

Approved:

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Department of Transportation

## CAREER SERVICE EMPLOYEE GRIEVANCE

### PURPOSE:

This procedure establishes the method of handling a Career Service employee's grievances within the Department of Transportation (Department) in accordance with the provisions of **Section 110.227 (4), Florida Statutes (F.S.)**.

### AUTHORITY:

Sections 20.23(3)(a); 334.048(3), F.S.

### SCOPE:

This procedure applies to all Department Career Service employees.

### REFERENCES:

Sections 110.1165, 110.201(1), 110.227(4), F.S.

### DEFINITIONS:

**Business Days:** The normal business hours (days) of any State agency, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding approved State holidays and office closures.

**Career Service Employee Grievance (Grievance):** The dissatisfaction that occurs when an employee believes that any condition affecting the employee is unjust, inequitable, or a hindrance to effective operation.

**Grievant:** A Career Service employee who has satisfactorily completed the designated probationary period in his or her current position and has filed a grievance in accordance with the provisions of this procedure.

**Step 1 Respondent:** The person to whom a grievance will initially be referred. The Grievant's supervisor, or the supervisor's designee, shall fulfill this role unless the grievance arises from the action of a higher-level manager than the Grievant's

supervisor, in which case the grievance will be referred to and addressed by that higher level manager. In any case, the Step 1 Respondent must be a Selected Exempt Service or Senior Management Service supervisor/manager of the Department. If this supervisor/manager is the District Secretary, Assistant Secretary or the Secretary, Step 1 will be omitted and the grievance processed as a Step 2.

**Step 2 Respondent:** The person who is the next higher level Senior Management Service manager over the Step 1 Respondent. If the employee's Step 1 Respondent reports directly to the Secretary, the Secretary will designate an Assistant Secretary as the Step 2 Respondent.

## **1. GENERAL PROCEDURAL INFORMATION**

A Career Service employee, who has satisfactorily completed the designated probationary period in his or her current position, has the right to file a grievance under the procedure. Claims of discrimination and sexual harassment or claims related to suspensions, reductions in pay, demotions, and dismissals are not subject to the grievance process. The right to file or continue the processing of a current grievance expires at the time of the Grievant's separation from the Department.

An employee may not process a grievance when the subject of the grievance and/or the relief requested has been or currently is the subject of another grievance process (e.g., union) or an administrative action or appeal before a governmental board or agency or court proceeding. If such a grievance was initiated prior to a similar action being filed with a governmental board or agency or court proceeding, the processing of the grievance will be terminated when the Department becomes aware of such external action.

Documentation related to a grievance must be maintained in a file(s) separate from the employee's official personnel file.

### **1.1 FILING REQUIREMENTS**

- A. Grievances and grievance responses may be filed by hand-delivery, mail (including e-mail), courier, or electronic facsimile. If sent via electronic facsimile, the burden shall be on the sending party to confirm the correct electronic facsimile number before transmission.
- B. Documents shall be deemed filed upon receipt during regular business hours. Documents received after business hours shall be considered received the next business day.
- C. All time frames specified herein may be extended in writing by mutual agreement between the Grievant and the respective Step Respondent or designee. Any time extension agreement must be coordinated through the Department's Director of Human Resources or designee.

## 1.2 USE OF TIME AND EQUIPMENT PREPARING AND PRESENTING A GRIEVANCE

- A. An employee will not disrupt his or her work schedule to present a grievance. The employee and appropriate Respondent will arrange a time during working hours that is convenient and mutually agreeable to present the grievance. The appropriate Respondent must give this meeting prompt attention, noting when the meeting was originally requested.
- B. Time spent by the employee presenting his or her grievance to the Step 1 Respondent will be considered work time.
- C. Time spent preparing, researching, documenting or investigating the grievance by the employee must be conducted on the employee's own time or covered by authorized leave with or without pay. A reasonable amount of time during work hours will be allowed to make copies required by this procedure and/or to actually complete the official Career Service grievance form.
- D. Employees are not authorized to use State property, equipment, or personnel to research, document, or investigate their grievance at any step of the grievance process. This prohibition does not include the use of State equipment for the purpose of completing and copying the official **Employee Grievance Form, Form No. 250-025-01**, or the copying of other documents required by this procedure.
- E. Any request for information by the employee will be handled as a public records request.
- F. Time spent by an employee attending a Step 2 meeting will be considered work time.

## 2. STEP 1

An employee with permanent status in their current position may present a grievance to the Step 1 Respondent **in writing**, as prescribed below, **within 14 calendar days** following the occurrence of the event giving rise to the grievance, unless an alternate time frame is agreed to in writing.

The employee's failure to timely file the grievance shall be deemed a waiver of the grievance. This time frame will be enforced in all cases.

**WHEN PRESENTING HIS OR HER GRIEVANCE IN WRITING, THE EMPLOYEE (GRIEVANT) MUST:**

- Complete the ***Employee Grievance Form, Form # 250-025-01***, as specified in ***Section 2.1*** below and attach copies of any relevant documentation;
  - File the original of the written grievance (completed form and attachments) with the Step 1 Respondent; and
  - Forward a copy of the written grievance (completed form and attachments) to the local Human Resources Office and to the Director of Human Resources, or designee. ***The grievance is not filed until the Director of Human Resources, or designee, receives a copy.*** Grievances may be faxed to (850) 414-4953, interoffice mailed to M.S. 50, or emailed to CSGrievance@dot.state.fl.us.
- 2.1** While completing the ***Employee Grievance Form, Form # 250-025-01***, the Grievant must specify the following:
- The specific nature or subject matter of the grievance;
  - The specific issues the Grievant feels are involved;
  - The exact date(s) and event(s) giving rise to the grievance; and
  - The remedy or relief sought (what should be done) to resolve the grievance.
- 2.2** If the information required in ***Section 2.1*** is not provided by the Grievant, the grievance will be rejected and the Grievant so advised. The Grievant may correct the deficiency and resubmit the grievance provided the resubmittal is received within the time limits specified above.
- 2.3** The Director of Human Resources, or designee, will determine if the grievance is valid; and, if so, the Step 1 Respondent will respond as specified below.
- 2.4** If the grievance is determined to have been filed timely and in accordance with the provisions contained in ***Section 2.1***, the Step 1 Respondent must meet with the Grievant to discuss the grievance and provide a written response to the Grievant within **seven (7) business days** following receipt of the grievance. Prior to this grievance meeting, the Step 1 Respondent should have reviewed the grievance and contacted any appropriate parties whose input is necessary to render his or her decision.

- 2.5 The Step 1 Respondent will document his or her decision to the Grievant by completing the ***Employee Grievance Disposition Form, Form # 250-025-01A***, and providing a copy to the employee within **seven (7) business days** following receipt of the grievance unless an extension is agreed upon (see **Section 1.1**) Failure by the Step 1 Respondent to communicate the decision within **seven (7) business days** or other agreed upon time following receipt of the grievance, will permit the employee to proceed to Step 2.
- 2.6 Any response to the grievance involving the interpretation of Career Service Personnel Rules or procedures should first be reviewed by the Department's Director of Human Resources, or designee, in consultation with the Office of the General Counsel.
- 2.7 The Step1 Response to the grievance may not be contrary to or violate any law, rule, policy, or procedure of the Department. No decision or agreement may be made that contains a provision authorizing the concealment of information relating to a disciplinary action or other adverse employment decision from the remainder of a personnel file. A written reprimand or counseling session may be marked '**not valid**', but it cannot be physically removed from the employee's official personnel file.
- 2.8 Completion of the ***Employee Grievance Disposition Form, Form # 250-025-01A***, requires the Step 1 Respondent to:
- Identify and explain the issues he or she as a manager or supervisor believes are involved in the grievance;
  - Summarize his or her findings of the facts involved;
  - Clearly and concisely state his or her decision; and
  - State the basis and/or facts relied upon for the decision.
- 2.9 Once the Grievant receives the Step 1 Respondent's decision, the grievance will be considered **resolved**.

### 3. **STEP 2**

**If dissatisfied with the Step 1 resolution**, a Grievant must request review by the Step 2 Respondent in writing **within seven (7) business days** following receipt of the Step 1 Respondent's written decision.

The Grievant must also provide a copy of the request for Step 2 review to the Department's Director of Human Resources, or designee.

If the Grievant fails to file the Step 2 grievance within **seven (7) business days of receipt of the Step 1 decision**, the grievance will be deemed closed and the Grievant's right to further review of the grievance or subsequent related issues or subsequent related issues is waived.

A new grievance form is not required for Step 2 of this process; however, the Grievant must provide the Step 2 Respondent with the following:

- A copy of the original **Employee Grievance Form, Form # 250-025-01**, submitted at Step 1;
- Copies of the Step 1 decision; and
- The specific reason(s) stating why the Step 1 decision did not satisfy the Grievant. The Grievant may not raise new issues not identified in the Step 1 submittal or decision.

- 3.1 The Step 2 Respondent, or his or her designee, must meet with the employee to discuss the grievance within **five (5) business days** following receipt of the grievance.
- 3.2 Any response to the grievance involving the interpretation of Career Service Personnel Rules or procedures should first be reviewed by the Department's Director of Human Resources.
- 3.3 Any response to the grievance involving the interpretation of Department policy, rules, or procedures should first be discussed with the Department's Director of Human Resources, who may consult with the appropriate Assistant Secretary, District Secretary, or the Office of the General Counsel.
- 3.4 The Step 2 Response to the grievance may not be contrary or violate any law, rule, policy, or procedure of the Department. No decision or agreement may be made that contains a provision authorizing the concealment of information relating to a disciplinary action or other adverse employment decision from the remainder of a personnel file. A written reprimand or counseling session may be marked '**not valid**'; but it cannot be physically removed from the employee's official personnel file.
- 3.5 The Step 2 Respondent or his or her designee must respond in writing to the employee within **five (5) business days** following the Step 2 meeting unless an extension is agreed upon. (Refer to **Section 1.1.**)
- 3.6 The Step 2 Response (decision) must be on the **Employee Grievance Disposition Form, Form #250-025-01A**, or in letter or memorandum format to the Grievant. Copies of the decision must also be provided to the Department's Director of Human Resources, or designee.

- 3.7** The written decision of the Step 2 Respondent shall be the final authority for all grievances filed pursuant to this grievance procedure. Such grievances may not be appealed beyond Step 2. A Grievant may not file a subsequent grievance challenging the Step 2 Respondent's decision.

#### **4. TRAINING**

Human Resources Training for Supervisors, CBT # SU-18-0046, covers this procedure.

#### **5. FORMS**

The following forms are available from the Department's Forms Library:

**Form No.** 250-025-01, Employee Grievance Form

**Form No.** 250-025-01A, Employee Grievance Disposition Form