

Procedures for Filing a Complaint

Reference: Administrative Policy D-0916 Complaint Procedures
Merit Rule 18, The Grievance Procedure
11 Delaware Code Chapter 92
AFSCME Council 81, Local 1443A Contract
Fraternal Order of Police, Lodge 3 Contract Article 5

Revised: March 2004
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Procedures:

A. Informal Complaint - When a complaint arises, an employee shall, as soon as possible, discuss the problem with their immediate supervisor unless the complaint involves improper activity by the supervisor. Employee complaints involving supervisors shall be brought to the next higher administrative officer in the chain of command and only then to the Department's Human Resources Office/Affirmative Action Officer. It is the responsibility of each level of supervision to conduct such discussions objectively, and to initiate action to resolve problems. If after such informal action, the problem is not resolved to the employee's satisfaction and the employee wishes to take formal action, the employee must present a written complaint (see attached Grievance and DNREC complaint forms) in accordance with the procedure outlined in II. C.

B. Formal Complaint - A complaint is an employee issue which arises out of alleged improper interpersonal work behavior by an alleged violator, which remains unresolved after informal efforts at resolution by the complainant, have been attempted.

An employee who is in a bargaining unit covered by a collective bargaining agreement shall process any complaint through the grievance procedure outlined in the collective bargaining agreement. 11 Del. C. Chapter 92, Officers Bill of Rights, shall govern complaints against enforcement officers. Merit Rule violations are governed by those grievance procedures.

C. Complaint Procedure - All formal complaints by employees shall be handled in accordance with the procedure outlined herein. The time frames of Merit Rules 18.0 will be followed.

Seasonal or contractual employees may file a complaint by completing the complaint form and submitting it to their immediate supervisor or to the Human Resources Office. Only employees in full-time equivalent positions may file merit rule grievances.

- D. General - The Investigator (the supervisor) should conduct an investigation as a neutral party advocating neither for the complainant, the alleged violator, or the employer. The investigation should be thorough, expedient, and result in a written document that reaches a conclusion and, if appropriate, recommends discipline of the offender(s), establishes a system to assure future compliance with Department policy, provides for training, if applicable, and monitoring of the workplace environment.
1. If at any point in the investigation the Investigator believes the complainant needs assistance, or any person refuses to cooperate or requests to be represented by counsel, the Investigator shall contact either the HR Administrator or the AAO before proceeding.
 2. If the parties involved are in different divisions or if the alleged violator is the employee's supervisor, the Deputy Secretary, Office of the Secretary will conduct or oversee the investigation.
 3. If the situation is especially sensitive or involves a complainant who is at an executive level, the complaint may be filed directly with the Deputy Secretary, Office of the Secretary.
- E. Interview of Complainant - The Investigator should interview the complainant in a private setting and obtain as much information about the alleged policy violation or improper behavior as soon as possible. The complaint should outline and the Investigator should verify:
1. The specific allegation of the improper workplace behavior.
 2. The identity of the individual(s) who engaged in the improper behavior.
 3. The date(s), times(s) and location(s) of the alleged improper behavior and possible witnesses to the behavior.
 4. Any known conduct of a similar nature that has occurred by the alleged party(ies) in the past.
 5. Any statements made by the complainant or by other people to the individual(s) allegedly violating policy that their behavior was not appreciated or welcomed.
 6. Whether any written materials or other physical evidence is available to support the allegation(s).
 7. What impact the alleged conduct had on the complainant.
 8. The Investigator should be sensitive to the nature of the complaint and maintain a non-biased, professional demeanor at all times. The Investigator should stress confidentiality will be maintained to the fullest extent possible, but in no way should the Investigator insure anonymity to the complainant or guarantee that confidentiality will be maintained.
- F. Interview of Alleged Violators - The Investigator should next interview the alleged policy violator(s) ensuring any required contractual or statutory procedures for doing so are followed.

1. The Investigator should not identify the complainant unless it is essential to the allegation(s) being made, and the discipline being requested by the complainant, but should provide sufficient information about the allegation to allow an informed response.
 2. The individual alleged to have violated policy should be asked to provide an explanation of the behavior, identify any witnesses to the behavior, and provide any facts that may support their belief that the alleged behavior did not occur or that the complainant's motives are in question. The alleged violator's response should be in writing if possible.
 3. The alleged violator should be asked if they are aware of and fully understand the Department's policy on standards of conduct/communication and improper workplace behavior.
 4. The Investigator should discuss with the alleged violator the Department's policy of no retaliation against any employee who, in good faith, files a complaint of sexual harassment, or improper workplace behavior and will provide a copy of that policy.
- G. Interview of Witnesses - The Investigator should interview witnesses to confirm the complainant's and the alleged violator's statements and attempt to clarify information that will differentiate among the statements of the parties or provide a better understanding of the nature, tone, motivation, and setting of the alleged incident. The Investigator should re-interview witnesses and research the parties' history for past documented violations of a similar nature. If possible, written statements should be obtained.
- H. Report of Findings - Following the interview, the investigator should prepare a written report outlining the findings and actions, if any, (disciplinary or remedial) that will be recommended to be taken against the other party. If no disciplinary action is recommended, the investigator shall provide a written report to HRO/AAO with a confidential copy to the Division Director. This report will remain as a confidential document and be retained within the Human Resources Office. HRO will discuss with the employee's manager and Division Director and appropriate actions will be determined.
1. If the complaint and the investigation result in disciplinary action against the alleged violator, the complainant will be informed that the alleged violator will be held accountable. However the exact nature of the disciplinary action imposed will remain confidential.
 2. Discipline shall be imposed in accordance with policies and any contractual provisions regarding disciplinary actions.
- I. Management Responsibilities - The Management of the Division where the complaint originated should follow-up with remedial actions. Those actions should include the following:
1. Occasionally questioning the complainant to ensure that the actions taken have been effective in resolving the issues and that no retaliation is occurring,

2. provide closer supervision of employees found in violation of improper workplace or standards of conduct/communication policies, and
3. assume a greater awareness of the work environment and interactions of employees within the workplace.

DNREC Human Resources Manager	Mary Parker (302-739-9901)
DNREC Affirmative Action Officer	Laura Henry (302-739-9901)
SPOAA/EEO Program Administrator	Greg Chambers (302-577-8977)

Attachments: Basics of Title VII and the Civil Rights Act of 1991
State of Delaware Grievance Form
DNREC Internal Complaint Form

Title VII, CIVIL RIGHTS ACT OF 1964

Reference #1: <http://www.eeoc.gov/facts/qanda.html>

Title VII of the Civil Rights Act of 1964 (Title VII), prohibits employment discrimination based on race, color, religion, sex, or national origin

Reference #2: <http://www.eeoc.gov/laws/vii.html>

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney general to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Civil Rights Act of 1964".

Reference #3: <http://www.dol.gov/dol/oasam/public/regs/statutes/2000e-16.html>

Discriminatory practices prohibited; employees or applicants for employment subject to coverage

All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in Section 102 of Title 5, in executive agencies as defined in Section 105 of Title 5 (including employees and applicants for employment who are paid from non-appropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress **shall be made free from any discrimination based on race, color, religion, sex, national origin, age, marital status, disability, physical attributes, mental or physical disability, ancestry, sexual preferences, medical condition, citizenship and Vietnam Era Veteran's Status.**

CIVIL RIGHTS ACT OF 1991

Reference #1: <http://www.eeoc.gov/facts/qanda/html>

The Civil Rights Act of 1991, provides monetary damages in cases of intentional employment discrimination.

Reference: <http://www.eeoc.gov/laws/vii.html>

To amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes. Be it enacted the Senate and House of Representatives of the United States of America in Congress assembled, this Act may be cited as the "Civil Rights Act of 1991".

The State of Delaware Merit Grievance

A "grievance" means an employee complaint about the application of the Merit Rules or the Merit System law which remains unresolved after informal efforts have been tried. If you wish to file a grievance, please provide the information requested below. The grievance must be filed with your immediate supervisor (or with your agency's top personnel official or representative if it involves a dismissal, suspension or demotion) within 14 calendar days of the date of the issue that caused the grievance ("grievance matter"), or within 14 calendar days of the date you could reasonably be expected to know about the grievance matter.

1 **What happened---when did it happen--- who was involved?** (Example: "On May 7, 2000, I received a notice from Human Resources Technician Andrea Doria that I was not selected for promotion to the position of Administrative Officer.")

2 **Which Merit Rule or section of the Merit System law was violated, and why?** (Example: Merit Rule 13.0100 was violated because the person selected does not meet the minimum requirements for the position.")

3 **What remedy do you seek?** (Example: "Repost the position and consider only those applicants who meet all the minimum requirements.")

4 **Name & home address:**

5 **Agency & location:**

6 **Union or other representative, if any:**

7 **Date:**

STRICTLY CONFIDENTIAL
Internal Complaint Form

Name: _____ Gender: _____ Race: _____
(optional) (optional)

Div/Sec: _____ Work Location: _____
(building)

Class Title: _____ Paygrade: _____

Supervisor's Name and Title: _____

Have you talked with management? Yes ___ No ___ Date: _____

If yes, with whom: _____ Class Title: _____

If no, name of other party: _____

Date(s) of occurrence: _____ Continuing? Yes ___ No ___

Name of Witness(es): _____

Nature of Complaint: (use additional paper if needed) _____

If this is a sexual harassment complaint, have you contacted any other individual or agency to complain? If so, whom? _____

How have you tried to resolve the complaint? _____

How would you like to see the complaint resolved? _____

I affirm that the representations contained in this form are true and correct.

Signature of Complainant Required

Date of Complaint

You are required to complete this form for each individual complaint and provide it to the appropriate level supervisor in your Division. A copy of this form placed in a confidential envelope must be submitted to the DNREC Affirmative Action Officer, Trudy Mifflin, DNREC Human Resources Office, 89 Kings Highway, Dover, DE 19901.