

## ADMINISTRATIVE GRIEVANCE HANDOUT

This handout is provided to assist you with an informal and/or formal grievance as described in DOE O 342.1, Grievance Policy and Procedures, approved February 2, 2006. It is not intended to replace or supplement the DOE Order in any way. DOE O 342.1, Grievance Policy and Procedures contain complete information regarding the Administrative Grievance Procedures and must be referenced when filing a grievance.

### 1. Terms Explained:

- a. Informal Grievance: A written grievance related to matters/conditions of employment under the control of DOE management presented by an employee or group of employees acting as an individual to his/her/their immediate supervisor for discussion and informal resolution. Participation in the informal grievance process is a requirement for, and precursor to, submitting a formal grievance.
- b. Formal Grievance: A written request by an employee, a former employee, or a group of employees acting as an individual for personal relief in a matter of concern or dissatisfaction relating to the conditions of employment of the employee that is subject to the control of DOE management.
- c. Personal Relief: A specific remedy within the control of management directly benefiting the grievant. Personal relief may not include a request for disciplinary or other action affecting another employee. Relief cannot constitute a violation of laws, regulations or DOE policy.
- d. Official Time: An employee and the employee's representative (if represented and employed by DOE) are entitled to a reasonable amount of "official time" (eight duty hours, excluding official travel) to present a grievance. They are not entitled to official time to prepare the grievance except to the extent necessary to obtain information and interview witnesses not otherwise available during non-work hours.
- e. Alternative Dispute Resolution (ADR): A voluntary means of resolving employment-related disputes at any stage of the grievance procedures through the use of techniques such as mediation.
- f. Mediation (a form of Alternative Dispute Resolution): A confidential and speedy process whereby a trained professional mediator assists the parties in reaching a voluntary solution to their dispute. The mediator is not a judge and does not make any decisions about fault. If the parties reach resolution, a binding settlement agreement is signed with a copy forwarded to the EMCBC, Office of Human Resources Assistant Director. Mediation may be used at any stage of the grievance process. Once mediation is elected the time limits of the grievance process are held in abeyance pending the completion and/or termination of the mediation.
- g. Days: Calendar days.

- h. **Fact-Finding:** An inquiry suitable to ascertain the relevant circumstances surrounding a grievance and to provide the basis for a written report that contains appropriate recommendations on the matter being examined and reasons for the recommendations.
- i. **Deciding Official:** Except in the case of the Secretary, an official at a higher organizational level (not necessarily higher grade) than any other individual directly involved in the grievance who has been delegated the authority to make final decisions on formal grievances. The deciding official is normally the supervisor or manager immediately above the supervisor to whom the informal grievance was submitted unless that individual was directly involved in the grievance. Involvement means more than mere knowledge of the matter. To have been “involved” the deciding official must have made or influenced a decision regarding the matter or must have a personal interest in the matter. In the latter event, the deciding official must be the next higher level supervisor in the management chain who was not directly involved in the grievance. Only the Secretary may be involved in a grievance, be the supervisor with whom an informal grievance is filed, and be the deciding official.

**2. Informal Grievance Procedures:** An employee may present a grievance concerning a continuing practice or condition at any time. A grievance concerning a particular act must be presented in writing to their immediate supervisor within 15-days of the date of the act or within 15-days of the date the employee became aware of the act. An employee must complete the informal grievance process before the Department may accept a grievance under the formal process. The grievance must be presented as follows:

- a. The written grievance must first be discussed with an employee’s immediate supervisor. The employee will specify that an informal grievance is being presented and inform the supervisor whether he/she will be requesting mediation, which is arranged through the EMCBC, Office of Human Resources.
- b. The immediate supervisor may not refuse to consider a grievance in the informal stage for any reason.
- c. The employee must clearly state the basis of the grievance and personal relief sought.
- d. The supervisor to whom a written grievance has been presented will attempt to resolve it as expeditiously as possible, seeking the advice and assistance of others where necessary and will give the employee a written decision on the matter not later than 21-days after the date the grievance was received. If the relief sought is not granted the written decision will include an explanation of the reasons and employee’s right to request consideration under the formal grievance process.

- e. The informal grievance of performance appraisals and disciplinary actions above a reprimand will begin with the appropriate higher level supervisor, (e.g. the reviewing official for performance appraisals and the deciding official on disciplinary actions).

**3. Formal Grievance Procedures:** An employee may present a formal grievance if the matter is not resolved in the informal process or when the time limit for management to respond has expired without a decision. The employee must submit the grievance within 7-days to the Environmental Management Consolidated Business Center (EMCBC), Assistant Director, Office of Human Resources, 250 East 5<sup>th</sup> Street, Suite 500, Cincinnati, OH 45202. The grievance must be signed and dated by the employee and include—

- a. Sufficient information to identify and clarify the basis of the grievance, (e.g. detailed statement of concern).
- b. An explanation of the efforts made to resolve the grievance informally, and
- c. A description of the relief sought by the employee.
- d. If the employee has a representative, the representative's name, address and telephone number must be included in the grievance.
- e. Mediation may also be requested by either party as outlined in the informal grievance process.

**4. Deciding Official's Responsibilities:** The deciding official will give the grievance fair and impartial consideration. If only a negative decision is indicated by available information, the deciding official will initiate fact-finding procedures. Fact-finding procedures are initiated by sending a memorandum to the EMCBC Assistant Director, Office of Human Resources with a copy to the employee requesting that a fact-finder be selected to inquire into the grievance. The deciding official may issue a written decision to the grievant without initiating fact-finding procedures if it appears likely that the decision will be acceptable to the grievant. The written decisions in such cases will contain notice to the grievant that he/she may respond in writing within 7-days and request further consideration if the decision is unacceptable. If the grievant requests further consideration in a timely written response, the deciding official will initiate fact-finding procedures. Within 7-days of receipt of the report of findings and recommendations the deciding official will do one of the following.

- a. Accept the recommendations in the report and notify the employee of the decision with a copy to the EMCBC Office of Human Resources. This written decision will be final and contain findings on all issues covered by the fact-finding process. The employee may not request a further review of the same grievance within DOE.
- b. Make a final decision to grant the personal relief sought by the employee, without regard to the recommendations contained in the report, provided such relief is consistent with policy, regulations or other administrative or statutory requirements.