

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SECRETARY'S POLICY AND PROCEDURE MEMORANDUM (PPM) NO. 34

SUBJECT: Grievance Procedure

EFFECTIVE DATE: April 24, 1978

INSTRUCTIONS: This memorandum supersedes all other memoranda and manuals.

1. PHILOSOPHY

It is the policy of the Department of Transportation and Development (DOTD) to develop and to maintain a satisfied and efficient work force. In furtherance of this policy, when an employee feels he/she has been treated unjustly, the employee has the right to use the following grievance procedure to express their concerns without fear of coercion or reprisal because of such action and without regard to race, color, religion, sex, national origin, political affiliation, disability, age, or pregnancy. Even beyond the preceding classes codified in federal and state law, DOTD will offer equal opportunity without regard to any non-merit based factors. Additionally, the free expression of employee concerns will allow management to review and modify policies and procedures as warranted.

2. DEFINITION

The term "grievance" shall mean any claim, concern, problem or complaint by any employee or group of employees stating one or more of the following.

- A. An employee has been treated unfairly, inequitably or in a manner which is arbitrary, unjust or unreasonable.
- B. There is a violation in the implementation, enforcement, administration, application and/or interpretation of any law, regulation, directive, policy, procedure or practice which adversely affects the employee.
- C. There exists a condition, situation or circumstance which jeopardizes the health or safety of the employee or otherwise adversely affects the welfare or interest of the employee.

3. NON-GRIEVABLE ISSUES

This grievance procedure shall not be used to address employment disputes that are appealable to the Civil Service Director or the State Civil Service Commission. It is an either/or situation. Either the action is appealable, in which case the employee must file an appeal, or the action is not appealable, in which case the employee can file a grievance. A grievance will be summarily disposed if the employee files an appeal for the same complaint; therefore, it is extremely important that the employee determines the appropriate avenue for filing his/her complaint. For guidance on appealing actions to the State Civil Service Commission, refer to Chapter 13 of the Civil Service Rules. In general, the following items will be considered non-grievable issues.

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- A. A disciplinary action taken against a permanent employee for cause, i.e. dismissal, suspension without pay, reduction in pay, and involuntary demotion (this must be addressed in accordance with Chapter 13 of the Civil Service Rules).
- B. A review of a performance evaluation (this must be addressed in accordance with PPM #55, Performance Evaluation System Procedures, and Chapter 10 of the Civil Service Rules).
- C. The layoff of a permanent employee (this must be addressed in accordance with Chapter 13 of the Civil Service Rules).
- D. A complaint about letters of warning, reprimand or counseling, and supervisory plans (these must be addressed by written response in accordance with PPM #26, Disciplinary System, and Civil Service Rule 12.9).
- E. A complaint of harassment or discrimination based on race, color, religion, sex, national origin, political affiliation, disability, age, or pregnancy (these must be addressed in accordance with PPM #13, Anti-Harassment Policy and Complaint Procedure).
- F. An employment action/decision that violates a Civil Service Rule, other than a rule in Chapter 10, or Civil Service Article X, Part 1 of the state constitution (this must be addressed in accordance with Chapter 13 of the Civil Service Rules).
- G. A complaint of workplace violence (these must be addressed in accordance with PPM #53, Violence in the Workplace).
- H. A complaint of non-selection by a probationary employee.

Actions appealable to the State Civil Service Commission must be filed with Civil Service within thirty (30) days of receipt of written notice or knowledge of the action being appealed. Filing an internal DOTD grievance does not stop, extend, or interrupt the thirty (30) day period for filing an appeal.

4. EXAMPLES OF GRIEVABLE ISSUES

The following is not an exhaustive list of issues that may be grieved by an employee; rather, it is intended to provide examples of complaints that have been handled through the grievance procedure.

- A. A dispute between supervisor and subordinate or among workers.
- B. The perceived unfair treatment that does not rise to the level of discrimination.

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- C. A change in work location or hours.

5. GRIEVANCE PROCESS

For those grievable issues, it is incumbent upon DOTD management to provide an employee the opportunity to present his/her concerns in accordance with the procedures listed below. The person against whom a grievance complaint is made shall have the right to provide a statement at the grievance hearing.

A. STEP 1

- (1) All grievances must be presented within seven (7) working days from the date the employee first became aware of, or should have become aware of, the cause of such grievance. The Grievance Form can be found under Forms and Job Aids on the DOTD Human Resources webpage. The employee must provide a copy of the grievance form to the Section Head/District Administrator, the Headquarters Human Resources Section, and the Union Representative (if applicable.).
- (2) The employee will present the grievance to the immediate supervisor; and if possible, it should be settled at this level. In cases of non-selection complaints, the grievance should be presented to the immediate supervisor of the position being grieved.
- (3) The supervisor must provide a written response to the grievance within five (5) working days thereafter. If the remedy requested is granted, the supervisor will fully comply with the remedy.

B. STEP 2

- (1) If the employee is not satisfied with the Step 1 response, the employee may within five (5) working days submit his/her grievance form to the appropriate Section Head/District Administrator. The employee must provide a copy of the grievance form to the Section Head/District Administrator, the Headquarters Human Resources Section, and the Union Representative (if applicable).
- (2) The Section Head/District Administrator, or his/her delegated Appointing Authority, must investigate, afford the employee an opportunity to present his/her viewpoint, in person, on the grievance, and render a written response containing findings and recommendations to the employee within fifteen (15) working days.

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C. STEP 3

- (1) If the employee is not satisfied with the Step 2 response, he/she may within five (5) working days submit the grievance form to the Secretary of DOTD. The employee must provide a copy of the grievance form to the Section Head/District Administrator, the Headquarters Human Resources Section, and the Union Representative (if applicable).
- (2) The Secretary, or his/her designated representative, will conduct a hearing, an investigation, or a review of the Step 1 and 2 written responses, and will render a final decision in writing to the employee within twenty (20) working days.

D. EXCEPTIONS

- (1) An extension of the above time limits may be granted with the approval of the Human Resources Director. A request for an extension must be made within the normal time constraints listed above.
- (2) The Human Resources Director has the authority to place the grievance process on hold. Common causes for suspending grievances can include: a filing of an EEOC complaint for the same issue being grieved; research or an investigation is required to properly address the grievance or the issue being grieved involves a pending action. When a grievance is placed on hold, the involved parties will be notified of such.
- (3) In cases where the immediate supervisor is a Section Head or District Administrator, the grievance may be handled as a Step 1 grievance. In such cases, Step 2 should be filed with the Office Head.
- (4) If the action being grieved is caused by a supervisor, Section Head, or District Administrator of another section/district/unit, then an employee should file his/her grievance with these individuals and not with his/her immediate Supervisor, Section Head, or District Administrator.
- (5) In such cases where the relief sought cannot be granted at the Step 1 or Step 2 level, the grievant can request approval from the Human Resources Director to bypass a particular step.
- (6) The Secretary or his/her designee has the authority to designate alternative responders in Step 1 and 2 of the grievance process.

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6. SUMMARY DISPOSITION OF GRIEVANCES

The grievance procedure is a method of addressing dissatisfactions which arise in a day-to-day relationship between employees or between employer and employee. It is not intended to address minor, isolated differences between employees or to challenge legitimate directives of supervisors. In that regard, at any time after receiving a grievance and prior to the Secretary's or his/her designee's final decision at Step 3, the Human Resources Director, after consulting with the Secretary or his/her designee, may summarily dispose of the grievance, through written notification to the employee, on any of the following grounds.

- A. The grievance process is not the proper forum for the complaint.
- B. The employee has filed an appeal to the Civil Service Director or to the State Civil Service Commission for the same complaint.
- C. The Department lacks jurisdiction over the subject matter of the grievance.
- D. The Department lacks jurisdiction over the person against whom relief is sought.
- E. The grievant has no legal right to grievance consideration.
- F. The grievance has not been submitted in the required manner or within the prescribed timeframes.
- G. The decision on the grievance would be moot.
- H. The remedy requested cannot be granted.
- I. The grievant failed to appear for the grievance hearing.
- J. The Secretary or his/her designee has determined the grievance to be frivolous.
- K. The grievance is being used to impede the efficient operations of the Department.
- L. The Headquarters Human Resources selection review determined that the selection process for a grieved position complied with DOTD policy and guidelines.

7. GENERAL

- A. The Human Resources Section is responsible, through coordination and monitoring efforts, for administering DOTD's grievance policy, ensuring that employees are made aware of the procedures (required component of New Employee Orientation and biennial EEO web-based training), making the

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grievance form readily available, tracking the number/nature of grievances to help define and address internal problems/complaints, and maintaining records of the grievance process.

- B. Upon receipt of a grievance, the respondent is responsible for immediately providing a copy of the grievance form to the Headquarters and the District Human Resources office. Respondents must also send copies of grievance responses to the same parties. Additionally, the District Human Resource Analysts are required to immediately notify the Headquarters Human Resources Section upon receipt of a grievance.
- C. If the employee is a member of the union, he/she may have the local union steward and/or the union representative present in any or all of the steps.
- D. The employee who files a grievance, and witnesses if applicable, will be granted the appropriate time and transportation (or mileage) during work hours to be involved with the procedure; however, the employee has no right to use an excessive amount of work time for his/her grievance.
- E. Grievances may be consolidated in the following circumstances:
 - (1) Multiple grievances are filed by an employee that involve similar or related circumstances.
 - (2) Separate grievances are filed by two or more employees regarding the same complaint.
- F. Nothing contained in this policy is in any way intended to deprive any employee of his/her right of appeal to the State Civil Service Commission. However, the outcome of DOTD's internal grievance procedure is not appealable to the Civil Service Director or the State Civil Service Commission.
- G. At the Step 3 level, the Secretary or his/her designee may conduct the hearing via available communications devices (i.e., telephone, video conference, etc.) in the interest of efficiency.

8. VIOLATIONS

Any employee who harasses, discriminates or retaliates against any employee for filing a grievance or participating in the grievance procedure will be subject to disciplinary action. Similarly, any employee who uses his/her position to influence the grievance procedure or anyone involved there with will be subject to disciplinary action.

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Additionally, any employee who abuses or misuses the grievance procedure, or who uses the process to harass or intimidate others, as determined by the Secretary, or his/her designee, will be subject to disciplinary action.

A handwritten signature in blue ink, appearing to read "Shawn D. Wilson", with a stylized flourish at the end.

Shawn D. Wilson, Ph.D.
Secretary