

<b>SUBJECT:</b> Management Service Grievance and Appeal	<b>NUMBER:</b> 70.000.10
<b>DIVISION:</b> Chief Human Resources Office	<b>EFFECTIVE DATE:</b> 2/01/2019

**APPROVED:** Signature on file with the Chief Human Resources Office

**POLICY STATEMENT:** Oregon state government 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); 240.250; 240.321(4); 240.560; 240.570(2)(4); 243.650(6)(16)(23)

**APPLICABILITY:** Management service employees, excluding limited duration positions

**ATTACHMENTS:** None

**DEFINITIONS:** Disciplinary Action: reprimand, reprimand in lieu of salary reduction, salary reduction, suspension without pay, 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 an action (disciplinary or non-disciplinary) taken by management is contrary to ORS 240.570(2) or 240.570(3)

Also refer to State HR Policy 10.000.01, Definitions

**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.

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- (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 the agency's human resource management within 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) Retaliation against employees who use the grievance or appeal process is prohibited.
- (4) Employees may have an attorney or a management service employee (from the employing agency or another state agency) present during the grievance review process. An employee's request for an individual to attend the grievance review process may not unreasonably delay the review. The actual attendance of the individual may not obstruct 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 or Designee	And/ Or	Appeal to the Employment Relations Board (ERB)
1. 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.		1. Employee files appeal with the ERB so that the ERB receives appeal within 30 calendar days of the effective date of disciplinary action.
2. 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.		2. Agency and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal  3. The 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):

<b>Grieve to Agency Human Resources Management</b>	<b>And/ Or</b>	<b>Appeal to the Employment Relations Board (ERB)</b>
<p>1. 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.</p> <p>2. Agency HR affirms or denies grievance within 15 calendar days of receipt of the grievance. Failure of agency HR management 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.</p> <p>3. Employee may advance grievance to agency head or designee within seven (7) calendar days of receipt of grievance response from agency HR management. Employee shall confine the subject matter of the grievance to the original grievance.</p> <p>4. 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.</p>		<p>1. Employee files appeal at the ERB so that the ERB receives the appeal within 30 calendar days of the effective date of the non-disciplinary personnel action.</p> <p>2. Agency HR and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal.</p> <p>3. The ERB responds to employee and agency HR.</p>