



Approved by
The Commission

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EMPLOYMENT DISPUTE RESOLUTION

AUTHORITY

This Administrative Practice was initially approved by the Executive Committee at its meeting of January 31, 1977 and last amended by the Executive Director on June 21, 2017.

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PURPOSE AND BACKGROUND

This Practice was initially developed to communicate requirements for the review of administrative grievances. As originally approved, the practice has been revised as follows:

- June 13, 1979: Incorporated revisions to the Merit System Rules and Regulations pertaining to grievances and complaints.
- December 15, 2010: Policy amended to:
 - Provide one comprehensive resource on the reporting and handling of: (1) administrative grievances; (2) complaints directly appealable to the Merit System Board; and (3) complaints of discrimination;
 - Incorporate amendments to the Merit System Rules and Regulations and to equal employment opportunity laws;
 - Ensure greater consistency among complaint categories with respect to filing of concerns and management reviews; and
 - Communicate guidance on the applicability of collective bargaining agreements, use of alternate dispute resolution/mediation, duplication of complaints, grievance assistance/representation, and confidentiality of grievance records.
- June 21, 2017: Policy amended to conform with amendments to Chapter 2000 (Disputes) of the Merit System Rules and Regulations permitting concurrent internal and external complaints.

REFERENCES

Commission Policies and Collective Bargaining Agreements

- Merit System Rules and Regulations.
- Commission Administrative Practice 2-16, Seasonal/Intermittent, Temporary, and Term employment.

- Collective bargaining agreements for members of the Fraternal Order of Police and Municipal County Government Employees Organization.

Maryland Annotated Code, Article 28

Federal/State employment laws including but not limited to:

- Title VII of the Civil Rights Act of 1964.
- The Equal Pay Act of 1963.
- The Age Discrimination in Employment Act of 1967.
- Title I of the Americans with Disabilities Act of 1990.
- The Genetic Information Nondiscrimination Act of 2008.

APPLICATION

This Practice applies to all Merit System employees. Represented employees should consult their respective collective bargaining agreement for applicable dispute resolution procedures. Contract employees shall use the dispute resolution procedures referenced in Practice 2-16, Seasonal/Intermittent, Temporary, and Term employees.

Disputes may be filed by individual employees or a group or groups of employees. In appeals relating to disciplinary actions against Park Police officers, the provisions of the Law Enforcement Officers' Bill of Rights, Section 3-101, et seq., of the Public Safety Article of the Annotated Code of Maryland shall supersede relevant sections of the Merit System Rules and Regulations. Park Police officers who are not otherwise covered by the collective bargaining agreement between the Commission and the Fraternal Order of Police may invoke this Practice for all non-disciplinary disputes.

DEFINITIONS

Complainant (or grievant): An employee who files a dispute.

Confidential Designee: An employee who assists or acts in a confidential capacity with respect to an individual who formulates, determines or effectuates management policies in the area of labor-management relations.

Dispute (or complaint or grievance): A formal request for review of a concern arising out of an employee's expressed dissatisfaction with an employment decision, the terms or/conditions of employment, or treatment by management, coworkers or third parties doing business with the Commission. The types of disputes that may be filed include:

- **Administrative Grievance**: A complaint due to a violation, misinterpretation, or misapplication of Commission policies including the Merit System Rules and Regulations, Administrative Practices or Administrative Procedures; or existing policy and/or orders applicable to the employee's department;
- **Adverse Action Appeal**: A complaint, arising from an employment action, which adversely affects an employee's pay or employment status.
- **Classification Appeal**: A complaint arising from an employee's dissatisfaction with a position classification decision issued by the Human Resources Director.

DEFINITIONS (continued)

- **Discrimination Complaint:** A complaint based on an allegation of unfair treatment or the limitation of employment opportunities on the basis of race, color, religion, sex, age, national origin, sexual orientation, disability, genetic information or other unlawful factor as set forth in applicable federal, state, and local laws.

Merit System Board: An impartial Board responsible for making recommendations and decisions regarding the Commission's Merit System. The Merit System Board is the highest level for administrative review and proceedings within the Commission.

POLICY

All employees and applicants for employment shall be treated fairly, and employment actions shall comply with adopted policies and applicable laws and regulations.

Employment discrimination is prohibited by law and will not be tolerated. It is the responsibility of management and each employee to respect the rights of others in the workplace and refrain from prohibited conduct.

Should concerns arise, management shall ensure that complaints are reviewed expeditiously and that necessary corrective actions are taken in a timely manner. Individuals shall be free from restraint, harassment, interference, intimidation, coercion, or reprisal for filing a complaint, cooperating with an investigation of a complaint, or seeking information pertinent to the matter being reviewed.

HANDLING OF EMPLOYMENT DISPUTES

The following provisions set forth requirements for reporting and reviewing formal employee complaints as described below:

- I. Administrative Grievances
- II. Complaints/Actions Directly Appealable to the Merit System Board
 - Adverse Actions
 - Position Classification Decisions
- III. Complaints of Discrimination
- IV. General Provisions

While these provisions outline the process for review of formal complaints, they are not intended to prevent an employee from discussing any workplace concern directly with his/her supervisors in an effort for informal resolution. Informal reviews shall not delay the filing of formal written complaints within the timelines established in this policy.

I. ADMINISTRATIVE GRIEVANCES

Pursuant to the Merit System Rules and Regulations (Chapter 2000, Disputes), an Administrative Grievance is a formal complaint arising out of a disagreement regarding the terms and conditions of employment; or out of an alleged misinterpretation, misapplication, or violation of any Commission policy, procedure, or practice.

Examples of Concerns That May Be Filed Under the Administrative Grievance Process:

- Misinterpretation or improper application of a Commission policy such as the Merit System Rules and Regulations, Administrative Practices, or Administrative Procedures.
- A violation of established departmental workplace policies.
- Failure to adhere to terms and conditions of employment.

Concerns That May Not Be Filed Under the Administrative Grievance Process:

- Performance evaluation ratings, except in cases of a failure to follow established procedures.
- Placement on a Performance Improvement Plan.
- Any employment action that is considered an adverse action, complaint, classification decision or other matter that is directly appealable to the Merit System Board (see Section III, Complaints/Actions Directly Appealable to the Merit System Board).
- Complaints of discrimination (see Section II, Discrimination Complaints).

A. Who May File An Administrative Grievance

An Administrative Grievance may be filed by probationary and career Merit System employees, except as noted for appeals to the Merit System Board.

B. Administrative Grievance Process

1. Grievance Is Filed for Supervisory Review (Level 1 Review)

A Merit System employee shall file a written complaint within thirty (30) calendar days from when the employee knew or should have known of the action that is the basis of the complaint.

- a. The complaint shall be filed with the employee's immediate supervisor with a copy to the employee's division chief, except in the following situations:
 - If the immediate supervisor is allegedly responsible for the concern being grieved, the employee should file the complaint directly with the division chief.

- If the complaint is being filed with the division chief, a copy of the grievance shall be forwarded to the Department Head for informational purposes.
 - If the action being grieved was taken by an authority higher than the level of division chief, or the division chief is allegedly responsible for the action being grieved, the employee should file the Administrative Grievance directly with the Department Head (See step #2, Department Head Review).
- b. Using the *Complaint Reporting Form* (Appendix A), the employee should provide background information to assist with a thorough review of the Administrative Grievance concerns. At a minimum, the following information shall be provided:
- Date/location of action being grieved.
 - A detailed description of the action being grieved.
 - Specific policy area that has been misapplied/misinterpreted or violated along with any details supporting the allegations.
 - Remedy that is being sought.
 - Names/titles of individuals responsible for the grieved action.
 - If applicable, names of any individuals who have witnessed the allegation or have direct knowledge of the alleged violations.
 - Any steps taken to resolve the grievance prior to filing of the formal grievance.

The employee may provide other supporting information and copies of documents that he/she feels is relevant to the review of concerns.

- c. Supervisor's Response
The supervisor shall have thirty (30) calendar days from receipt of the Administrative Grievance to issue a written response.

- (1) The supervisor should promptly investigate the matter through a review of the record and facts of the case. Such review may include discussions with the employee and/or other individuals relevant to the complaint.

Following the investigation, the supervisor shall prepare a written response to the Administrative Grievance concerns. The

response shall address the employee's specific allegation(s) and include any applicable recommendations. The written response shall be reviewed by the division chief before it is issued to the grievant.

- (a) If the supervisor's review finds that the grievance allegations are not supported, the response shall explain the reason for denial of the grievance.
- (b) If the review results in a finding of policy concerns (misapplication, misinterpretation, violation, or failure to adhere to terms/conditions of employment), the supervisor and division chief also must consult with the Department Head regarding potential employment or disciplinary actions. Disciplinary actions must be issued by the Department Head after consultation with the Human Resources Director.

A copy of the supervisor's response shall be forwarded to the Department Head and Human Resources Director.

The supervisor's response shall be final unless the concern is appealed to the Department Head.

- (2) If the supervisor deems the complaint to be beyond his/her authority to resolve, the complaint shall be discussed with the division chief and the Human Resources Director to determine the appropriate level at which the grievance should be reviewed. The employee shall be notified in writing by the supervisor of the appropriate review level/review party. A copy of the notification shall be forwarded to the Department Head and Human Resources Director.

Management shall take all reasonable steps to ensure timely review of the employee's complaint. If an extension of time is required to allow for a 30-day response period by the reassigned reviewer, the employee shall be provided written notification of when the

review is anticipated to be completed and the appropriate level/timing of appeal should the employee be dissatisfied with the finding.

2. Review by the Department Head (Level 2 Review)

- a. A Merit System employee (career or probationary) may request Department Head review of an Administrative Grievance pursuant to the following provisions:
 - (1) Appeal of a Supervisor's Response:
If an employee is dissatisfied with the supervisory response to an Administrative Grievance (*Level 1 Review*), a written appeal may be filed with the Department Head within thirty (30) calendar days after the latter of these events:
 - (a) Receipt of written decision from the supervisor on the administrative grievance; or
 - (b) Date that the supervisor's decision was due.
 - (2) Filing Directly with the Department Head
If the action being grieved was taken at or above the level of the employee's division chief, the employee may file the Administrative Grievance directly with the Department Head. In such cases, the grievance must be filed no later than thirty (30) calendar days after the employee knew or should have known of the action/event giving rise to the grievance.
- b. The grievance shall be filed using the *Compliant Reporting Form* (Appendix A). The employee shall provide the same information that is requested in the Level 1, supervisory review of a grievance (see Administrative Grievance Process, section B. 1. b.). If the grievance was reviewed prior to filing with the Department Head, the employee also shall provide:
 - (1) A copy of the Level 1 response; and
 - (2) An explanation of why the employee believes the supervisor's response failed to address the Administrative Grievance.

c. Department Head's Response

The Department Head shall issue a written response within thirty (30) calendar days from receipt of the complaint.

- (1) The Department Head should promptly investigate the matter, by reviewing the record and facts of the case. Such review may include discussions with the employee and/or others involved and propose a means of resolving the grievance or reject it on a finding of facts. The Department Head may assign any portion of the investigation to a confidential designee as appropriate for the issue being grieved.
- (2) The Department Head shall issue the employee a written response that includes:
 - (a) Explanation of the findings;
 - (b) Recommended actions, if any; and
 - (c) Individuals/positions responsible for implementing recommended actions.

A copy of the Department Head's response shall be forwarded to the Executive Director.

The response shall be final unless the grievant appeals within seven (7) calendar days to the Executive Director.

3. Appeal to the Executive Director (Level 3 Review)

If a Merit System employee (probationary or career) is dissatisfied with the Department Head's response to an Administrative Grievance, the matter may be appealed to the Executive Director.

- a. A written appeal shall be filed with the Executive Director within seven (7) calendar days after the later of these events:
 - (1) Receipt of the written grievance decision from the Department Head; or
 - (2) Date that the Department Head's decision was due.
- b. The appeal shall be filed using the *Complaint Reporting Form* (Appendix A). The employee shall provide the same information that is requested in the

Level 1, supervisory review of a grievance (see Administrative Grievance Process, B. 1. b.). If the complaint was reviewed prior to filing with the Executive Director, the employee also shall provide:

- (1) A copy of all departmental responses; and
- (2) An explanation of why the employee believes the Department Head's response failed to address the Administrative Grievance.

c. The Executive Director's Response

The Executive Director shall issue a written response to the Administrative Grievance within thirty (30) calendar days of receiving the appeal.

- (1) As part of the review, the Executive Director may request additional background information from the grievant, his/her department, or others involved, to ascertain the facts surrounding the allegations and to determine if any remedial action has already been taken.
- (2) The Executive Director may assign any portion of the investigation to the Human Resources Director or other confidential designee as appropriate for the issue being grieved.
- (3) The Executive Director's decision shall be final unless it is appealed to the Merit System Board.

4. Appeals to the Merit System Board (Level 4 Review)

If a career Merit System employee is dissatisfied with the Executive Director's response to an Administrative Grievance, a written appeal may be filed with the Merit System Board.

Appeals to the Merit System Board are not available to Merit System employees who have not successfully completed their new-hire probationary period and attained career status.

a. Appeals must be filed directly with the Merit System Board within seven (7) calendar days following the later of these events:

- (1) Receipt of the written grievance decision from the Executive Director; or

(2) Date that the Executive Director's decision was due.

b. Appeals to the Merit System Board shall follow the provisions of Merit System Rules and Regulations, Chapter 2100, Appeals and Hearings.

II. COMPLAINTS/ACTIONS DIRECTLY APPEALABLE TO THE MERIT SYSTEM BOARD

Pursuant to the Merit System Rules and Regulations, concerns related to employment adverse actions and position classification decisions (as described below), may be appealed directly to the Merit System Board without prior review by the employee's department or the Executive Director.

A. Concerns Which May be Appealed

1. Adverse Actions

Pursuant to the Merit System Rules and Regulations (Chapter 2000, Disputes), employment actions that adversely affect a Merit System employee's pay, employment status, or benefits, may be the subject of an Adverse Action appeal.

Adverse actions include:

- Suspensions;
- Demotions as a result of discipline;
- Loss of accrued leave; and
- Dismissals (all involuntary terminations including those resulting from discipline, performance, abandonment of position, fitness for duty separations, and separations not in good standing, and Reduction-In-Force);¹

2. Position Classification Decisions

Pursuant to the Merit System Rules and Regulations (Chapter 900, Classification), an employee who is dissatisfied with a classification decision issued by the Human Resources Director may appeal the decision by filing directly with the Merit System Board.

B. Who May File an Appeal

Appeals to the Merit System Board may be filed only by Merit System employees who have successfully completed their new-hire probation and attained career status.

Merit System employees who have not completed their new-hire probation do not have appeal rights to the Merit System Board.

¹ Merit System Rules and Regulations (Chapters 1000, Performance Management; 1900, Discipline; 2200, Reduction-In-Force; and Chapter 2300, Terminations).

These employees may utilize the Administrative Grievance process for Adverse Actions through a Level 3 Review by the Executive Director. The Administrative Grievance Process is not available for review of classification decisions.

C. Appeal Process

The Merit System Rules and Regulations (Chapter 2100, Appeals and Hearings) shall be consulted for filing and review of appeals. In all cases, written appeals must be filed directly with the Merit System Board no later than seven (7) calendar days from receipt of an Adverse Action, classification decision, other action/decision that is directly appealable to the Merit System Board. The Merit System Board serves as the final internal administrative appellate body.

III. COMPLAINTS OF DISCRIMINATION

Employment discrimination includes any action or policy which limits or results in unfair treatment in any aspect of employment, or other working conditions on the basis of race, color, religion, sex, age, national origin, sexual orientation, marital status, disability, genetic information, or other unlawful factor as set forth in applicable laws.

Examples of Prohibited Actions Include:

- Discrimination in hiring, firing, compensation, promotion, training, job assignments based on a prohibited factor.
- Unfair treatment or harassment by managers, supervisors, co-workers, or others in your workplace, because of discrimination. Harassment is discriminatory conduct that creates an intimidating, offensive, abusive, or hostile work environment.
- Denial of a reasonable workplace accommodation due to a qualified disability.
- Sexual harassment is harassment on the basis of sex discrimination. It involves unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct when:
 - Submission to such conduct is made, explicitly or implicitly, a term or condition of employment;
 - Submission to or rejection of such conduct is used by the offender as the basis for employment decisions; or
 - Such conduct has the purpose or effect of interfering with the employee's work performance or creating an intimidating, hostile or offensive work environment.
- Retaliation against an employee who files a complaint of discrimination or otherwise participates in the investigation or proceedings relating to such a complaint. (See below).

Requests for consideration of a reasonable accommodation under the Americans With Disabilities Act should not be filed using the Dispute Resolution Process. Such requests may be filed directly with the Human Resources Director (Department of Human Resources and Management, 6611 Kenilworth Avenue, Suite 404, Riverdale Maryland, 20737).

A. Who May File A Complaint of Discrimination

Any Merit System employee or applicant for a Merit System position who believes she/he has been subjected to discrimination may file a complaint.

B. Discrimination Complaint Process

While the following procedures establish timelines for the filing and review of discrimination complaints, the Commission encourages that concerns of discrimination be reported immediately to expedite necessary resolution.

1. Department Head Review

a. A written complaint may be filed directly with the Department Head no later than thirty (30) calendar days of the alleged incident/action. Complaints must be filed directly with the Executive Director if the alleged discrimination is caused by:

- An individual or action of another department;
- The employee's Department Head;
- A vendor doing business with the Commission;
- An action/incident involving application for employment or promotion to a Merit System position; or
- A patron utilizing Commission programs/facilities.

Under these circumstances, the employee should move to step #2, Executive Director Review of a Discrimination Complaint.

b. Using the *Complaint Reporting Form* (Appendix A), the employee should provide background information to assist with a thorough review of the concern. At a minimum, the following information shall be provided:

- Date/location of action/incident that is the basis of the complaint;
- A specific description of the alleged discrimination to include details of any actions/events that occurred;
- Listing of any items/documents or other evidence to support the allegations of discrimination;
- Names/titles of individuals responsible for alleged discrimination;

- If applicable, names of any individuals who witnessed or have direct knowledge of the alleged discrimination; and
- If relevant, a description of any remedial action taken to date.

c. Department Head's Response

- (1) The Department Head should promptly investigate the matter by reviewing the allegations and the facts of the case. Such review may include discussions with the employee, other involved persons, and/or witnesses to the allegations. The Department Head may assign any portion of the investigation to a confidential designee as appropriate for the issue being grieved.
- (2) The Department Head shall issue a written response within thirty (30) calendar days from receipt of the complaint. The Department Head's response shall be issued to the employee and include:
 - Explanation of the finding.
 - Recommended actions, if any. If the Department Head's review reveals a finding of discrimination, the Human Resources Director should be consulted for appropriate employment actions and/or applicable discipline.
 - Individuals/positions responsible for implementing recommended actions.

A copy of the Department Head's response shall be forwarded to the Executive Director.

The response shall be final unless the complainant appeals to the Executive Director within seven (7) calendar days of the Department Head's response.

- (3) If the Department Head believes that the concern should be investigated by an external party, the matter may be referred to the Executive Director for appropriate action. In such cases, the complainant shall be notified of any change in the investigation. The complainant shall be notified in writing as to who will be conducting the review, when the

review is anticipated to be completed, and the appropriate level/timing of an appeal should the employee be dissatisfied with the finding.

2. **Executive Director's Review**

a. A complaint of discrimination may be filed with the Executive Director in the following circumstances:

(1) **Appeal of a Department Head's Response:**
When the employee is dissatisfied with the Department Head's response to a formal discrimination complaint, a written appeal shall be filed with the Executive Director within seven (7) calendar days following the later of these events:

- Receipt of the written decision from the Department Head; or
- The date that the Department Head's decision was due.

(2) **Direct Filing With the Executive Director:**
An individual may file directly with the Executive Director within thirty (30) calendar days of the alleged incident/action when discrimination is caused by:

- An individual or action of another department
- The employee's Department Head
- A vendor doing business with the Commission
- An action/incident involving application for employment or promotion to a Merit System position.
- A patron utilizing Commission programs/facilities.

b. The complaint of discrimination shall be filed using the *Complaint Reporting Form* (Appendix A). The employee shall provide the same information that is requested under section B.1.b. of the Discrimination Complaint Procedures. The employee shall also provide the Executive Director a copy of the Department Head's response, as well as an explanation of why the employee believes the response failed to address the discrimination complaint.

c. The Executive Director's Response

- (1) The Executive Director shall issue a response within thirty (30) calendar days of receiving the written appeal. Modification of this time frame shall be handled in accordance with Section IV. General Provisions.
- (2) As part of the review, the Executive Director may request additional background information from the grievant, his/her department, or others involved, to ascertain the facts surrounding the alleged actions and to determine if any remedial action has already been taken.
- (3) The Executive Director may assign any portion of the investigation to the Human Resources Director or other confidential designee as appropriate for the issue being grieved.
- (4) The Executive Director's decision shall be final unless the decision is appealed to the Merit System Board.

3. Appeals to the Merit System Board

A career Merit System employee who is dissatisfied with the Executive Director's response may appeal the decision to the Merit System Board. Appeals to the Merit System Board are not available to applicants or employees who have not attained career Merit System status.

- a. Appeals must be filed directly with the Merit System Board within seven (7) calendar days except under extraordinary circumstances beyond the control of the appellant as determined by the Merit System Board following the latter of these events:
 - (1) Receipt of the written grievance decision from the Executive Director; or
 - (2) Date that the Executive Director's decision was due.
- b. Appeals to the Merit System Board shall follow the provisions of Merit System Rules and Regulations, Chapter 2100, Appeals and Hearings.

4. External Options

It is the intent of the Commission to resolve all complaints of discrimination using the internal complaint process and every effort will be made to do so. All employees also have

the legal right to file a complaint with discrimination compliance agencies including, but not limited to, the Federal Equal Employment Opportunity Commission and the Maryland Commission on Human Relations.

- a. Any supervisor who receives a notice from an external entity that a complaint has been filed shall immediately refer the matter to the Human Resources Director.
- b. The Human Resources Director shall coordinate notification to relevant parties, including the Office of the General Counsel, for response to the complaint.

IV. **GENERAL PROVISIONS**

For general questions and guidance on available complaint resolution options, employees may contact the Commission's Employee/Labor Relations Office, Department of Human Resources and Management.

A. **Confidentiality**

All information received in connection with the complaint process will be treated confidential to the extent that it is feasible in the course of the investigation and is legally possible. Parties to a complaint will be expected to be discreet.

B. **Appropriate Level for Review/Resolution of Complaint**

Whenever the grievance arises from an action taken by a higher authority than the employee's immediate supervisor, the complaint may be initiated at the appropriate step of the grievance process. For example, if the action was taken by the employee's Division Chief, the employee may discuss the concern with the Division Chief or move directly to the Department Head. The employee is not required to attempt resolution with a supervisor who is at a lower level than the individual who has taken the action that is being grieved. Some actions are directly appealable to authorities outside the departmental chain of command and are outlined in relevant compliant provisions of Sections I through III.

C. **Extension of Review/Response Periods for Formal Complaints**

Management and complainants shall work together for the expeditious review of complaints. Management is responsible for promptly investigating concerns and issuing timely responses to filed complaints. Every effort shall be made to issue a response to complaints within established time frames. In exceptional cases, management may lengthen the review/response period when it is in the best interest of resolving the complaint.

Extensions shall be documented in the investigation file with a copy forwarded to the complainant and the Director of Human Resources.

The new response date shall be used to determine filing deadlines for any available appeals.

D. Appeals (Addition of New Issues)

An appeal of any complaint decision may not include additional issues that were not raised during the initial steps of the review process unless the new information is directly related to the matter being grieved **and** was not known to the employee during the initial steps of review.

E. Alternate Dispute Resolution/Mediation

Employees and supervisors are encouraged to use collaborative methods of resolving disputes and disagreements. Alternate dispute resolution (ADR) provides an optional method for review of employment concerns through use of mediation.

Any Merit System employee or management representative may request services of the ADR Program. For employee complaints covered by this Practice, ADR may only commence after an employee has filed a formal written complaint. Both parties to a dispute must agree to participate in ADR.

Use of ADR is not intended to alter the timeframes for filing of grievances or appeals unless prior written approval is attained from the Executive Director.

The ADR Program is not available for disputes or issues involving:

- Adverse actions;
- Actions filed or being reviewed by external Federal/State/local agencies, Courts, or arbitration;
- Concerns related to controlled substances, workplace violence, or criminal violations or
- Disputes involving personal injury.

The voluntary use of mediation during the employee dispute process does not diminish the Commission's ability to require mediation for other workplace matters that are not the subject of formal employee complaints.

F. Duplication of Complaints

▪ Duplicate Internal Complaints

Consistent with Merit System Rules and Regulations, Chapter 2000 (Disputes), an employee who files a complaint under any one internal dispute resolution process (administrative grievance, discrimination, or direct appeal to the Merit System Board), may not duplicate the complaint using another internal resolution procedure.

▪ Concurrent Internal and External Complaints

An employee, who files a complaint with an outside agency or tribunal (i.e., administrative or judicial charge with any Federal, State or local agency or court), may elect to file a concurrent or subsequent duplicate complaint using an internal resolution process.

In any matter where the employee elects to file with an outside agency or tribunal either concurrently or subsequent to the internal complaint with the Commission, he/she is not deemed to have waived the right to proceed with any internal employment dispute process relating to the same matter including any appeal to the Merit System Board. However, the Commission or Merit System Board may stay any other internal review/investigation relating to the same matter until such time as all outside proceedings have been exhausted with legal finality.

G. Grievance Assistance/Preparation

A grievant may request an individual to assist voluntarily during the dispute resolution process. Assisting includes accompanying or helping the grievant prepare the grievance. Assisting does not include representing the employee or acting as counsel for the employee unless the individual is retained as the employee's attorney.

An employee may retain an attorney at his/her own expense.

In such cases, the employee shall notify the dispute reviewer of the decision and provide contact information for the attorney. Upon notification, the dispute reviewer/investigator shall promptly advise the Commission's General Counsel.

H. Administrative Leave

A Merit System employee may request up to a total of (4) hours paid Administrative Leave during normal working hours to prepare documents examine files, and perform other related tasks incidental to the resolution of a filed complaint. Unless an unusual circumstance exists, the grievant shall request such time at least one work day in advance. The request shall be in writing to the Department Head via the immediate supervisor and include the amount of time needed, the beginning and end of the time period, and the place where the employee can be found in case of emergency. Meetings that are requested by grievance investigators or management representatives shall not be included in the Administrative Leave hours available for the employee's use.

I. Record Keeping and Access to Records

Any person conducting an investigation, whether formal or informal, shall maintain a written record of witness interviews, written statements and other evidence that is gathered. Investigation records will not be maintained in personnel files unless part of an employment action.

The fact that an employee filed or participated in a dispute matter also shall not be recorded in the employee's personnel file unless the review results in an employment action. In such cases involving an action, the investigation may be referenced. However, the investigation report and the original complaint shall be maintained in a separate file maintained in a confidential manner by the investigator. Access to dispute records shall be limited to those individuals directly involved in review, investigation, and/or resolution of the dispute.

RESPONSIBILITIES

The Executive Director is responsible for:

- Oversight of the Commission dispute resolution program and the administration of these procedures.

The Department Head is responsible for:

- Creating/maintaining a work environment that is free from unfair practices, discrimination, and harassment.
- Ensuring that employment decisions are based on principles of merit and upholding the values of equal employment opportunity.
- Reviewing departmental complaints for appropriate action and follow up.

The Human Resources Director is responsible for:

- Assisting management and employees in understanding prohibited employment practices and available complaint resolution options.
- Administering the Alternate Dispute Resolution Program.
- Ensuring consistency in employment actions resulting from dispute resolution findings. The General Counsel shall be consulted on legal issues.

The Supervisor/Management is responsible for:

- Taking all employee concerns/complaints seriously and taking prompt corrective action as appropriate.
- Ensuring that no employee suffers retaliation for reporting a complaint or participating in the review of a complaint.

Employees are responsible for:

- Filing complaints within the defined time periods.
- Reporting concerns of discrimination or harassment of any kind; an employee who is the recipient or witness to such actions shall notify his/her supervisor when an act or behavior is perceived to be offensive.
- Refraining from intentionally providing false information in connection with a complaint or investigation.

Complaint Reporting Form

This form is intended for use by Merit System employees to file Administrative Grievances and Discrimination complaints. Specific guidance on complaint filing and review is outlined in Practice 2-25, Employment Dispute Resolution. Complaints that may be appealed directly to the Merit System Board shall be filed in accordance with Merit System Rules, Chapter 2100 (Appeals and Hearings) and this form is not intended for those appeals.

In order to assist with a thorough review of your complaint, please provide details for each of the areas outlined below. You may provide any additional information you feel is help (attach additional sheets if necessary):

1. Date of Filing: _____

2. To: _____
(Please indicate the name and title of the party with whom the complaint is being filed—see Practice 2-25 for appropriate level for filing complaint)

3. Name of Person Filing Complaint _____
Position _____

4. Department/Work Location: _____

5. Contact Information (Phone/email): _____

6. Type of Complaint Being Filed (check one):

 Administrative Grievance Discrimination Complaint

7. Provide a detailed description of the complaint, including date and location. Include any policies/rules you feel have been you feel have been violated or misapplied. You may use an additional piece of paper if needed.

8. Describe the corrective action desired:

9. If applicable, provide the name(s) and title(s) of the individuals allegedly responsible for the grieved action:

10. If applicable, provide the name(s) and title(s) of individuals who have witnessed the allegations or have direct knowledge of the alleged violations:

11. Have you discussed your concerns with management prior to filing this complaint? If so, please provide details:

12. Is this complaint an appeal of an earlier complaint? If so, please provide the following:

- Indicate the date and with whom (name/position) the complaint was previously filed.

- Include copies of the earlier complaint and any management response received to the complaint.
_____ If a response was not provided, please indicate here.

Signature of grievant