

**SUBJECT:** Classified Unrepresented Grievance and Appeal      **NUMBER:** 70.005.05  
**DIVISION:** Human Resource Services Division      **EFFECTIVE DATE:** D R A F T 7/7/08

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**APPROVED: D R A F T**

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

**AUTHORITY:** 240.145(3); 240.215(2);

**APPLICABILITY:** Classified unrepresented employees

**ATTACHMENTS:** None

**DEFINITIONS:** **Grievance:** For purposes of this policy, a grievance is a complaint based on an action taken by an appointing authority or designee alleged to be arbitrary or contrary to law, rule or policy.

See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

**POLICY**

- (1) A classified unrepresented employee who believes a personnel action taken by the agency is arbitrary, contrary to law, rule or policy, or taken for political reason, may appeal that action to the Employment Relations Board (ERB) under OAR 115-045-0020. The employee may also file a grievance with the agency or may file both an appeal with the ERB and a grievance with the agency concerning a personnel action. Such personnel actions include but are not limited to reprimands of regular status, unrepresented employees in the classified service.
  - (a) Appeals to the ERB must be filed no later than 30 calendar days after the effective date of such action. If an employee chooses to pursue a grievance with the agency and wait for a final decision before appealing the action to the ERB, they may miss the 30 calendar day filing deadline and be precluded from filing an appeal with the ERB. An employee can file a grievance simultaneously 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 ACTION TO THE AGENCY.
  - (b) A grievance filed with the agency must be filed in writing no later than 30 calendar days after the time the employee knows, or by reasonable diligence should have known, of the act or omission on which the grievance is based.
  - (c) State agencies do not retaliate against employees who use the grievance or appeal process.
  - (d) Employees may have an attorney or a coworker present during the grievance review or appeal process.
  - (e) 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. .

## (2) Procedure

- (a) If the employee decides to file an appeal, it must be filed with the ERB no later than 30 calendar days after the effective date of the action.
- (b) The employee may also file a grievance, in writing, with the immediate supervisor within the 30 day time limitation sated above in (1)(c). If the grievance involves the immediate supervisor, the employee may file the grievance at the next level of management.
- (c) The immediate supervisor shall affirm or deny the grievance, in writing, no later than 15 calendar days after the receipt of the grievance. Failure of the immediate supervisor to respond no later than 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.
- (d) The employee may advance, in writing, a grievance denied at the immediate supervisor level to the agency head or designee, no later than seven (7) calendar days after the supervisor's written decision was due or received. The employee, if advancing a grievance, shall confine the subject matter of a grievance to that which was presented in the original written grievance.
- (e) The agency head or designee shall affirm or deny the grievance, in writing, no later than 15 calendar days after receipt of the grievance. Failure of the agency head or designee to respond no later than 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.
- (f) The employee may file, in writing, a discrimination grievance with the state's Affirmative Action Office, the Civil Rights Division of the Oregon Bureau of Labor and Industries, or the federal Equal Employment Opportunity Commission.
- (g) If the employee files an appeal with the ERB, the agency head and the employee may agree to request the Conciliation Service Division of the ERB to mediate the appeal.

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Performance Measure: Percent of grievances which received final determination with 60 days

Performance Standard: 100%