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I. STATEMENT OF POLICY

It is the policy of the Department of Department of Children and Family Services (DCFS) that an employee grievance be resolved at the lowest possible supervisory level and at the earliest possible opportunity after such grievance is recognized; and that each employee in DCFS, without fear of reprisal, have access to the grievance procedure for resolving such.

No employee may use his or her position to coerce, attempt to coerce, or influence in any improper manner, any hearing officer or member of a grievance committee. Any classified employee who uses his or her official position to coerce, or influence in any improper manner any person involved in the grievance process shall be subject to disciplinary action.

This policy applies to all employees of DCFS and shall become effective upon the signature of the Secretary.

Definitions

As used in connection with this grievance procedure, the following words and terms shall have the meanings denoted:

Abandonment of Grievance - the failure of an employee to pursue their grievance through the grievance procedure within the specified time limit.

Affidavit - a dated, signed and sworn statement offered for consideration in connection with a grievance procedure hearing or meeting.


Appointing Authority - the officers and employees authorized by statute or by lawfully delegated authority to make appointments to positions in the state service.

Books - pamphlets or bound volumes that are not held to be confidential by state statute, public law, or constitutional law.

Consolidation - the combining of two (2) or more grievances involving basically the same controversy for purposes of a joint hearing or meeting.

Cross-examination - the questioning of a witness by an adverse party after their direct examination by the party calling him/her.

Designated Appointing Authority - any person duly authorized by the Secretary, Undersecretary, or a Deputy Secretary to resolve grievances at the second step.

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Employee - any person legally appointed to and serving in a position in DCFS.

Employer or Department -DCFS.

Examination - the questioning of a witness during a grievance procedure hearing or meeting.

Ex-parte Statement - a written statement made by one (1) person, offered for consideration in connection with a grievance procedure hearing or meeting.

Grievance- a disagreement, dispute or complaint between or among employees and/or an employee and management; an alleged act of unfair treatment of an employee; or, an alleged violation of Department/Division policy. **Excluded** from this definition are those matters within the jurisdiction of the Department of Civil Service or Civil Service Commission, the Equal Employment Opportunity Commission and/or the DCFS Civil Rights Bureau such as:

- official disciplinary actions: dismissal, suspension without pay, reduction in pay, and involuntary demotion;
- non-disciplinary removals ([Civil Service Rule 12.6](#));
- position allocation or reallocation decisions rendered either by the Department of Civil Service or by the Department;
- discrimination practiced by the violation of federal or state law or Civil Service rule (refer to DCFS [Policy 2-2](#), Non-Discrimination in Service Provision);
- performance ratings (refer to DCFS [Policy 4-9](#), Employee Performance Planning and Review);
- review of an application (SF-10) that has been rejected as not meeting the minimum qualification requirements for a job.
- improvement letters, i.e., (letters of counseling, warning, reprimand, or supervisory plan)(refer to DCFS [Policy 4-7](#), Disciplinary Corrective Actions and Separations).

Grievance Committee - a committee designated by a respondent to conduct a grievance hearing and provide him/her with resulting recommendations. The committee must be made up of an odd number of members, usually three (3) or five (5) members with one serving as chairman.

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Grievance Committee Chairman - an individual designated by the respondent to serve as chairman.

Grievance Hearing - a hearing conducted by a grievance committee at which the aggrieved party and the party against whom the grievance is lodged have a reasonable opportunity to be heard.

Grievance Procedure - the written procedure prescribed for the processing of employee grievances.

Joint Hearing - a uniting of two (2) or more grievances involving similar or related circumstances for the purpose of hearing.

Jurisdiction - the right to make decisions concerning the subject matter in a given case.

Meeting - the granting of an audience to the grievant by the respondent or a designee (as allowed by the procedures), the purpose being an opportunity for the grievant to have a reasonable opportunity to be heard prior to the rendering of a decision by the respondent.

Notice - advance notification to all parties involved in a grievance procedure hearing, or meeting setting forth the date, time, and place.

Papers - documents and writings that are not held to be confidential by state statute, public law, or constitutional law.


Human Resources Director - that person who holds the title of Human Resources Director who has been assigned the responsibility and authority to process personnel actions and to monitor the grievance procedure.

Records - official records of the state that are not held to be confidential by state statute, public law, or constitutional law.

Representative - the classified employee authorized by an aggrieved employee to represent him/her in the processing of a grievance.

Respondent - the individual at each step of the grievance procedure responsible for responding to the grievant.

Reprisal - an act of retaliation taken against an employee because he/she utilized the grievance procedure.

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Summary Disposition of Grievance – a decision made by the respondent that the subject matter of a grievance is not within the jurisdiction of this policy and is removed from the grievance procedure.

Supervisory Employee - an employee with responsibility to make decisions relating to appointment, termination, performance, pay changes, work assignments, scheduling or direction; or employees with responsibility to assign, schedule and direct the work of other employees and whose recommendations regarding appointment, dismissal, performance, pay changes, etc., are given substantial weight in the final outcome of such decision.

Witness - one who has personal knowledge of anything relevant to the subject grievance.

II. PROCEDURES

A. Responsibilities


Management will facilitate and encourage resolving employee grievances at the lowest possible supervisory level in the organization and at the earliest possible opportunity following identification of the grievance. The grievance process should be viewed and treated as a valuable complaint resolution tool and upward communication channel

There should be face-to-face discussion between the immediate supervisor and the grieving employee aimed at resolving a problem prior to the employee filing a formal written grievance. It is incumbent upon a supervisor to find time as soon as reasonably possible to listen to an employee's complaint, as to do otherwise fosters employee frustration and can result in strong resentment.

In this regard there will be evidence of each respondent's sincere efforts to discover the real issue(s) of a grievance, to distinguish facts from opinion and to demonstrate a cooperative and communicative effort to understand and resolve problem situations.

The Secretary, each Deputy Secretary, and the Undersecretary are responsible for assuring that managers and supervisors within their organizational authority comply with the provisions and the intent of this policy.

The Human Resources Director or designee is responsible for providing guidance and counsel to appointing authorities, directors, managers, supervisors and grievants in grievance-related matters and for monitoring and coordinating grievance activity. The Human Resources Director shall also prepare an annual report each calendar year for each Division Head that includes the following information:

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- Nature of the grievance filed
- The number of steps required to resolve the matter
- The corrective action taken, if any
- An analysis of this report should indicate:
- Which policies are causing misunderstanding or creating morale problems
- Reasons why misunderstanding or morale problems occurred
- The relative seriousness and frequency of similar complaints and the level at which they must be settled

B. General Provisions


In any organization it may be expected that conditions leading to dissatisfaction and misunderstanding may arise among or between employees and/or employees and management. When employees believe they have been treated unfairly, their behavior and their work may be affected. This grievance procedure provides employees with a means to freely discuss complaints with their supervisors and provides supervisors and management with a means to fairly consider and address valid problems under their jurisdiction.

An employee's decision to utilize this grievance procedure is voluntary. An employee may at any time consult the Human Resources Section for assistance with a problem and/or the grievance policy and procedures.

The grievant, at such time as their supervisor may approve, may be granted reasonable time during working hours to prepare the grievance without loss of pay or without charge to annual or compensatory leave credits. However, supervisors remain responsible for ensuring that the effective and efficient operations of the work unit continue without disruption and grievants remain responsible for performing assigned job duties.

Any employee who takes reprisal action of any kind against any employee who makes use of this grievance procedure shall be subject to disciplinary action.

If a grievance hearing or meeting is conducted under this policy, the party against whom the grievance complaint is made shall have the right to appear and testify at the hearing or meeting.

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The grievant may have a classified employee serve as a representative in the processing of a grievance. An employee selected by a grievant to represent him/her through this procedure shall, at such times as their supervisor may approve, be granted reasonable time during working hours to investigate the grievance and represent such other employee without loss of pay and without charge to annual or compensatory leave credits.


An aggrieved employee, in preparing the initial written grievance, must be careful to include all facts pertinent to the grievance under consideration. **The respondents may not permit the employee, after conclusion of the first step, to enlarge his original statement to include additional information that goes beyond the scope and intent of the original statement.**

Each employee shall be notified during orientation and/or through the Employee Handbook upon employment that a copy of the currently approved grievance procedure and form for filing a grievance are available on the Department's Intranet.

C. Summary Disposition of Grievance

At any time after the filing of a grievance in writing, a respondent may summarily dispose of the grievance on any of the following grounds:

- The respondent lacks jurisdiction over the subject matter, or over the person against whom relief is sought. If jurisdiction is at another level of authority within the department, the grievant will be so advised.
- The grievance has not been made in the required manner or within the prescribed time period for filing, at the initial or succeeding steps.
- The aggrieved has failed to appear at the time and place fixed for the hearing of their grievance.
- The aggrieved has withdrawn or abandoned their request for grievance consideration.
- The aggrieved has failed to present evidence or clearly state that DCFS policies and procedures or Civil Service rules governing promotions were violated, or the respondent has determined that the grievance is frivolous or is being used to impede the efficient operation of the Department.

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- The grievance subject complained about is an appealable action, and must be brought or filed before either the Director of Civil Service, Civil Service Commission, the Equal Employment Opportunity Commission (EEOC) or through the DCFS Civil Rights Bureau. Actions brought before the Civil Service Commission must be filed within thirty (30) days of the action complained of. Complaints based on discrimination under Title 7 [age, race, sex, etc.] cannot be moved through the grievance procedure. They are only appealable to the Civil Service Commission, the EEOC, and/or through the DCFS Civil Rights Bureau).
- The remedy requested cannot be granted or a decision on the grievance would be ineffective or moot.
- When a respondent summarily disposes of a written grievance, he/she shall provide in writing reasons for the dismissal to the grievant and all parties who received a copy of the grievance, including the Human Resources Director. The respondent may elect to use the DCFS Grievance Dismissal Form to inform all parties.

D. Processing the Grievance


Upon receipt of a grievance, the Secretary, Undersecretary, or appropriate Deputy Secretary may immediately, at their discretion, elevate the grievance to the Step II or Step III procedure notwithstanding any other provision of this policy.

Grievances across Division lines (a valid grievance by an employee of one Division regarding a matter within the jurisdiction of another Division) may be filed directly with the appointing authority of the Division with jurisdiction; grievant will submit an information copy of the grievance to his/her appointing authority. The time limits for processing the grievance are as indicated in Step II. Employees should clearly understand that frivolous, invalid or improper jurisdiction complaints will receive little, if any, attention beyond summary dismissal.

If an employee claims harassment by anyone in his/her chain of command, the employee may skip the grievance step that would directly involve that individual and may proceed to the next step in the grievance process.

Informal Discussion

Each employee who believes that he/she has a legitimate grievance must make an effort to discuss the grievance with his/her immediate supervisor to seek a solution prior to submitting a written grievance. The grievant must be able to show that discussion

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was requested within five (5) working days following the date of the action or situation which caused the grievance or following the date on which he/she became aware of said action. The immediate supervisor will discuss the matter with the grievant within three (3) working days of the request for discussion. The employee may at any time consult the Human Resources Section for assistance as to grievance policy and procedure.

Written notice of a grievance shall be on the **DCFS Grievance Form** prescribed by this policy.

Step I

Should the grievance not be resolved in discussion with the immediate supervisor and the employee wishes to pursue the matter, the grievant may submit the DCFS Grievance Form to the immediate supervisor within five (5) working days following the date the matter was discussed. The supervisor will provide a written response to the grievant within five (5) working days from receipt of the grievance. The original grievance form is returned to the grievant and the supervisor shall retain a copy and forward a copy to the Human Resources Section.

The above time frames are binding unless another time frame is mutually agreed upon between the grievant and respondent.

When the immediate supervisor and the Step II or Step III respondent is one and the same, the grievance shall be elevated to the corresponding step.


Step II

In the event that the decision of the respondent in Step I does not satisfy the employee, and the employee wishes to pursue the matter he/she may, within five (5) working days from receipt of the Step I response, submit the grievance in writing to the Step II respondent, which has been designated for each Division as follows:

Executive Division-Bureau Director
 Management and Finance Division-Section Director
 Programs Division-Section Director
 Operations Division-Regional Administrator or designee

The respondent or her designee shall promptly take appropriate steps to:

- review all information in prior steps;

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- investigate the grievance, which shall include a meeting or discussion with the grievant; or
- direct a hearing before a grievance committee, to be held within fifteen (15) working days from receipt of the grievance.

If an investigation is conducted, a written response to the grievant will be rendered within ten (10) working days from receipt of the grievance. If a hearing is conducted, a written response to the grievant will be rendered within seven (7) working days after the completion of the hearing.

The above time frames are binding unless another time frame is mutually agreed upon between the grievant and respondent.

The original grievance form is returned to the grievant and the respondent shall retain a copy and forward a copy to the Human Resources Section.

Step III

The employee may, if not satisfied with the decision of the Step II respondent, within five (5) working days of receipt of the response, submit the grievance to the appropriate Step III respondent, which has been designated as follows for each Division:


Executive Division-Secretary or designee
Management and Finance Division-Undersecretary or designee
Programs Division-Deputy Secretary or designee
Operations Division-Deputy Secretary or designee

The employee should state clearly and factually how and why it is felt the Step II respondent erred in his/her ruling. The respondent will render a written decision within twenty (20) working days of receipt of the grievance. ***The decision rendered at Step III is final.***

The above time frames are binding unless another time frame is mutually agreed upon between the grievant and respondent.

The original grievance form is returned to the grievant and a copy of the decision shall be forwarded to the Human Resources Section.

Grievance Hearing

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The determination to hold a hearing is at the discretion of the Step 1 and Step II respondents.

Grievance Committee

- A Grievance Committee may be appointed by the step I or II respondent. With permission from the individual's appointing authority, a committee member may be appointed from a Division other than that in which the grievant is employed.
- Grievance Committees may be designated as ad hoc or continuing in nature.
- Each Grievance Committee shall be composed of an odd number of three (3) or more members.
- The Chairman of each Grievance Committee shall be designated by the respondent.
- An employee assigned as a member of a Grievance Committee shall be considered on duty status during the time necessary to prepare for and/or hear a grievance and to prepare recommendations.
- Care should be exercised in the selection of Grievance Committee members to assure that all are neutral and unbiased, yet of such discipline to be familiar with the subject nature of the problem.

Notice of Hearing

The aggrieved employee shall be given notice at least five (5) calendar days in advance of the hearing, provided that, by consent of the Grievance Committee Chairman and the aggrieved employee, such notice may be waived.


Time and Place of Hearing

The place of the grievance hearing shall be specified by the respondent or the designated chairman and shall be in a convenient place accessible to the aggrieved employee. All such hearings shall be held on the employer's premises or on other premises mutually agreed upon by the parties and within regular working hours; provided, that with the approval of the appropriate person of authority, any such hearings may continue beyond normal working hours.

Conduct of Hearing

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- The aggrieved employee and the employer shall have the right to call, examine and cross-examine witnesses who are employees of the department and who have knowledge of the grievance issue(s). A grievance hearing is an internal formal matter and will be conducted as such. Its primary purpose is to encourage open communication between employee and employer and demonstrate a complete assessment of all facets of a situation; the outcome being clarification of issues, relief when appropriate and/or, if no relief, a clear explanation as to why such is not considered appropriate or within management's capability.
- Necessary travel expenses of any department employee called as a witness under Paragraph (1) above, and Grievance Committee Members shall be paid by DCFS, as provided for by travel reimbursement regulations.
- Both parties may produce witnesses other than employees of the department and such witnesses shall be subject to examination and cross-examination.
- The aggrieved employee shall have the right to require the production of books, papers, records, and other items which are within the control of the department which are pertinent to the grievance issue(s), and which are not held to be confidential by provision of state statute, public law, or constitutional law.
- Affidavits and ex-parte statements, offered during the course of grievance hearing, may be received and considered by the Grievance Committee.
- The Grievance Committee shall have the right to examine and cross-examine any witness.
- The Grievance Committee shall have the right to limit corroborative evidence.
- No party shall be deprived of the right to cross-examine any witness.
- The testimony of all witnesses may be received under oath by the Grievance Committee Chairman.
- The Grievance Committee, on request of the grievant or on its own motion, may order that the witnesses in any hearing be separated so as to preclude any witness other than the parties and the grievant's representative from hearing the testimony of any other witness.

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- When two or more grievance petitions involve similar or related circumstances, the Grievance Committee may order a joint hearing of any or all the matters at issue or may order that all such petitions be consolidated.
- Any employee required to testify shall not be subjected to any disciplinary action by his appointing authority because he/she testifies, but may be held accountable for actions on their part revealed by testimony.

Grievant and Respondent Processing Responsibilities

The grievant bears the responsibility of advancing the grievance and being at every meeting or hearing scheduled. Failure of the grievant to take action within the time limits set forth in Section II. D of this policy or failure to attend a scheduled meeting or hearing shall result in abandonment of the grievance.

Failure of the respondent to take action within the time frame limits set forth in next step.

All time frames are binding unless another time frame is mutually agreed upon between the grievant and the respondent.

E. Grievance Maintenance and Disposition


The Human Resources Section shall keep copies of all grievances for a period of five (5) year.

Respondents will maintain a copy of all grievances filed at their level and a copy of their response for a minimum of one (1) year.

Grievance documents are confidential records and should be maintained in a general alphabetical file labeled Grievances. Grievances **will not** be retained in an employee's personnel file or performance evaluation activity file.

III. FORMS

The DCFS Grievance Form shall be the official grievance procedure form. Continuation sheets may be attached if additional space is needed. The appointing authority shall be responsible for the issuance of instructions to employees on its proper use. The form will be used for recording the employee's grievance and the action taken by respondents at appropriate steps of the grievance procedure. **At each step of the grievance the respondent shall return the original form to the employee and forward a copy to Human Resources Section.**

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[DCFS Grievance Form](#)

[DCFS Grievance Dismissal Form](#)

IV. REFERENCES

[Civil Service Rule 12.6](#)

DCFS [Policy 2-2](#), Non-Discrimination in Service Provision

DCFS [Policy 4-9](#), Employee Performance Planning and Review

DCFS [Policy 4-7](#), Disciplinary Corrective Actions and Separations