

Policy

SUBJECT: Management Service Grievance & Appeal **NUMBER:** 70.000.10
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** draft 07/7/08

APPROVED: D R A F T

POLICY STATEMENT: The Executive Branch of the state of Oregon provides employees in the management service with a mechanism to resolve complaints regarding disciplinary and personnel actions taken by the employer.

AUTHORITY: ORS 240.145(3); 240.215(2); 240.250; 240.321(4); 240.560; 240.570(2)(4); 243.650(6)(16)(23)

APPLICABILITY: Management service employees

ATTACHMENTS: None

DEFINITIONS: **Disciplinary Action:** reprimand, reprimand in lieu of salary reduction, suspension without pay, reduction in pay and demotion, removal from management service, dismissal from state service.

Non-Disciplinary Personnel Action: those actions specified in ORS 240.570(2)

Grievance: A complaint alleging that an action (disciplinary or non-disciplinary) taken by management is contrary to ORS 240.570(2), 240.570(3) or 240.555.

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-000.

POLICY

(1) Management service employees may contest a disciplinary action by filing:

- (a) a grievance with the agency head or designee no later than 30 calendar days from the effective date of the disciplinary action or
- (b) an appeal with the Employment Relations Board (ERB) as provided by ORS 240.560(1) no later than 30 calendar days from the effective date of the disciplinary action or
- (c) both a timely grievance with the agency head or designee and a timely appeal with the ERB. NOTE: The 30-day deadline for filing with the ERB applies regardless of whether the employee grieves the disciplinary or personnel action to the agency.

(2) Management service employees may contest non-disciplinary personnel actions taken by the agency for assignment, reassignment, transfer, or removal by filing:

- (a) a grievance with agency human resources within the 30 calendar days from the effective date of the personnel action or

- (b) an appeal with the Employment Relations Board (ERB) as provided by ORS 240.560(1) no later than 30 calendar days from the effective date of the personnel action or
 - (c) both a grievance with the agency and an appeal with the ERB. NOTE: The 30-day deadline for filing with the ERB applies regardless of whether the employee grieves the disciplinary or personnel action to the agency.
- (3) The agency does not retaliate against employees who use the grievance or appeal process.
- (4) Employees may have an attorney or a management service coworker present during the grievance review process.
- (5) The agency excuses the employee from work without loss of pay to attend any meeting relating to a grievance when the employer requires the employee's presence.
- (6) Procedures

(a) To contest disciplinary actions

Grieve to:

AGENCY HEAD

- Employee files grievance with agency head or designee so that agency receives the grievance within 30 calendar days of the effective date of the disciplinary action.
- Agency head or designee affirms or denies grievance within 15 calendar days of receipt of grievance. Failure of the agency head to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.

&/OR Appeal to:

EMPLOYMENT RELATIONS BOARD (ERB):

- Employee files appeal with ERB so that ERB receives appeal within 30 calendar days of the effective date of disciplinary action.
- Agency and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal
- ERB responds to employee and agency head.

(b) To contest non-disciplinary personnel actions (assignment, reassignment, transfer, or removal for the good of the service or due to reorganization or lack of work):

Grieve to:

AGENCY HUMAN RESOURCES:

- Employee files grievance with Agency HR so that Agency receives grievance within 30 calendar days of the effective date of the non-disciplinary personnel action.
- Agency HR affirms or denies grievance within 15 calendar days of receipt of the grievance. Failure of agency HR to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.

&/OR Appeal to:

EMPLOYMENT RELATIONS BOARD (ERB):

- Employee files appeal at ERB so that ERB receives the appeal within 30 calendar days of the effective date of the non-disciplinary personnel action.
- Agency HR and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal.

-- Employee may advance grievance to agency head or

-- ERB responds to employee and agency HR.

designee within 7 calendar days of receipt of grievance response from Agency HR. Employee shall confine the subject matter of the grievance to the original grievance.

-- Agency head or designee shall affirm or deny grievance within 15 calendar days of the receipt of the grievance. Failure of the agency head or designee to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.