



Arkansas Parole Board

Two Union National Plaza Building

105 West Capitol; 5th Floor

Little Rock, AR 72201-5731

(501) 682-3850

Fax: (501) 683-5381

ADMINISTRATIVE DIRECTIVE: Dispute Resolution Rules and Procedures

TO: ARKANSAS PAROLE BOARD MEMBERS AND STAFF

FROM: JOHN FELTS, CHAIRMAN

SUPERSEDES: 13-01 Uniform Grievance Procedures

APPROVED BY: Signature on File EFFECTIVE DATE: June 2, 2014

I. APPLICABILITY. This policy applies to all Commissioners and employees of the Arkansas Parole Board (hereinafter referred to as APB, the Board, Board, or agency).

II. POLICY.

Employees shall be given the opportunity to resolve complaints or grievances they believe adversely affect their employment or working conditions through the established dispute resolution process of this state agency to ensure fair resolution of their complaint or grievance within a reasonable period of time.

The agency and the employee shall take all reasonable efforts to settle a complaint or grievance as quickly as possible. Informal discussion between a supervisory employee and employee is encouraged. Participation in the dispute resolution process is voluntary. The dispute resolution process may be terminated by the employee at any stage if an agreement between the parties is reached.

A party may be represented at each step of the dispute resolution process except during informal discussions between the employee and supervisory employee held prior to the filing of the grievance. Attorney's fees shall not be awarded. Access to any of these procedures does not prohibit an employee from utilizing remedies outside of these procedures. An employee reserves the right to file a complaint with a federal entity or pursue the matter in court.

These procedures established herein recognize the employment-at-will doctrine and its exceptions as defined by the Arkansas Supreme Court and do not confer a property right in employment, either expressed or implied.

III. DEFINITIONS.

- A. Administrative Record.** The case file specific to each grievance assembled according to the Office of Personnel Management (OPM) Administrative Record Rules.
- B. Administrative Review Hearing.** An internal fact-finding hearing before a Hearing Officer.
- C. Adverse Action.** To discharge, threaten, or otherwise discriminate or retaliate against a public employee in any manner that affects the employee's employment, including compensation, job location, rights, immunities, promotions, or privileges.
- D. Appeal.** A written request by a party to OPM for a review by the State Employee Grievance Appeal Panel of a final decision from the Chairman.
- E. Disciplinary Action.** Termination, suspension, involuntary demotion, written reprimands, and non-new-hire probation.
- F. Dispute Resolution.** A procedure that allows parties to constructively manage conflicts through grievances or mediation.
- G. Employee.** A person regularly appointed or employed in a position of state service by the state agency for which he or she is compensated on a full-time basis or on a pro rata basis for whom a class title and pay grade are established in the appropriation act for the state agency in accordance with the Uniform Classification and Compensation Act. An employee on initial new-hire probationary status is not an employee for purposes of these rules and procedures. An employee does not include a supervisory employee.
- H. Grievance.** A complaint by an employee regarding a disciplinary action, discrimination, harassment, or the approval/denial of compensatory time made by the supervisory employee, but not including compensation and conditions which are beyond the control of the state agency or are mandated by law.
- I. Grievance Officer.** The person designated by the Chairman as having the responsibility for acting as the liaison between the employee and the agency.
- J. Hearing Officer.** An impartial person appointed by the Chairman to review the facts of the grievance and make a recommendation for resolution to the Chairman.
- K. Mediation.** A collaborative problem-solving and joint decision-making process between the employee and supervisory employee, through the utilization of a third-party neutral (mediator).
- L. Party.** The employee filing the grievance or the supervisory employee against whom the grievance has been filed.
- M. State Employee Grievance Appeal Panel (Panel).** An impartial appeal panel established to review the facts of the grievance and issue a binding decision.

O. Supervisory Employee. An individual having authority in the interest of the agency to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees of the agency; or if his/her exercise of authority requires the use of independent judgment and is not of a merely routine or clerical nature, the responsibility to direct other employees of the agency by which he/she is employed

IV. PROCEDURE.

If the complaint is not resolved by informal discussion with the supervisory employee, the employee may contact the Grievance Officer, or his or her designee, who shall assist the employee in initiating the formal dispute resolution process. An employee shall not be subject to adverse action for utilizing the dispute resolution process.

The employee has five (5) business days from the date of the disputed action to submit the Dispute Resolution Form to the Grievance Officer. An employee shall complete the Dispute Resolution Form and provide sufficient information detailing the nature of the disputed action. Incomplete forms will not be accepted. All complaints or grievances shall be processed through the state agency's Grievance Officer and shall be handled as follows:

1. The employee has the option to choose mediation or proceed to the Administrative Review Hearing and shall clearly indicate on the Dispute Resolution Form which option is selected as the first step.
2. The Grievance Officer shall determine whether the complaint is grievable or eligible for mediation. If the Grievance Officer and the employee are unable to agree on whether a complaint is grievable or eligible for mediation, then the complaint shall be sent to the Grievance Coordinator at OPM for a review by the Panel. The final determination on whether a complaint is grievable or eligible for mediation shall be determined by the Panel within seven (7) business days of the Grievance Coordinator's receipt of the complaint. If the decision states that the complaint is grievable or eligible for mediation, then the employee may proceed to mediation.
3. If the supervisory employee does not consent to mediation, the first step shall be the Administrative Review Hearing.
4. The Grievance Officer shall be responsible for assembling the Administrative Record pursuant to OPM's Administrative Record Rules.

A. Mediation.

An employee may request mediation if the complaint concerns an allegation that the employee has been:

- i. Terminated;
- ii. Demoted;
- iii. Suspended for fourteen (14) or more days; or
- iv. Subject to adverse action by his or her state agency for:
 - a. Communicating in good faith to an appropriate authority the existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer or a violation, or suspended violation, of a law, rule, or regulation adopted under the laws of this state or a political subdivision of the state;
 - b. Participating or giving information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review; or
 - c. Objecting or refusing to carry out a directive that the employee reasonably believes violates a law, rule, or regulation adopted under the authority of the laws of the state or a political subdivision of the state.

The mediation shall be held within ten (10) business days of both parties agreeing to mediate. OPM shall maintain a roster of certified mediators and shall be responsible for assigning a mediator. A mediator is not required to be an attorney but shall be certified by the Arkansas Alternative Dispute Resolution Commission. The Mediator shall not be employed by the state agency that is a party to the mediation. A party may be represented by an attorney or other representative at the mediation.

Within one (1) business day of the conclusion of the mediation, the mediator shall provide a copy of the Settlement or Non-settlement Agreement to the Chairman. If the parties reach a settlement during mediation, the dispute resolution process is considered resolved and the settlement is binding on the parties. If the parties reach a Non-settlement Agreement during the mediation, the employee may request an internal Administrative Review Hearing before the Hearing Officer within three (3) business days of the Non-settlement Agreement. The Settlement or Non-settlement Agreement shall be signed by the parties and become a part of the Administrative Record. The mediation shall be confidential; however, the Settlement or Non-settlement Agreement is subject to the Freedom of Information Act.

B. Administrative Review Hearing.

The Grievance Officer shall coordinate and schedule the hearing to be held within ten (10) business days of the receipt of the employee's request. The Grievance Officer shall be responsible for assembling the Administrative Record and providing copies to the parties and the Hearing Officer. The hearing shall be recorded and may be transcribed at the discretion of the Hearing Officer and become a part of the Administrative Record.

A party may have any persons having knowledge of matters relevant to the grievance present at the hearing to provide testimony. The Grievance Officer is responsible for notifying any state agency witnesses. The employee is responsible for notifying any witnesses that are not an employee of the state agency. The Hearing Officer may request to hear testimony from any persons having knowledge of matters relevant to the grievance that are not already requested to be present. A party or the Hearing Officer may “Invoke the Rule” and exclude all non-party witnesses from the hearing room unless they are currently providing testimony. A party may present additional evidence. If accepted by the Hearing Officer, the evidence shall become a part of the Administrative Record as an exhibit.

Within three (3) business days of the conclusion of the hearing, the Hearing Officer shall issue a typewritten recommendation summarizing the hearing and explaining in detail the basis for his/her decision. The Hearing Officer shall provide a copy to the Chairman, the parties, and the Grievance Officer, and it shall become a part of the Administrative Record. The Chairman shall review the recommendation and issue a final decision within five (5) business days.

C. Appeal to OPM.

If an employee is not satisfied with the decision reached by the Chairman, he/she may request nonbinding mediation or an appeal hearing before the Panel using the form provided by OPM. A request for nonbinding mediation shall be filed with the agency Grievance Officer no later than fifteen (15) business days of receipt of the Chairman’s decision. A request for an appeal hearing before the Panel shall be filed with the agency Grievance Officer no later than ten (10) business days of receipt of Chairman’s decision or ten (10) business days of the unsuccessful mediation. If an employee chooses nonbinding mediation as the first appeal step, he/she does not waive his/her right to later request an appeal hearing before the Panel; however, written reprimands, allegations of discrimination or harassment, and the denial of compensatory time are not eligible for mediation.

V. FORMS.

Attachment 1: Employee Acknowledgement

Attachment 2: Dispute Resolution Form

Employee Acknowledgement

Please acknowledge by signing that you received, read, and understand the Arkansas Parole Board Policy:

DISPUTE RESOLUTION RULES AND PROCEDURES

I understand it is my responsibility to read it thoroughly and ask questions of my supervisor if I don't understand it. All employees or officials of the Arkansas Parole Board are responsible for complying with all pertinent policies, directives, and memorandum. The Business Operations Manager will place a signed copy of this form in your personnel file.

This form must be signed and returned within five days of receipt.

Employee Printed Name

Employee Signature

Date

Supervisor Printed Name

Supervisor Signature

Date



Arkansas Parole Board Dispute Resolution Form

This form is to be used by the employee in filing a grievance. The form must be completed in its entirety and will serve as the source document for the Dispute Resolution Process. Any additional supporting documentation must be attached to this form at the time of submission to the Grievance Officer.

Agency, Board, Commission: Arkansas Parole Board	
Employee's Name:	Job Title:
Employee's Address:	Employee's Telephone Number:
Immediate Supervisor's/Charged Party's Name:	

Grievance Statement

In order for a formal grievance to be processed, the following five (5) elements must be addressed:
(Attach additional pages, if needed)

- (1) What was the date of occurrence and what specific behavior, condition, or violation of policy or procedure occurred which you consider constitutes a grievance?

- (2) How have you been adversely affected by the behavior, condition, or violation of policy or procedure?

- (3) What specific action have you taken to reconcile and improve this situation, including discussing it with your immediate supervisor? What has been the outcome of these efforts?

- (4) What specific remedy do you request?

- (5) I request as my first step: ☐ Mediation ☐ Fact Finding/Administrative Review Hearing

Employee's Signature:	Date:
-----------------------	-------