



POLICY

SUBJECT: Employee Grievance
NUMBER: HR-416-18
APPLICABLE TO: All DJS Employees

APPROVED: /s/ signature on original
Sam Abed, Secretary
DATE: 8/1/18

I. POLICY

The Maryland Department of Juvenile Services (DJS) will not impede its employees' ability to avail themselves of remedies potentially afforded to them under the State's grievance procedures.

II. AUTHORITY

- A. Md. Code Ann., Human Services, §9-203 and §9-204.
- B. Md. Code Ann., State Personnel and Pensions, Title 12
- C. COMAR 17.04.06
- D. American Correctional Association (ACA) Standards, 4-JCF-6D-01 and 4-JCF-6D-04

III. DIRECTIVES/POLICIES RESCINDED

None

IV. FAILURE TO COMPLY

Failure to comply with the Department's Policy and Procedures shall be grounds for disciplinary action up to and including termination of employment.

V. STANDARD OPERATING PROCEDURES

Standard operating procedures have been developed.

VI. REVISION HISTORY

DESCRIPTION OF REVISION	DATE OF REVISION
New policy issued.	8/1/18

PROCEDURES

SUBJECT: Employee Grievance
NUMBER: HR-416-18
APPLICABLE TO: All DJS Employees

APPROVED: /s/ signature on original
Lynette Holmes, Deputy Secretary
DATE: 8/1/18

I. PURPOSE

To provide guidelines for the implementation of State law and regulations regarding employee grievance procedures.

II. DEFINITIONS

Appointing Authority means an individual or a unit of government that has the power to make appointments. For purposes of this policy, appointing authority means the DJS Secretary or designee. Only the Secretary can terminate an employee.

Day(s) means calendar day(s) unless otherwise specified.

Employer means an employee's appointing authority; an employee's principal unit; or the Department of Budget and Management.

Grievant Representative means a person the grievant has selected to assist or represent him/her at any time during the grievance process. If a representative is chosen, the employer is to be notified in writing in advance of the conference.

Grievant means the employee who has filed a grievance against the employer.

Grievance means a dispute between an employee and the employee's employer about the interpretation of and application to the employee of: (1) a personnel policy or regulation adopted by the Secretary of the Department of Budget and Management; or (2) any other policy or regulation over which management has control.

III. PROCEDURES

A. General

1. An employee in the State Personnel Management System may seek relief under the state's grievance procedures for any dispute encompassed by those procedures. Employees seeking redress for alleged violations of any

equal employment opportunity laws are advised to review the *DJS Equal Employment Opportunity Policy and Procedure*, and any other potentially applicable law or policy.

2. An employee may choose any person to assist or represent them at any time during the grievance process and shall notify their supervisor of that choice.
3. Before initiating a grievance procedure, an employee shall present the matter orally to the employee's supervisor for informal discussion.

B. Grievance Process

Three steps are available to an employee in the grievance procedure:

- Step One: the initiation of a grievance procedure;
- Step Two: an appeal to the head of the principal unit; and
- Step Three: an appeal to the Secretary.

An attempt to resolve the issue should be made at each step in the process.

1. STEP ONE: Initiation of a grievance within the employee's Division/Office

An employee initiates a grievance by filing a written grievance with the appropriate appointing authority within twenty (20) days after the occurrence of the alleged act that is the basis of the grievance, or when the employee first knew of or reasonably should have known of the alleged act that is the basis of the grievance. Employees shall provide a copy of the grievance to the supervisor when the written grievance is filed. To be considered timely, the grievance must be received by the appointing authority within the prescribed twenty (20) days. A grievance may be dismissed if it is not filed in a timely manner.

- a. The grievant shall use the **State Personnel Management System Appeal and Grievance form DBM-ERD 1 (Appendix 1)** to file his/her written grievance. Forms may be obtained through the Office of Human Resources. The grievance form includes the basis for the grievance, the date the grievance was discussed with the supervisor, the issues of fact or law which support the grievance, and the requested remedy.
- b. Within ten (10) days of receiving the written grievance, the employee's appointing authority or designee shall hold a conference with the grievant. The employee may represent him/herself or may choose at any stage in the grievance process to be represented by someone else. If a representative is chosen, the employer is to be notified in writing in advance of the hearing.
- c. At the conference, the conference representative may attempt to

settle the grievance and/or hear both sides of the issue. Participants will include the employee, a representative if applicable, and the supervisor or appropriate members of management. Either side may present witnesses or evidence.

- d. Within ten (10) days of the conference, the appointing authority or designee must issue a written decision. Copies of the decision are distributed to the conference participants and to the Employee Relations Manager.

2. STEP TWO- Appeal to the Head of the Agency.

Within ten (10) days of receipt of the Step One decision, the employee may appeal the decision in writing to the State Superintendent's designee, the Employee Relations Unit in the OHR. The appeal shall include a copy of the grievance and the decision being appealed.

- a. Within ten (10) days of receiving the appeal, the appointing authority's designee shall hold a conference. Participants will include the employee, a representative if applicable, the supervisor and/or the appropriate member of management. Either side may present witnesses or evidence.
- b. Within ten (10) days of holding the conference, the appointing authority's designee shall issue a written decision and distribute to conference participants.

3. STEP THREE- Appeal to Secretary of DBM

Within ten (10) days of receiving the Step Two decision, the employee may appeal the decision in writing to the Secretary of the Department of Budget and Management's (DBM) designee, the Office of Personnel Services and Benefits (OPSB), Employee and Labor Relations Division. The appeal shall include a copy of the grievance and the decision being appealed.

- a. Within thirty (30) days of receiving the appeal, OPSB may attempt to resolve the grievance by conducting a settlement conference. Decisions reached at the settlement conference are binding on all parties. Staff of OHR Employee Relations will represent management at the settlement conference. If the grievance is not settled, then OPSB will refer the issue to the Office of Administrative Hearings (OAH) who will dispose of the grievance or conduct an administrative hearing. OAH will provide a hearing date within thirty (30) days of receiving the appeal. The Department of Juvenile Services' (DJS) Office of the Attorney General will determine the appropriate witnesses and documentation to present and will represent management at the OAH hearing.
- b. Within forty-five days (45) of the close of the hearing record, OAH shall issue a written decision. The decision of OAH is the final administrative

decision. However, the employee or the agency may appeal the decision to the appropriate Circuit Court within thirty (30) days of the OAH decision.

4. If a grievance is based on a performance rating of satisfactory or better:
 - a. the employee may appeal the grievance only at Steps One and Two of the grievance procedure; and
 - b. a decision at Step Two of the grievance procedure is final.
5. When an employee's appointing authority is also the head of the principal unit, the employee shall appeal the Step One decision directly to Step Three of the grievance procedure.
6. If the basis of a grievance is an action taken by the principal unit or by the Department, the parties may agree to proceed to Step Two or Step Three of the grievance procedure as appropriate.
7. To every extent possible, the timelines shall be followed. The parties, however, may agree to waive any time limitations.
8. A failure to decide a grievance at any step in the grievance process is considered a denial of the grievance and the grievant can appeal the denial in accordance with this policy.
9. A grievant and the grievant's representative shall be given reasonable time during work hours to investigate and process the grievance and to participate at any conference or hearing relating to the grievance. The grievant should seek his/her supervisor's approval before scheduling any of the preparation meetings and provide adequate notice to the supervisor of conference dates.
10. Expenses incurred in connection with attendance by an employee at grievance conferences or hearings, whether as a grievant, as a grievant's representative, or as a witness, shall be paid by the DJS.

IV. RESPONSIBILITY

Supervisors, Administrators and Superintendents are responsible for implementation and compliance with this procedure.

V. INTERPRETATION

The Deputy Secretary for Support Services shall be responsible for interpreting and granting any exceptions to these procedures.

VI. LOCAL OPERATING PROCEDURES REQUIRED

No

VII. DIRECTIVES/POLICIES REFERENCED
Equal Employment Opportunity Policy and Procedure

VIII. MARYLAND STATE LAW AND REGULATIONS REFERENCED
Laws and regulations referenced below are also attached to this policy.

- Md. Code Ann., State Personnel and Pensions, Title 12
 - [Subtitle 1](#)
 - [Subtitle 2](#)
 - [Subtitle 4](#)
- [COMAR 17.04.06](#)

IX. APPENDICES

1. State Personnel Management System Appeal and Grievance form (DBM-ERD 1)

Note: form can also be obtained from the DJS Office of Human Resources or online from the Department of Budget and Management here:

<http://dbm.maryland.gov/Pages/Forms.aspx>



DJS POLICY AND STANDARD OPERATING PROCEDURES

Statement of Receipt and Acknowledgment of Review and Understanding

SUBJECT: Employee Grievance
NUMBER: HR-416-18
APPLICABLE TO: All DJS Employees

I have received and reviewed a copy (electronic or paper) of the above titled policy and procedures. I understand the contents of the policy and procedures.

I understand that failure to sign this acknowledgment form within five working days of receipt of the policy shall be grounds for disciplinary action up to and including termination of employment.

I understand that I will be held accountable for implementing this policy even if I fail to sign this acknowledgment form.

SIGNATURE

PRINT FULL NAME

DATE

WORK LOCATION

SEND THE ORIGINAL, SIGNED COPY TO THE DIRECTOR OF THE DJS OFFICE OF HUMAN RESOURCES FOR PLACEMENT IN YOUR PERSONNEL FILE.

STATE PERSONNEL MANAGEMENT SYSTEM APPEAL AND GRIEVANCE FORM

(Attach copies of any earlier agency decisions. If appealing a disciplinary action, the notice of discipline must be attached.)

EMPLOYEE'S NAME:	
EMPLOYING AGENCY:	DIV. or UNIT:
EMPLOYEE'S CLASSIFICATION:	
HOME ADDRESS:	HOME PHONE #:
	WORK PHONE #:
Issue of employee's grievance or reason given by agency for taking disciplinary action (attach additional pages as necessary):	
Date grievance or discipline was discussed with appointing authority:	
State the issues of fact and law, to the extent possible, that support the employee's action (attach additional pages as necessary):	
Employee's Requested Remedy:	
EMPLOYEE REPRESENTED BY:	
Address:	
Phone Number:	

EMPLOYEE'S SIGNATURE: _____ **DATE SIGNED:** _____

Please Circle Appeal Category:

- | | |
|---|--|
| <ul style="list-style-type: none"> 10 Termination 11 Termination on Probation 20 Suspension Without Pay 22 Emergency Suspension With Pay 30 Grievance (If complaint involves a denied reclass,
give date of last audit:) | <ul style="list-style-type: none"> 40 Forfeiture of Annual Leave 42 Written Reprimand 50 Involuntary Demotion 60 Denial of Pay Increase 80 Retaliation for "Whistleblower" Disclosure |
|---|--|

**FAILURE TO FULLY COMPLETE THIS FORM WILL DELAY THE PROCESSING OF THIS
APPEAL OR IT MAY RESULT IN ADVERSE ACTION ON THIS APPEAL.**

See reverse side for process to file your appeal

PROCESSES FOR FILING APPEALS

Appeal of Disciplinary Action (appeal categories 10;11; 20; 22; 40; 42; 50 and 60)

Unless an employee elects to appeal through the Peer Review Process, an employee (or former employee) in the Skilled or Professional Service (other than an employee under a Special Appointment) who is disciplined according to Title 11 of the State Personnel and Pensions Article may appeal the discipline as follows:

(1) Within 15 calendar days of notice of the appointing authority's disciplinary action, appeal to the head of the principal unit.

(2) Within 10 calendar days of receipt of the decision of the head of the principal unit, appeal to the Department of Budget and Management's Office of Personnel Services and Benefits, Employee Relations Division, 301 West Preston Street, Room 607, Baltimore, Maryland 21201. An appeal to the Department shall include a copy of the decision being appealed. The Department of Budget and Management has 30 days in which to attempt to resolve the appeal. If the appeal is not resolved, the Department of Budget and Management will forward the appeal to the Office of Administrative Hearings and advise the employee of this action. The disposition of the appeal by the Office of Administrative Hearings is the final administrative decision.

For employees under a Special Appointment or in the Management or Executive Service, an employee (or former employee) who is disciplined according to Title 11 of the State Personnel and Pensions Article may appeal the discipline within 15 calendar days to the head of the principal unit. Within 15 calendar days after receiving the appeal, the head of the principal unit will issue a written decision, which is the final administrative decision.

Each party shall make every effort to resolve a disciplinary matter at the lowest possible level.

Appeal of Grievance (appeal category 30)

Unless an employee elects to appeal through the Peer Review Process, a covered employee (see State Personnel and Pensions Article, § 12-102) may file a grievance in the following manner:

(1) Step One. Before initiating the grievance procedure the employee must first discuss the grievance with the employee's supervisor. Within 20 calendar days after the alleged cause of complaint, or within 20 calendar days after the employee reasonably became aware of the alleged cause of complaint, the employee may present the grievance in writing to the appointing authority. A copy of the grievance shall be given to the employee's supervisor. The appointing authority shall hold a conference with the employee within 10 calendar days after receipt of the written grievance and shall issue a written decision within 10 calendar days after the conference. If the employee is not satisfied with the decision, the employee or employee's designated representative may appeal to the head of the principal unit or designee within 10 calendar days after receipt of the written decision.

(2) Step Two. The head of the principal unit or a designated representative shall hold a conference with the employee within 10 calendar days after receipt of the written appeal, and shall issue a written decision to the employee within 10 calendar days after the conference. If the employee is not satisfied with the decision, the employee or the employee's representative may appeal to the Department of Budget and Management's Office of Personnel Services and Benefits within 10 calendar days after receipt to the written decision. If this decision is appealed, it should be directed to Department of Budget and Management, Office of Personnel Services and Benefits, Employee Relations Division, 301 West Preston Street, Room 607, Baltimore, Maryland 21201. An appeal shall include a copy of the decision being appealed and any other prior decisions.

(3) Step Three. Within 30 days of receipt of the employee's appeal, the Department of Budget and Management's Office of Personnel Services and Benefits may confer with the parties and attempt to resolve the grievance. If a settlement is not reached, the Department of Budget and Management's Office of Personnel Services and Benefits will forward the appeal to the Office of Administrative Hearings. The disposition of the appeal by the Office of Administrative Hearings is the final administrative decision.

The parties are obligated to attempt to resolve the grievance at the lowest possible step.

Appeal of Whistleblower Complaint (appeal category 80)

An employee may appeal to the Office of Administrative Hearings for a hearing either:

(1) Within 10 days after receiving a decision on the complaint from the Department of Budget and Management's Office of Personnel Services and Benefits; or

(2) When a decision is not issued within 60 days after the complaint is filed and the complainant requests a hearing.

**Department of Budget and Management, Office of Personnel Services
and Benefits, 301 West Preston Street, Suite 609, Baltimore, Maryland 21201**