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SECRETARIAL DIRECTIVE

SUBJECT: Employee Grievance Procedures

NUMBER: 2022-02

SUPERSEDES: SD 2021-01

APPLICABILITY: All Department of Corrections Employees, excluding Correctional School District Employees

REFERENCE: A.C.A §§ 21-1-701 et seq; 25-43-103, 25-43-105, 25-43-107, and 25-43-403; Executive Order 15-02; AR 229 - Uniform Grievance Procedure; and OPM Policy 63-State Employee Grievance Policy and Procedures.

PAGE: 1 of 10

ISSUED BY: Original signature on file

EFFECTIVE DATE: 1/26/2022

I. PURPOSE:

As the executive head of the Department of Corrections (Department), it is the responsibility of the Secretary to establish a grievance process pursuant to A.C.A. §§ 21-1-701 et seq., for the prompt review, impartial consideration, and equitable disposition of DOC employee grievances. This directive will be distributed to all Department employees. Upon review of revisions to this policy, each employee must sign and return the attached acknowledgement form to the Department Human Resources Administrator or designee.

This directive does not apply to employees of the Department covered under the Teacher Fair Dismissal Act.

II. DEFINITIONS:

- A. Business day. Regular operating hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, except when the Department's administrative offices are closed for observed holidays.
- B. Complaint. An issue or concern submitted in writing to the Equal Employment Opportunity (EEO)/Grievance Officer that begins the grievance process. A complaint that does not meet the requirements for initiating the formal grievance process shall be handled as an informal complaint as described in this policy. The grievant at this stage may be referred to as the complainant.
- C. Decision-Making Supervisor. An individual over the daily operations and decision-making processes of any Department owned or operated facility, office, unit, center, or area of operation, including the Secretary, Division Directors, Wardens, Center Supervisors, Superintendents, Area Managers, or Administrators.
- D. Disputed Action. Employment action being appealed by the employee.

- E. Discrimination. Treating a person or a group of people less favorably or differently based on federally protected characteristics and classes such as race, color, religion, sex, national origin, disability, age (over 40), and genetic information.

Note: The Department's EEO/Grievance Officer will consider the definition of Discrimination from the Equal Employment Opportunity Commission when reviewing claims of discrimination.

- F. Employee. A person regularly employed in a position of state service by the Department of Corrections in which they are compensated on a full-time basis or on a pro rata basis for which a class title and pay grade are established in an appropriation act for the Department in accordance with the Uniform Classification and Compensation Act.

- G. Harassment. Unwelcome conduct that based on protected class status such as race, color, religion, sex, national origin, older age (beginning at 40) disability, or genetic information (including family medical history). Harassment is unlawful and a violation of Department policy when enduring the offensive conduct becomes a condition of employment or the conduct is severe or pervasive enough to create a hostile work environment.

Note: The Department's EEO/Grievance Officer will consider the definition of Harassment from the Equal Employment Opportunity Commission when reviewing claims of harassment.

- H. Hostile Work Environment. Exists when conduct or behavior toward an individual based on their protected class status is severe or frequent enough within a workplace that it creates an environment that is intimidating, hostile, or abusive and makes it difficult for another person to perform their duties.

- I. Investigation. The process by which the Department and/or the Equal Employment Opportunity Commission (EEOC) determine whether illegal discrimination or other violations occurred against a protected class.

- J. Mediation. a collaborative, problem-solving, and joint decision-making process between an employee with a grievable matter and the Department with the assistance of an unbiased mediator.

- K. Retaliation. An act of adverse treatment, seeking revenge, or punishment imposed on an employee because the employee initiated the grievance process, filed a discrimination charge with the EEOC or another agency, participated in a discrimination investigation or lawsuit (i.e., as a witness), or opposed discrimination (i.e., threatened to file a charge of discrimination). Any act of retaliation may involve disciplinary action up to termination.

- L. Sexual Harassment. A type of harassment based on a person's sex that includes unwelcome conduct, advances, requests for sexual favors, verbal comments, or physical harassment of a sexual nature that creates a hostile or offensive work environment or results in an adverse employment decision. (See Definition F. Harassment)

III. GENERAL PROCEDURES:

- A. Employees must communicate grievances by following the procedures set forth in this policy to ensure fair resolution within a reasonable period. The supervisor and grievant shall make reasonable efforts to settle a grievance as quickly as possible through informal discussion. This discussion is encouraged to facilitate a quick and efficient resolution to the grievance.
- B. Participation in the grievance or mediation process is voluntary and may be terminated by the grievant at any stage including if an agreement between the parties is reached.

- C. The Division Director, Chief of Staff, and/or the Secretary may intervene at any step in the grievance/mediation procedure if they determine that direct action is necessary to resolve the grievance.
- D. Decision-making supervisors retain the option to increase or decrease disciplinary measures if circumstances warrant such action.
- E. Either party may be represented by legal counsel at each step of the dispute resolution process except during any informal discussions between the grievant and supervisor held prior to the filing of a grievance. Attorney's fees shall not be awarded.
- F. The procedures established in this policy 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.
- G. Access to any of these procedures does not prohibit an employee from pursuing remedies outside these procedures. An employee reserves the right to file a complaint with a federal entity (i.e., EEOC) or pursue the matter in court.
- H. The Department and its employees shall not engage in retaliation or harassment against an employee for using the grievance process, pursuing outside remedies, or attempt to influence such processes at any step. Any employee engaging in this type of activity may receive disciplinary action as a result.
- I. Employees are encouraged to follow their chain of command during grievance procedures set forth in this policy.
- J. All Department employees must sign the Employee Acknowledgement of Receipt form (Attachment #6) upon receiving and reading this policy. The employee must submit the physical copy to their HR Manager. Employees may sign the form via EASE or the Employee Acknowledgment attached to this policy. The signed Employee Acknowledgement must be submitted to Central Human Resources and will be retained as part of the employee's employment record.

IV. ELIGIBILITY FOR GRIEVANCE:

- A. Pursuant to A.C.A. §§ 21-1-701, only a termination or suspension without pay are deemed grievable matters for employees. No grievance rights, including those for suspension or termination, are afforded for violation of the Arkansas State Vehicle Safety Program mandates of the Arkansas Insurance Department.
- B. The following are not considered an "employee" under this policy and are therefore not afforded grievance rights:
 - 1. an employee on new-hire probationary status (begins the date of hire or rehire and lasts one year),
 - 2. an employee on transfer probationary status (six months from date of transfer from another state agency or transfer to a different class code),
 - 3. a temporary employee,
 - 4. an independent contractor,
 - 5. an extra help employee, or
 - 6. an appointee of the Governor or the Board of Corrections.

- C. Supervisory employees are not eligible to participate in the Employee Grievance Process. Pursuant to standards set by the Office of Personnel Management (OPM), a supervisory employee is an individual who meets at least one of the following requirements:
1. Has the authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline at least one other employee of the Department or within their division.
 2. Has the responsibility to direct other employees of the Department.
 3. Whose exercise of authority requires the use of their independent judgment and thought when providing their opinion.

V. **GRIEVANCE:**

A. Initiation of Process

1. The employee has five (5) business days from the date of the disputed action to submit a Department Grievance/Complaint Form (Attachment #1) to the EEO/Grievance Officer or their designated human resources manager via fax or email. The form must be date stamped on the day of receipt. If submitted to their human resources manager, the form must be date stamped and submitted to the EEO/Grievance officer by the human resources manager on the day they received it. Any information included in the Grievance/Complaint form must be directly related to the disciplinary action being grieved. The employee may submit no more than one (1) page of additional information that is directly related to the matters being grieved.
2. Incomplete forms or forms where the requested remedy is unclear will not be accepted and will be returned to the employee for completion. If a grievance is rejected for insufficient information, the employee will be granted two (2) business days to resubmit the form with sufficient information. If the form is not resubmitted within two (2) business days, the employee forfeits the opportunity to file their grievance.
3. Once an employee submits their grievance form, it may only be amended one (1) time to correct any errors. An employee is not permitted to add any new information that they may have omitted to their amended grievance. The employee will have an opportunity within the grievance process to provide or request additional information before the grievance hearing.
4. The employee has a duty to update the EEO/Grievance Officer with any changes in their contact information. Failure to respond to correspondence from the EEO/Grievance Officer in the timeframe established in the correspondence will result in the case being closed.
5. Any unsubstantial technical error in the administration of the procedure outlined in this policy is not grounds for overturning the outcome of the dispute resolution process unless the error affected the outcome in a substantive manner. For example, typing January 1, 2200 instead of January 1, 2020 is not considered grounds for overturning the outcome of the dispute resolution process because it is a technical error.

B. Determination of Grievable Matters

1. The EEO/Grievance Officer, in consultation with the Department's Chief Legal Counsel, shall determine whether the matter is grievable and eligible for mediation.
 - a. If, pursuant to this policy, the employee is ineligible to file a grievance, or if the issue the employee is attempting to grieve is deemed non-grievable, the employee will be notified, and the grievance will be processed as an informal complaint.
 - b. Written acknowledgement of the grievance/complaint will be sent to the employee via email by the EEO/Grievance Officer.

- c. Informal complaints will be forwarded to the employee's immediate supervisor, unless the employee's immediate supervisor is the subject of or included in the informal complaint.
 - i. If the employee's immediate supervisor is the subject of the informal complaint, the informal complaint will be forwarded up the chain of command to the immediate supervisor of the supervisor of the employee making the complaint.
 - ii. Any complaints regarding sexual harassment must be reported by the employee directly to their decision-making supervisor following the procedure set forth in the Department's Sexual Harassment Policy. If their decision-making supervisor is named a party in a sexual harassment report, the employee must report the sexual harassment to their division's Assistant Director, Deputy Director, or the decision-making supervisor next in the chain of command.
 - iii. If the employee alleges unlawful discrimination, retaliation, harassment, or a hostile work environment in their grievance, but the grievance is determined to be non-grievable, the EEO/Grievance Officer must forward a copy of the grievance to the grievant's decision-making supervisor and division's Assistant Director, Deputy Director, or the decision-making supervisor next in the chain of command to ensure the claim is brought to their attention. The EEO/Grievance Officer also must notify the Department's Chief Legal Counsel of the grievance. The decision-making supervisor must forward a copy of his or her finding to the appropriate Assistant Director or Deputy Director to ensure management review of the allegation and outcome.
 - d. The informal complaint will be reviewed, and if necessary, investigated by the decision-making supervisor to whom the complaint was forwarded.
 - e. Upon receiving the complaint, the reviewing and/or investigating supervisor must provide a written response to the employee acknowledging they have received the complaint, verification that the informal complaint was reviewed/investigated, and an outline of what actions, if any, are to be taken.
 - f. The informal complaint process does not afford an employee with an appeal option.
- 2. After consultation with the Department's Chief Legal Counsel, if the EEO/Grievance Officer determines that the employee is not eligible to file a grievance or the matter is non-grievable, the employee can appeal to the Office of Personnel Management (OPM) at the Department of Transformation and Shared Services (TSS) for a final determination of grievance eligibility. The employee must submit the appeal to the EEO/Grievance Officer within five (5) business days of receipt of the determination that the complaint is non-grievable.

C. Mediation

- 1. Once the EEO/Grievance Officer has issued a determination on whether a grievance is in fact grievable (See Section on Determination of Grievable Matters), the employee may request mediation of the matters determined to be grievable. Employees may familiarize themselves with information about mediation using the Mediation Information Sheet (Attachment #2) and this section.
- 2. Employees electing to engage in mediation procedures for matters that are eligible for mediation must complete the Agreement to Mediate form (Attachment #3). The completed form must be returned to the EEO/Grievance officer.

3. If the grievance is determined to be eligible for mediation and the supervisor named in the grievance agrees to mediation, then mediation shall be held within ten (10) business days of both parties agreeing to mediate. OPM shall be responsible for assigning a mediator. If the grievance is determined to be ineligible for mediation or the supervisor does not consent to mediation, then the grievance will be scheduled for an internal grievance review hearing (grievance hearing). Prior to consenting to mediation, the supervisor named in the grievance shall consult with the EEO/Grievance Officer and Chief Legal Counsel to ensure that mediation is an appropriate course of action.
4. The grievant is entitled to representation by one (1) representative of their choosing during the mediation meeting. The EEO/Grievance Officer will notify the grievant and the Department's Chief Legal Counsel of the time, date, and location of the mediation hearing in addition to any representatives who will be present at the mediation.
 - a. The grievant must inform the Department's EEO/Grievance Officer of their selected representative at least five (5) business days before the scheduled mediation. The grievant's representative must provide a letter of representation to the EEO/Grievance Officer within that timeframe.
 - b. If a grievant chooses to be represented, the supervisor in which the grievance was filed may be represented by a Department appointed representative.
5. The mediation meeting and any information discussed must be kept confidential by all parties involved. Any settlement or non-settlement agreement shall be documented and signed by both parties and become part of the administrative record. The signed agreement must be approved by the appropriate Division Director or Chief of Staff.

D. Grievance Hearing Process

1. If a matter is determined to be grievable and the employee does not request mediation, the EEO/Grievance Officer shall schedule an internal grievance review hearing (grievance hearing) within ten (10) business days of receiving a grievant's written request for a hearing and inform all parties of the time, date, and location of the hearing. At the discretion of the Division Director, a hearing may be delayed up to five (5) business days for Acts of God or other unforeseen occurrences. The parties to the hearing are defined as the grievant (employee who filed the grievance) and the supervisor who took the disputed action as defined on the Grievance/Complaint form.
2. The grievance hearing will be conducted before the EEO/Grievance Officer and a three-member panel. The EEO/Grievance Officer will be the presiding official over the hearing. As the presiding official, the EEO/Grievance Officer will ensure that the hearing is conducted in a fair and impartial manner, avoid unnecessary delays, and maintain order. Panel members assigned to a hearing will not be individuals who work at the same unit, center, office, or area as the grievant. To maintain the integrity of the panel, the grievant shall not contact any of the panel members. The EEO/Grievance Officer will maintain a current list of eligible committee members, and anyone designated as a backup EEO/Grievance Officer. Committee members and anyone designated as a backup EEO/Grievance Officer must complete the required training provided by OPM or the Grievance Prevention and Handling course offered in Management Level One (1) training at the Department level. These lists will be reviewed and approved by the appropriate Division Director and the Chief Legal Counsel on an annual basis.

3. The EEO/Grievance Officer is responsible for assembling the administrative record and providing copies to both parties, the representative of each party, and the grievance hearing panel. The administrative record will be retained electronically according to retention guidelines.
4. The hearing panel's only responsibility during the hearing is determining whether the Department's decision of termination or suspension was consistent with the Department's Employee Conduct Policy and other relevant policies pursuant to A.C.A. § 21-1-702(b)(2).
5. Any documentation or information that either party intends to introduce as evidence at the hearing must be provided to the EEO/Grievance Officer at least five (5) business days prior to the hearing. The EEO/Grievance Officer is responsible for determining whether the documentation or information is relevant and can be presented during the hearing. If information is deemed irrelevant, the EEO/Grievance Officer must notify the party. The requesting party will have one (1) business day to supply additional justification for the need of the excluded documentation. Any evidence not submitted by the deadline or denied because of its irrelevance cannot be introduced or considered by the committee at the hearing. Either party may raise objections to the introduction of documentation/information prior to the hearing.
6. Either party may choose to call witnesses to testify on their behalf. A list of requested witnesses must be provided to the EEO/Grievance Officer at least five (5) business days prior to the hearing with an explanation as to why each witness is needed for testimony. Character witnesses will not be permitted regardless of the justification for the request. Excessive requests for witnesses that would cause disruption to Department business or present a security risk will be deemed burdensome and will not be permitted to testify.
 - a. The EEO/Grievance Officer may exclude any or all the witnesses requested by either party and must notify the requesting parties of the exclusion of any witnesses. The requesting party will be given one (1) business day to supply additional justification for the need of any excluded witness. The grievance process will not be delayed or rescheduled to accommodate the submission of witness justification documentation nor any other provision of such information. Any witness not identified or disclosed to the EEO/Grievance Officer by the indicated deadline will not be allowed to testify or attend the hearing.
 - b. Only individuals with information or knowledge of the matters relevant to the grievance may testify at the hearing. The EEO/Grievance Officer is responsible for notifying any witness that is employed by the Department of the request for their testimony at the hearing. Each party is responsible for notifying any of their witnesses not employed by the Department.
7. The grievant is entitled to representation by one (1) representative of their choosing during the grievance hearing. The EEO/Grievance Officer will notify the grievant and the Department's Chief Legal Counsel of the time, date, and location of the grievance hearing in addition to any representatives who will be present at the hearing.
 - a. The grievant must inform the Department's EEO/Grievance Officer of their selected representative a minimum of five (5) business days before the scheduled grievance hearing. The grievant's representative must provide a letter of representation to the EEO/Grievance Officer within that timeframe.
 - b. The supervisor whom the grievance was filed against may be represented by a Department appointed representative regardless of whether a grievant chooses to retain representation.

8. The Arkansas Rules of Evidence do not apply, but all evidence and testimony must be relevant to the matter being grieved based on information provided in the original Grievance/Complaint form. Either party may request that the EEO/Grievance Officer exclude non-party witnesses from the hearing room until they are called to testify. The hearing must be recorded.
9. The hearing will be conducted in an informal manner pursuant to the following constraints.
 - a. Each party will be allotted one hour and 15 minutes to present their case. This includes opening statements, witness examination, cross-examination of the opposing party's witness, and closing arguments.
 - b. The Department will bear the burden of proof and thus will be the first party to present their case. During this time, the grievant is only permitted to cross-examine the Department's witnesses. After the Department has finished presenting its case, the grievant will present their case. During their presentation, the grievant may call their witnesses to testify and/or testify on their own behalf. The Department will have the opportunity to cross examine the grievant's witnesses.
 - c. The one hour and 15 minutes allotted to each party shall include the cross examination of the other party's witnesses. The hearing panel will have the opportunity to question each parties' witnesses during the presentation of their case.
 - d. Either party may request an extension of time for their presentation (for example, to authorize additional time to allow all witnesses to testify). The EEO/Grievance Officer is permitted to allow one (1) extension of time for each party at their discretion. All witnesses must be presented during the parties allotted time.

E. Notification of Decision

1. Within five (5) business days after the hearing, the EEO/Grievance officer shall issue the grievance panel's written recommendation and promptly submit the recommendation to the appropriate Division Director, the Chief of Staff (if the grievant is a Shared Services employee), or their designee.
 - a. This recommendation must summarize the hearing and explain the basis for the recommendation, including any dissenting opinions.
 - b. If a panel member has a dissenting opinion, it must be provided in writing, including their reason(s) for the dissent, to the EEO/Grievance Officer within five (5) days of the majority's decision.
 - c. Under extenuating circumstances, the EEO/Grievance Officer may use an additional five (5) business days to submit the recommendation.
2. The Division Director, Chief of Staff, or their designee shall review the recommendation and any dissenting opinion and issue a final decision within ten (10) business days.
 - a. If the recommendation does not adequately address the matters being grieved or the recommendation is not clearly written, they shall return the recommendation to the EEO/Grievance Officer with instructions to submit a corrected recommendation. The Division Director, the Chief of Staff, or their designee will then have five (5) business days upon receiving the corrected recommendation to review the recommendation and issue a final decision.
 - b. Under extenuating circumstances, the Division Director, the Chief of Staff, or their designee may be granted an additional five (5) business days to submit the recommendation. The EEO/Grievance Officer will then distribute the final decision to the parties and their representatives.
3. If a final decision is made in favor of the grievant, the supervisor implicated in the grievance or the designated management official and the division human resources liaison must take corrective

action within ten (10) business days of the decision. If any documentation is to be removed from a grievant's personnel file (i.e., a disciplinary report), the personnel responsible for taking this action will prepare a memorandum to be sent to the Department's Central Human Resources requesting that the documentation be removed. The appropriate Division Director or Chief of Staff must approve the memorandum before it is sent to Central Human Resources. The memorandum must include specific instructions outlining that the original documents removed from the grievant's personnel file be sent to the EEO/Grievance Officer, who will retain the documents as part of the administrative record.

VI. APPEAL:

- A. The grievant may appeal the Division Director or Chief of Staff's decision to the Secretary using the Grievance Form-Appeal to Secretary (Attachment #4) no later than five (5) business days after receiving the decision. The completed form shall be submitted to the EEO/Grievance Officer. The Secretary's decision will be based on the grievant's administrative record. The Secretary has ten (10) business days from when they receive the appeal to render a final decision.
- B. If the grievant is not satisfied with the Secretary's decision, they may request an appeal hearing. The grievant must file the Grievance Appeal Form with the EEO/Grievance Officer no later than ten (10) business days after receiving the Secretary's decision. If they do not file an appeal within this time frame, the Secretary's decision will stand. Timely appeals will be forwarded to OPM for consideration by the State Employee Grievance Appeal Panel (SEGAP). OPM will assign the case to three (3) SEGAP members. One member will serve as the chair and must be an attorney licensed in the State of Arkansas and a current state employee of the Executive Branch. Once a grievant has filed an appeal with SEGAP, the EEO/Grievance officer will forward all questions concerning the appeal to SEGAP.
- C. Shared Services employees shall file their grievances with the EEO/Grievance Officer and follow all procedures outlined in this policy. Shared Services employees may appeal the decision from their hearing to the Chief of Staff. If they disagree with the Chief of Staff's decision, they may appeal the decision to the Secretary. If the employee does not agree with the Secretary's decision, the employee may appeal to SEGAP using the Grievance Form - Appeal to SEGAP (Attachment #5). The completed form shall be submitted to the EEO/Grievance Officer. If the employee does not agree with SEGAP's decision, they may appeal to the Department of Transformation and Shared Services (TSS) Secretary, by submitting their appeal in writing to the EEO/Grievance Officer.
- D. OPM will schedule the appeal hearing after receiving the grievant's appeal from the EEO/Grievance Officer. The hearing will not be postponed or delayed unless compelling, extenuating circumstances are presented to OPM in writing prior to the date of the appeal hearing. The final decision to postpone or delay the hearing is at the discretion of OPM.
- E. The Department will bear the burden of proof that the termination or suspension without pay was consistent with the Department's Employee Conduct Standards policy. The grievant is then given the opportunity to rebut, contradict, or discredit the Department's case.
- F. SEGAP generally issues a written recommendation no later than ten (10) business days after the hearing and forwards the recommendation to OPM. In the event a disciplinary action is overturned, the recommendation may be appealed to the Secretary of TSS. The Secretary of the Department shall have the final decision on whether the Department will appeal a decision to the Secretary of TSS.

- G. The appeal must be submitted to the EEO/Grievance Officer no later than seven (7) business days after receiving SEGAP's written decision. The EEO/Grievance Officer must timely provide a copy of the appeal to the opposing party and to OPM. The non-appealing party may file a response to the appeal to OPM no later than seven (7) business days after receiving the appeal.
- H. All appeals to the TSS Secretary will be determined solely on the administrative record. The TSS Secretary is authorized to order back pay and to restore leave, health insurance benefits, and any other benefits the employee would have received if the termination or suspension had not occurred.
- I. The TSS Secretary's decision will be issued no later than fifteen (15) business days after receiving the appeal or response to the appeal, whichever is later. The decision of the TSS Secretary is final.

VII. ATTACHMENTS:

Attachment #1 Grievance/Complaint Form
Attachment #2 Mediation Information Sheet
Attachment #3 Agreement to Mediate
Attachment #4 Grievance Form – Appeal to Secretary
Attachment #5 Grievance Form – Appeal to SEGAP
Attachment #6 Employee Acknowledgement of Receipt

ATTACHMENT 1



Department of Corrections Grievance/Complaint Form

This form is used to file a grievance pursuant to A.C.A. § 21-1-701 *et seq.* and the [State of Arkansas Grievance Policy and Procedure](#). This form must be completed and submitted to your Department's Grievance Officer to initiate the process. Supporting documentation may be submitted along with this form. Contact your human resources office for more information regarding your Department's grievance policy.

Department:	<input type="text"/>	Division, if applicable:	<input type="text"/>
Employee's Name:	<input type="text"/>	Job Title:	<input type="text"/>
Address:	<input type="text"/>	Supervise: Y/N	<input type="checkbox"/>
Email Address:	<input type="text"/>	Phone Number:	<input type="text"/>
Supervisor's Name:	<input type="text"/>		

In order for a complaint to be processed, the following information must be provided:

- What disciplinary action are you grieving?
☐ Termination ☐ Suspension ☐ Other
- What was the date of the disciplinary action?
- What action have you taken to address the situation with your immediate supervisor?
- What remedy do you request?
- I request as my first step: ☐ Mediation ☐ Administrative Review Hearing

Employee's Signature

Date

Official Use Only

Grievable: ☐ Yes ☐ No If no, explain:

Grievance Officer's Name

Grievance Officer's Signature

Date

ATTACHMENT 2

State of Arkansas Grievance Mediation Program

What is Mediation and the State of Arkansas Grievance Mediation Program?

Mediation is an avenue to resolve disputes between conflicting parties. In mediation, a neutral person called a Mediator helps the parties explore ways to resolve their differences and reach an agreement that best addresses their interests. The parties must be willing to work out the problems between them. Mediation does not focus on who is right or wrong, and the Mediator has no authority to make the decision for the parties. A Mediator facilitates the mediation session and guides the parties to become their own decision-makers by understanding and listening to each other.

The State of Arkansas Grievance Mediation Program supports the resolution of differences between supervisors and employees in state government. It is a commitment to a positive approach and joint ownership of concerns and solutions. An eligible employee can request mediation through the grievance program only for a termination or suspension.

Why should I use the Mediation Program?

Mediation is generally faster and less formal in both time and resources for all parties involved. The goal of mediation is that the parties choose to work together to create solutions. Remember the Mediator is a neutral individual who is trained in conflict resolution techniques and who facilitates the conversation.

How does the Grievance Mediation Program work?

The mediation process is initiated when an employee contacts their department's Grievance Officer to request that their termination or suspension be resolved using the grievance process. The employee will submit the Grievance Form to the Grievance Officer and indicate whether they want mediation as their first step. The Grievance Officer will determine whether the complaint is eligible to be reviewed as part of the grievance program.

If the department agrees to mediation, the Grievance Officer will contact all participants to sign the Agreement to Mediate form and to determine a date, time and location that is agreed to by the parties. The Grievance Officer will then contact the Office of Personnel Management (OPM) who assigns a Mediator. Both parties may have a representative or attorney present at the mediation, but witnesses are not permitted. The mediation session is confidential. At the conclusion of the mediation, a Settlement Agreement or a Non-settlement Decision is signed by all parties including the Mediator. The results of the mediation are forwarded to OPM. Any discussion or notes from the mediation is kept confidential.

How can further information about the Grievance Mediation Program be obtained?

For more information, contact the Grievance Coordinator at: OPM.Disputeresolution@dfa.arkansas.gov or visit: <https://www.transform.ar.gov/personnel/dispute-resolution/>.

AGREEMENT TO MEDIATE

Arkansas Department of Corrections

1. I understand that this is an agreement by the parties to attempt to resolve the following issues by submitting the matters to mediation:

2. I understand that mediation is a dispute resolution process that is non-adversarial in nature and seeks to find reconciliation between disputing parties. The mediation process does not declare winners or losers. The main focus is to seek a resolution that is informal, timely, and is advantageous to both parties.

3. I understand that the Mediator is committed to treating this matter in a fair and unbiased way. The Mediators' role is to facilitate and help the parties themselves reach a mutually satisfactory resolution to the problem. The decision-making power rests with the parties, not the Mediator. If the parties cannot agree on a resolution, the Mediator will NOT impose a resolution nor will he/she offer judgment as to which party, if any, is at fault. If an impasse exists, either party or the Mediator may stop the proceedings.

4. I understand that the Mediator has no authority to make decisions or act as a judge or arbitrator. Although the Mediator may be an attorney, the Mediator will not act as an advocate for any party in the mediation. To the extent either the employee or the agency wishes to have a representative or legal counsel to consult with or assist at any stage in the mediation, the party is responsible for taking steps to obtain such a person.

5. I understand that mediation is a confidential process. Any documents submitted to the Mediator and statements made during the mediation are for settlement purposes only. I agree not to subpoena or request the Mediator to serve as a witness or request or use as evidence any materials prepared by the Mediator for the mediation, with the exception of a Settlement Agreement signed by the parties. In no event will the Mediator voluntarily testify on behalf of any party or submit any type of report in connection with this mediation. However, I understand that matters that are admissible in a court of law or other administrative process continue to be admissible, if otherwise discoverable, even though brought up in a mediation session.

6. Mediation is private, confidential, and privileged from discovery. To ensure confidentiality, any writings or notes made or taken during the mediation session by the Mediator, or either party and/or representatives shall be collected and destroyed by the Mediator, in the presence of all, prior to adjournment of the mediation.

7. I understand that no party shall be bound by anything said or done at the mediation unless a written settlement is reached and executed by all necessary parties. If a settlement is reached, the Mediator shall reduce the agreement to writing, and when signed and approved by the parties and/or appropriate authorities, the Settlement Agreement shall be legally binding upon all parties to the agreement.

8. In electing to use mediation, I understand that no external statutory deadlines are waived and that all external statutory deadlines must be adhered to.

9. The employee's rights to pursue external formal processes are not waived and will be protected during the mediation process. At the same time, the employee's responsibilities to comply with all requirements of any external administrative or court process, e.g., time limits, points of contact, ARE NOT WAIVED and must be followed.

10. I understand that in the event the mediation is terminated for any reason, the employee may continue to pursue the matter through the fact-finding process. The employee may also pursue the matter through any external formal resolution of the matter as he/she sees fit as long as they are within statutory time limits.

11. No admission of guilt or wrongdoing by either party is implied, and none should be inferred, by participation in this process.

12. I will sincerely attempt to resolve this matter; agree to cooperate with the Mediator assigned to this matter; and give serious consideration to all suggestions made in regard to developing a realistic solution to the problem. I will conduct myself in a courteous and non-hostile manner, use appropriate language, and allow the Mediator to interrupt the process if they feel a caucus or break is needed to facilitate the mediation process. I enter into this process in good faith.

13. The Mediator agrees to notify the parties, their representatives, and the appropriate management official of the status and results of the mediation process, including settlements, withdrawal from, and/or unsuccessful conclusion of the process within one (1) business day of the conclusion or termination of the process.

BY SIGNATURE BELOW, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND, AND AGREE TO THIS AGREEMENT TO PARTICIPATE IN MEDIATION:

_____ EMPLOYEE'S SIGNATURE	_____ DATE
-------------------------------	---------------

_____ EMPLOYEE REPRESENTATIVE'S SIGNATURE (if appropriate)	_____ DATE
---------------------------------------------------------------	---------------

_____ MANAGEMENT OFFICIAL'S SIGNATURE	_____ DATE
------------------------------------------	---------------

_____ AGENCY REPRESENTATIVE'S SIGNATURE (if appropriate)	_____ DATE
-------------------------------------------------------------	---------------

_____ MEDIATOR'S SIGNATURE	_____ DATE
-------------------------------	---------------

Attachment 4



Department of Corrections
Grievance Form - Appeal to SECRETARY

OPM Case # _____

This form is used to file a request for an appeal hearing before the DOC Secretary.

Department: _____ Division, if applicable: _____
Employee's Name: _____
Job Title: _____ Grade: _____
Email Address: _____ Phone Number: _____
Supervisor's Name: _____

In order for a grievance appeal to be processed, the following information must be provided:

1. Why are you appealing the Director's, or designee's, decision?

2. What remedy do you request?

Employee's Signature

Date

Agency Use Only

Eligible for Appeal: ☐ Yes ☐ No If no, explain:

Agency Official's Name

Agency Official's
Signature

Date

Attachment 5



State of Arkansas
Grievance Form - Appeal to SEGAP

OPM Case # _____

This form is used to file a request for an appeal hearing before the State Employee Grievance Appeal Panel (SEGAP) pursuant to A.C.A. § 21-1-701 *et seq.* and the State of Arkansas Grievance Policy and Procedure. This form must be completed and submitted to your Department's Grievance Officer.

Department: Division, if applicable:
Employee's Name:
Job Title: Grade:
Email Address: Phone Number:
Supervisor's Name:

In order for a grievance appeal to be processed, the following information must be provided:

1. Why are you appealing the Secretary's, or designee's, decision?

2. What remedy do you request?

Employee's Signature

Date

OPM Use Only

Eligible for Appeal: ☐ Yes ☐ No If no, explain:

OPM Official's Name

OPM Official's Signature

Date

Attachment 6



OFFICE OF THE SECRETARY

1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 682-3309 | Fax: (501) 534-3958
DOC.ARKANSAS.GOV

**EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT
OF EMPLOYEE GRIEVANCE PROCEDURES**

I have received a copy of the Arkansas Department of Corrections Secretarial Directive on Employee Grievance Procedures. I understand that it is my responsibility to read and become familiar with all standards, policies, and procedures for grievances outlined in this policy.

I acknowledge that these procedures outline my eligibility for grievance rights, and I am only awarded grievance rights under the provisions set forth in this policy. Furthermore, I understand that if I have questions regarding this information, it is my responsibility to contact my immediate supervisor for assistance.

Employee Name (printed)

AASIS #

Employee Signature

Date