

Office of Human Resources
***1501 Classified Employee Complaint
Procedure***

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**Georgia Department of Human Services
Human Resources Policy #1501**

Classified Employee Complaint Procedure

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Refer- Rules of the State Personnel Board 478-1-20 — Employee Complaint Resolution Procedure
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The Department of Human Services recognizes the need for a process to review employee concerns. This procedure is established to provide classified employees with an orderly process for reviewing allegations of unfavorable employment decisions or conditions in a timely manner. Employees are encouraged to bring work-related concerns to the attention of their supervisors for review and possible resolution prior to filing a complaint.

Section A: Definitions

1. For the purposes of this policy, the following terms and definitions apply:
 - a. “Employee” an individual hired by an agency to provide services for wages excluding independent contractors, volunteers, unpaid interns and board members paid on a per diem basis.
 - b. “Classified Employee” an employee with procedural appeal rights set forth who was hired into a classified position on or before June 30, 1996 and who has remained in a classified position without a break in service since that date.
 - c. “Unclassified Employee” an employee who was hired after June 30, 1996, or who has occupied an unclassified position at any time since July 1, 1996. Unclassified employees have an employment-at-will status, with limited exception for employees with more than 18 years of service who established Employees' Retirement System (ERS) membership before April 1, 1972.
 - d. “Filing” the act of submitting a complaint to the agency Complaint Resolution Coordinator.
 - e. “Complaint” a claim filed by an eligible employee when their personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.
 - f. “Complaint Form” a form provided by the agency for the filing of employee complaints.
 - g. “Receipt” the date and time at which a document is delivered by mail, electronic transmission or personal delivery.
 - h. “Workday” Monday through Friday are considered DHS business days excluding state holidays.

Section B: Employee Eligibility

1. This procedure may be used by all DHS classified employees whose employment averages twenty (20) or more hours per week.
2. An employee who has been notified of termination or is seeking relief or remedy for the work-related concern(s) through other administrative or judicial processes, is not eligible to file a complaint through this procedure.

Section C: Eligible Issues

1. Harassment, retaliation or intimidation for exercising any right provided under the Rules of the State Personnel Board or DHS policies;
2. Retaliation for using the complaint procedure;
3. Erroneous, arbitrary or capricious interpretation or application of human resources policies, procedures, rules, regulations, ordinances and statutes;
4. Unsafe or unhealthful working conditions; and,
5. Alleged occupational exposure to hazardous chemicals.
6. The following allegations are eligible and will be addressed through the Unlawful Discrimination Complaint Procedure (DHS Human Resources Policy #1503):
 - a. Unlawful discrimination because of race, color, sex, national origin, disability, age or religious or political opinions or affiliations; and,
 - b. Sexual harassment.

Section D: Ineligible Issues

1. Issues which are pending or have been concluded by direct appeal to the State Personnel Board, the Georgia Commission on Equal Opportunity or through other administrative or judicial procedures,
2. Issues which are subject to appeal, review or relief through other provisions of the rules,
3. Performance responsibilities, expectations or evaluations,
4. Relocation of employees, except where the costs of relocation qualify for reimbursement under regulations promulgated by the Office of Planning and Budget,
5. Temporary work assignments which do not exceed ninety (90) calendar days,
6. Permanent changes in work hours or duties and responsibilities, unless such changes are manifestly unsafe, illegal, or can be shown to adversely affect an employee's personal employment,
7. Budget and organizational structure, including the number or assignment of positions in any organizational unit,
8. Internal security practices established by the Department,
9. The selection of an individual to fill a position, unless it is alleged that the selection is in violation of a written Department policy or the Rules of the State Personnel Board on filling vacan-

cies,

10. Demotion of an employee on working test as defined in Rule 10 of the Rules of the State Personnel Board,
11. Termination, demotion, reassignment, furlough, layoff from duties because of lack of work, or other actions resulting from a reduction in the work force or job abolition; and,
12. Any matter which is not within the jurisdiction or control of the Department.

Section E: Written and Oral Reprimands

1. Complaints filed regarding written reprimands and written confirmation of oral reprimands will be processed through the Process for Review of Written Reprimands. (See DHS Human Resources Policy #1504)

Section F: Filing a Complaint

1. A complaint may be filed by an eligible employee when the employee's personal employment has been allegedly affected by unfavorable employment decisions or conditions due to unfair treatment.
2. A complaint should be filed as soon as possible, and must be received by the Office of Human Resources (OHR):
 - a. within ten (10) workdays after the occurrence upon which the complaint is based; or,
 - b. within ten (10) workdays of the date the employee became aware, or should have become aware, of the issue(s) through the exercise of reasonable diligence.

NOTE

"Workday" refers to Monday through Friday, excluding State holidays. The complaint must be received by OHR no later than 5:00 p.m. on the 10th workday.

Section G: Complaint Form

1. A complaint must be filed on the Classified Employees Complaint Form (Attachment #1).
 - a. This form must be completed in its entirety, and include:
 - I. the issue(s),
 - II. the date(s), if known, that the issue(s) occurred,
 - III. how the employee's personal employment has been unfavorably affected, and,
 - IV. the relief sought.
 - b. Supporting documentation must be submitted with the Classified Service Complaint Form.
 - c. If the complaint involves interpretation or application of a Rule or policy, the complaint must identify the specific Rule or policy and how it was allegedly violated.

2. The Classified Employees Complaint Form must be delivered, mailed or faxed to your assigned Human Resources Representative.

Section H: Reviewing & Processing a Complaint

1. Within ten (10) workdays of receiving a complaint, OHR will:
 - a. Complete a review,
 - b. Determine the eligibility/timeliness of the issue(s), and,
 - c. Provide written notification to individuals involved in the grievance.
2. The written notification will include reasons for the determination and advise appropriate individuals that:
 - a. The issue(s) in the complaint is ineligible, and no further action will be taken; or,
 - b. The issue(s), if alleging unlawful discrimination or sexual harassment, is eligible and will be processed through the Unlawful Discrimination Complaint Procedure; or,
 - c. The issue(s), if not alleging unlawful discrimination or sexual harassment, is eligible, and will specify how the complaint will be processed.
3. Within twenty-one (21) calendar days of the notice that the issue(s) is eligible, OHR will:
 - a. Attempt to resolve the issue(s); or,
 - b. Schedule a mediation session; or,
 - c. Request that the Department of Administrative Services (DOAS) assign a Complaint Hearing Officer to hear the complaint.

Section I: OHR Informal Resolution

1. Every complaint will be thoroughly reviewed. Attempts to resolve the issue(s) may be made by OHR on a case by case basis. The employee and supervisor involved are expected to cooperate with OHR regarding attempts at informal resolution.

Section J: Mediation

1. Either the employee or supervisor involved may request that the complaint be referred for mediation. OHR will determine, if the request is appropriate.
2. OHR may also refer a complaint for mediation.
3. If mediation is deemed appropriate, OHR will schedule the session. The employee and supervisor involved must attend and cooperate fully with the process.
4. If resolution is not reached in the mediation session, a complaint hearing will be held.

Section K: Complaint Hearing Notification

1. DOAS is to assign a Complaint Hearing Officer within five (5) workdays of receiving a request from the Department.
2. The date, time and location of the complaint hearing will be coordinated by OHR with the employee, supervisor involved and Complaint Hearing Officer.
3. A complaint hearing will be conducted within fifteen (15) calendar days of assignment of the Complaint Hearing Officer.

Section L: Hearing Process

1. The Complaint Hearing Officer will direct the hearing in order to ensure the orderly presentation of relevant information.
2. The Complaint Hearing Officer will tape record the hearing. No other tape recorders, court reporters, or means of recording the hearing will be permitted.
3. The employee and supervisor involved may speak for themselves or have a DHS Third Party Representative speak on their behalf at the hearing. If a DHS Third Party Representative(s) is used, the employee and supervisor must be present at the hearing to ensure that accurate information is presented.
4. Witnesses who are asked to testify in a hearing will attend the hearing only while testifying, unless otherwise approved by the Complaint Hearing Officer.
5. Appearance as a witness is typically voluntary. An employee may be required to provide witness testimony only by OHR or the Complaint Hearing Officer. If it is determined that the employee's testimony is essential to making an accurate recommendation on the complaint.

Section M: Complaint Preparation Time

1. An eligible employee may request and must be allowed up to four (4) hours of work time, as approved by their supervisor, to prepare a complaint or prepare for a mediation session or complaint hearing.
 - a. The four (4) hours is in addition to time spent in a mediation session or complaint hearing.
 - b. The supervisor should make reasonable efforts to grant the specific time period requested by the employee. If requested time cannot be granted due to workload, the supervisor is to allow the employee to use complaint preparation time at another agreed upon time.
 - c. Telephone calls, meetings, discussions with potential witnesses, or other contacts initiated by the employee regarding the complaint during work hours will count as complaint preparation time.
 - d. Complaint preparation time should not interfere with the ordinary business of the work unit, and the employee should remain in the general work area, unless specifically authorized by the supervisor to leave.
 - e. Each employee is limited to a maximum of twelve (12) hours of complaint preparation time per calendar year.

Section N: DHS Third Party Representative

1. An employee and/or supervisor involved in a complaint may ask another DHS employee to act as a DHS Third Party Representative in a complaint hearing. Serving as a DHS Third Party Representative is voluntary.
 - a. Staff designated to assist employees with filing complaints and human resources representatives cannot serve as DHS Third Party Representatives.
 - b. Non-DHS employee third party representation is not permitted, unless required by law or rule.
 - c. DHS employees may serve as a DHS Third Party Representative in no more than two (2) complaints per calendar year.
 - d. Time spent in a complaint hearing is with pay and is not charged to accrued leave if the hearing takes place during scheduled workhours.
 - e. If a DHS Third Party Representative chooses to represent an employee or supervisor in a complaint hearing held outside of scheduled work hours, the DHS Third Party Representative's schedule will not be adjusted, and compensation will not be granted for time spent in the hearing.

Section O: Conclusion of The Complaint

1. The Complaint Hearing Officer will submit a report with recommendations to the DHS Commissioner or designee within fifteen (15) workdays of the complaint hearing.
2. The DHS Commissioner or designee will review this report, and any other relevant information, and issue a final decision to the employee with copies to appropriate individuals within ten (10) workdays of receipt of the Complaint Hearing Officer's report.
3. The DHS Commissioner or designee's decision is the final action of the Department on the complaint.

Section P: Appeal

1. After receiving the decision on a complaint, an employee may appeal to the State Personnel Board, in writing, if the employee believes that the Department has violated any provision of the Rules of the State Personnel Board.
2. The appeal must be filed with the Office of State Administrative Hearings in accordance with the provisions of the Rules of the State Personnel Board - Rule 14, within ten (10) calendar days of receipt of the decision on the complaint.
3. Any appeal must include the specific provision(s) of the rule alleged to have been violated, and any documentation that would support the allegation.

Section Q: Use of State Supplies

1. Employees may use state supplies, equipment, mail services, or other state resources to provide copies of the complaint-related documents only to those individuals specified in this procedure, or as directed by OHR.

Section R: Confidential Information

1. Patient, client, resident names must not be included in any complaint related document since this information may violate confidentiality. Initials or case numbers may be used if they are relevant to the issues of the complaint.

Section S: Group Complaint

1. A complaint may be filed by a group of eligible employees, if the alleged unfavorable employment decisions or conditions have affected each member of the group.
 - a. Members of a group complaint cannot file an individual complaint on the same issue(s).
 - b. The group must select a spokesperson to present all matters of the complaint. The group may select up to two (2) spokespersons.
 - c. Only the spokesperson(s) for a group complaint may request to use complaint preparation time. If a group complaint has more than one spokesperson, the requested complaint preparation time is limited to a combined total of four (4) hours, as approved by the supervisor.
 - d. All members of a group complaint must sign the Classified Employee Group Complaint Roster (Attachment #2) certifying that each employee's personal employment has been unfavorably affected and that they agree with the contents of the complaint. This roster must be submitted with the complaint.

Section T: Consolidation of Complaints

1. When appropriate, OHR may:
 - a. Consolidate multiple complaints filed by an employee into a single complaint; and,
 - b. Consolidate separate complaints filed by two (2) or more employees regarding the same issue(s) into a group complaint.

Section U: Extension of Time Limits

1. Time limits may be extended under the following circumstances:
 - a. Upon agreement of all parties to a complaint, any time limit may be extended; and,
 - b. OHR or the Complaint Hearing Officer may extend any time limit due to emergency, medical disability or legally mandated absence.

NOTE

Appropriate individuals will be notified of the length and reasons for an extension.

Section V: Withdrawal of Complaint

1. A complaint may be voluntarily withdrawn by the employee at any time during the complaint process. A complaint that has been withdrawn will be considered closed and may not be refiled.

Section W: Improper Use of The Complaint Procedure

1. All state officers, supervisors, third party representatives and employees are prohibited from the following:
 - a. Knowingly supplying false or misleading information in a complaint; or,
 - b. Attempting to harass, intimidate, or retaliate against any State officer, supervisor, third party representative or employee for filing a complaint, or providing testimony or evidence regarding a complaint.
2. Improper use of the complaint procedure may result in disciplinary action, up to and including separation from employment.

NOTE

OHR must be consulted prior to initiating disciplinary action under these circumstances.

Section X: Complaint to DOAS

1. An employee may file a complaint to the DOAS Commissioner, if OHR, the Complaint Hearing Officer, or DHS Commissioner do not adhere to specified time limits. The DOAS Commissioner will review the complaint and take appropriate action.

For additional information or assistance, please contact your local Human Resource Office, or email DHS-Policies@dhs.ga.gov.

1501 A1 Classified Employee Complaint Form

1501 A2 Classified Employee Group Complaint Roster