The representatives may:
 - 4.4.1.1 Only participate in grievance meetings as an observer; not ask questions, coach the employee on responses, pass notes or exhibit other behavior the review authority reasonably believes is disrupting the meeting.

- 4.4.1.2 Take written notes and may speak to the grievant during breaks and at the conclusion of the meeting.
- 4.4.2 A representative who disrupts, delays, or otherwise impedes the meeting shall:
 - 4.4.2.1 Be excused from the meeting by the review authority.
 - 4.4.2.2 Be required to leave the vicinity of the meeting location, even if the interview location is their duty post.
 - 4.4.2.3 At the conclusion of the meeting the review authority shall advise their supervisor in writing of the facts supporting the removal of the representative.
- 4.4.3 A representative who disrupts, delays, and reveals confidential information or otherwise impedes the meeting may be precluded from acting as a representative in future meetings and may be subject to disciplinary actions, as outlined in Department Order #601, Administrative Investigations and Employee Discipline.

5.0 DOCUMENTS

- 5.1 A grievance shall include:
 - 5.1.1 A completed, signed, and dated Employee Grievance, Form 517-1.
 - 5.1.2 A complete statement of all the facts and circumstances involved, and the specific redress sought.
 - 5.1.3 A statement specifying the reason(s) that the employee's disagreement with the disciplinary action was not satisfactorily resolved informally during the informal resolution meeting. 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.
- 5.2 The grievance control number (GCN) shall be listed on each page or document included in the grievance.
- 5.3 The original grievance documents shall be submitted at each step in the grievance process. Once the grievance is submitted to the STEP I review authority it cannot be amended.
- 5.4 A copy of each original grievance and each Employee Grievance Response, Form 517-2, shall be immediately forwarded to the respective Grievance Coordinator (Employee Relations Officer).
- 5.5 Grievance documents shall not be filed in the employee's Personnel File.

6.0 REVIEW AUTHORITIES

- 6.1 Review authorities are established in Grievance Review Authorities, Attachment A. 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. Once the grievance is submitted to the STEP I review authority, it cannot be amended.

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

7.0 TIME FRAMES

- 7.1 Employees shall adhere to the time frames listed in Grievance Time Frames, Attachment B, for submitting and responding to grievances. It is incumbent on the employee to understand all time frames associated with the grievance process. If at any time the employee does not file paperwork in accordance with those time frames the final disciplinary action will be implemented. The established time frame may be extended at any step, subject to the following conditions:
 - 7.1.1 The person requesting the extension shall provide sufficient justification, in writing, to the appropriate review authority. Extension requests shall be directed to the appropriate review authority who is responding at that step.
 - 7.1.2 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.
 - 7.1.3 An extension at one step shall not automatically apply to a higher step.
- 7.2 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.
- 7.3 Time frames shall be suspended if the grievant is on approved leave or Family Medical Leave Act (FMLA) in accordance with Department Order #519, Employee Health – State/Federal Programs and Assignments.

8.0 INFORMAL RESOLUTION – An employee who disagrees with the receipt of a disciplinary action shall schedule a meeting with the approving authority to attempt to explore viable options to resolve the grievance prior to initiating a formal, written grievance. The purpose of this discussion shall be to seek informal resolution.

- 8.1 The employee and approving authority shall discuss the employee's specific concerns in an attempt to reach an informal agreement.
- 8.2 If the approving authority is unable to resolve the issue informally, the employee may proceed with the grievance process.
- 8.3 Upon completion of the Informal Resolution Process the approving authority shall sign the appropriate area on the Employee Grievance, Form 517-1. The approving authority signature shall be required as documentation of the attempt to resolve informally.

9.0 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:

- 9.1 Obtain a GCN from the Grievance Coordinator (Employee Relations Officer) by providing him/her a copy of the Employee Grievance form with the Deputy Warden/Unit Administrator's signature showing the attempt to resolve the matter informally.

9.1.1 Prior to issuing the GCN, the Grievance Coordinator (Employee Relations Officer) shall verify the matter is a grievable matter, and that time frames have been met and informal resolution has been attempted.

9.2 Once the GCN has been provided, prepare and submit a written grievance to the STEP I review authority (Deputy Warden/Unit Administrator) within 10 business days of the occurrence of the action being grieved.

9.2.1 The date of occurrence is defined as the date that the Letter of Reprimand was issued to the employee, or in the circumstance of suspension, the first day of suspension.

10.0 STEP I SUBMISSION AND REVIEW – The STEP I review authority (Deputy Warden/Unit Administrator) shall:

10.1 Review the grievance documents. If the grievance does not include a GCN, a statement specifying the reason(s) for the grievance and the requested resolution, it shall be returned to the grievant, who may resubmit the grievance with the required information within the prescribed time frame.

10.2 Review applicable Department written policies, rules and regulations.

10.3 Meet with the grievant and any other individuals the STEP I review authority deems appropriate.

10.4 Provide a written response to the employee within five business days of receipt of the STEP I grievance. Original grievance documents shall be returned to the employee.

10.4.1 The grievant shall not proceed to STEP II if he/she agrees with the resolution and the matter is resolved.

10.4.1.1 If the matter is not resolved at STEP I, the grievant may elevate the grievance by submitting the STEP II to the appropriate authority within five business days of receiving the STEP I response.

11.0 STEP II SUBMISSION AND REVIEW

11.1 The employee shall proceed to STEP II review authority (respective Warden, equivalent, or designee) within five business days of receipt of the STEP I written response. The grievant shall include a signed statement specifying the reason(s) the STEP I response was unsatisfactory.

11.2 The STEP II authority (respective Warden, equivalent, or designee) shall:

11.2.1 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 review authority within the prescribed time frames.

11.2.2 Have the matter further investigated or reviewed, if necessary.

- 11.2.2.1 The review authority may have an impartial individual, inside or outside the Department, review the grievance, if necessary. Additionally, the review authority may request assistance from any relevant Department resource deemed appropriate.
- 11.2.3 Meet with the grievant if deemed necessary. The grievant shall be permitted to have a representative present.
- 11.2.4 Provide a written response to the grievant within five business days of receipt of the grievance. Original grievance documents shall be returned to the employee.

12.0 STEP III SUBMISSION AND REVIEW

- 12.1 The employee shall proceed to STEP III review authority (Chief Human Resources Officer/respective Deputy Director, equivalent, or designee) within five business days of receipt of the STEP II written response. The grievant shall include a signed statement specifying the reason(s) the STEP II response was unsatisfactory.
- 12.2 The Step III review authority (Chief Human Resources Officer/respective Deputy Director, equivalent, or designee) shall:
 - 12.2.1 Review the grievance documents. If the grievance does not include a 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 II review authority within the prescribed time frames.
 - 12.2.2 Have the matter further investigated or reviewed, if necessary.
 - 12.2.2.1 The review authority may have an impartial individual, inside or outside the Department, review the grievance, if necessary. Additionally, the review authority may request assistance from any relevant Department resource deemed appropriate.
 - 12.2.3 Meet with the grievant if deemed necessary. The grievant shall be permitted to have a representative present.
 - 12.2.4 Provide a written response to the grievant within 10 business days of receipt of the grievance. The original grievance documents shall be returned to the employee. This is the final step in the process.

13.0 RESOLUTION OF GRIEVANCES – When a grievance is resolved at the informal resolution of the STEP I or STEP II, the review authority shall provide the Grievance Coordinator (Employee Relations Officer) with the following information:

- 13.1 The grievant's name, job title and work location;
- 13.2 The GCN, and if the sanction was a suspension or a Letter of Reprimand;
- 13.3 The step at which the grievance was resolved and documents regarding the resolution.

14.0 WITHDRAWING GRIEVANCES

- 14.1 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 Grievance Coordinator (Employee Relations Officer).
- 14.2 Failure to present a written grievance for formal review within the specified time frames constitutes 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 7.0, the failure to present a written grievance within the extended time frame constitutes a voluntary withdrawal and no further action shall be taken on the grievance.
- 14.3 An employee's grievance shall be considered "Withdrawn" at the time the grievant terminates his/her employment with the state.
- 14.3.1 An employee of the Department, who transfers, accepts or promotes to a position in another state agency, which has an active grievance, shall have the right to continue with the Department's grievance process.
- 14.3.2 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 7.0.

15.0 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/GLOSSARY

Refer to the Glossary of Terms, which include the following:

- Business Day
- Full Authority Peace Officer

ATTACHMENTS

Attachment A - Grievance Review Authorities

Attachment B - Grievance Time Frames

FORMS LIST

517-1, Employee Grievance

517-2, Employee Grievance Response

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

ATTACHMENT A

GRIEVANCE REVIEW AUTHORITIES

	UNIFORMED EMPLOYEES	ALL OTHER EMPLOYEES
INFORMAL RESOLUTION	Approving Authority	Manager/Supervisor
STEP I	Deputy Warden	Unit Administrator
STEP II	Warden	Bureau Administrator
STEP III	Chief Human Resources Officer	Respective Deputy Director, Equivalent, or Designee

NOTE: The STEP I shall be submitted to the Deputy Warden or Unit Administrator to which the employee was assigned at the time the disciplinary action was administered.

ATTACHMENT B

GRIEVANCE TIME FRAMES

	EMPLOYEE ACTION	RESPONSE
INFORMAL RESOLUTION	* Within ten (10) business days of the date of occurrence of the action being grieved, the employee shall complete the attempt to informally resolve, obtain a grievance control number and submit the grievance to the STEP I review authority.	** The review authority shall take into consideration the overall time frames of the grievance and that the process must be completed within thirty (30) business days. The informal resolution must be completed prior to initiating the written grievance procedure.
STEP I	Within ten (10) business days of the date of occurrence of the action being grieved, the employee shall complete the attempt to informally resolve, obtain a grievance control number and submit the grievance to the STEP I review authority.	The STEP I response must be completed within five (5) business days of receipt of the grievance and provided to the grievant.
STEP II	Within five (5) business days of receipt of the STEP I response, the grievant must submit the STEP II to the review authority; via Grievance Coordinator (Employee Relations Officer).	Within five (5) business days of receipt of the grievance, the STEP II review authority shall provide a response to the grievant; via Grievance Coordinator (Employee Relations Officer).
STEP III	Within five (5) business days of receipt of the STEP II response, the grievant must submit the STEP III to the review authority; via Grievance Coordinator (Employee Relations Officer).	Within ten (10) business days of receipt of the grievance the STEP III review authority shall provide a response to the grievant; via Grievance Coordinator (Employee Relations Officer). This response is the final step in the process.

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

** The grievant and the approving authority shall complete the "informal resolution" attempt in a reasonable time frame, beginning either before or after the effective date of the action being grieved. A reasonable time frame will allow for a response from the Deputy Warden or Unit Administrator in sufficient time for the grievant to prepare and submit the grievance to the STEP II review authority (Warden or Bureau Administrator) within ten (10) business days of the occurrence of the action being grieved.

NOTE: The grievance shall be completed within thirty (30) 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.