

ments shall be deemed to be impartial. In the event that agreement cannot be reached as to the final panel member the chief judge of the circuit court of the jurisdiction within which the dispute arose shall select such third panel member. The full panel shall then select its panel chairman, set the time for the hearing which shall be held as soon as practicable, but no more than ten (10) full working days after the panel has been selected, and notify the employee. The grievant may have present at this meeting representatives of his/her choice. The majority decision of the panel shall be final and binding in all its determinations.

The panel has the responsibility to interpret the application of appropriate agency policies and procedures in the case. It does not have the prerogative to formulate or to change policies or procedures.

**GRIEVABILITY**

If an employee or supervisor questions whether a given problem is grievable under this procedure, the following Form C should be completed and forwarded to the head of the agency for determination. The form bearing the decision of the agency head must be returned to the employee or supervisor within ten (10) working days.

The issue of grievability may occur at any step of the procedure, prior to the panel hearing, but once raised the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the panel hearing or it shall be deemed to have been waived.

Decisions of the agency head regarding grievability may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed. Such appeal shall be instituted by returning Form C to the agency head within ten (10) working days after receipt of the initial decision on grievability. Within ten (10) working days thereafter the agency head shall transmit the record to the clerk of the court to which the appeal is taken.

DETERMINATION OF GRIEVABILITY		FORM C
Grievant _____		
Nature of Grievance _____		
Grievable _____ Not Grievable _____		
Reason (only if not grievable) _____		
_____		
_____ Agency Head		Date _____
Appeal		
I wish to appeal the decision on grievability. Transmit to the appropriate circuit court your decision on grievability as required by law.		
_____ Grievant		Date _____

**FOLLOWING THE PROCEDURE**

Should the grievant not observe all substantial procedural requirements without just cause, further appeal within this procedure will not be permitted. Should supervision not comply with all substantial procedural requirements without just cause, the grievant at his/her option may advance the grievance to the next step in the procedure. If supervision does not comply with all substantial procedural requirements at the fourth step without just cause, a decision in favor of the grievant shall result.

This procedure is provided as a means for employees to resolve problems and complaints without the cost often associated with legal counsel. However, if employees in using the procedure would feel more comfortable in having such support, the employee shall be responsible for related expenses.

In keeping with the problem solving objectives of this procedure, the Office of Employee Relations Counselors is ready and available to assist employees and to support the resolution of difficulties. For information and assistance you may call the Office of Employee Relations Counselors (800)552-9720.

**OFFICE OF EMPLOYEE RELATIONS COUNSELORS**

The 1978 General Assembly created the Office of Employee Relations Counselors to insure that employees would have the means to obtain assistance and that such assistance could be maintained in a confidential manner if the employee so desired. Counselors will be available to assist employees in obtaining information on policies, practices or rules that may pertain to their particular grievances. In addition counselors may assist employees in writing the grievance or perhaps resolving the difficulty without having to use the procedure.

If an employee who uses the grievance procedure feels that in any way he/she is being mistreated because of such grievance action, this concern should be reported immediately to the Office of Employee Relations Counselors. By law the Office of Employee Relations Counselors is charged with investigating such matters.

**INFORMATION AND ASSISTANCE**

For any information or assistance you may call the Office of Employee Relations Counselors on the following toll free number—(800)552-9720

**Commonwealth of Virginia**



**EMPLOYEE-GRIEVANCE PROCEDURE**

An Equal Opportunity Employer

July 1, 1978

The 1978 General Assembly in keeping with effective employee relations management provided a legislative mandate to insure that employees of the Commonwealth would have an efficient and effective procedure by which various problems and/or grievances could be fairly and objectively reviewed.

The Governor of Virginia in approving the legislation has further mandated that this procedure be used in the true spirit of problem solving, that 'resolution' be the measure of its effectiveness, and that such resolution be in the balanced best interest of the grievant, sound employee relations management, and the citizens of the Commonwealth.

The following is a summary of the major provisions of this procedure.

If you would like advice or assistance in pursuing a grievance, you may contact your agency personnel officer or the newly established Office of Employee Relations Counselors. You may contact this office by using the following toll free number. (800)552-9720.

#### COVERAGE OF PERSONNEL

All permanent State employees subject to provisions of the State Personnel Act except probationary employees, agency heads, and managerial employees engaged in agency wide policy determination. However, managerial employees below the agency head level may file grievances regarding disciplinary actions involving dismissals, demotions, and suspensions.

Excluded from the procedure are such law enforcement officers as defined in Chapter 10.1 of Title 2.1 whose grievance is subject to provisions of Chapter 10.1 Title 2.1 and who have elected to proceed pursuant to Chapter 10.1 of Title 2.1 in resolution of their grievance.

#### DEFINITION OF GRIEVANCE

A grievance shall be a complaint or dispute relative to an employee's employment including (but not necessarily limited to):

- disciplinary actions, involving dismissals, demotions and suspensions
- concerns regarding the application, meaning or interpretation of personnel policies, procedures, rules and regulations
- acts of reprisal for using the grievance procedure
- complaints of discrimination on the basis of race, color, creed, or sex

Some complaints are not grievable under this procedure.

They involve:

- the contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations
- work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of the job content
- establishment and revision of wages or salaries, position classifications or general benefits
- failure to promote except where the employee can show established promotional policies or procedures

- were not followed or applied fairly
- the methods, means and personnel by which such work activities are to be carried on
- discharge, demotion, or lay off because of lack of work, reduction in work force, or job abolition.

#### PROCEDURE:

##### First Step: Supervisor Level

###### Part A.

Within sixty (60) days after the occurrence or condition giving rise to the grievance, the employee affected may identify the grievance verbally to the employee's immediate supervisor.

Within three (3) working days of such presentation, the supervisor shall give his / her response to the employee with respect to the grievance, or shall advise the employee that additional time for such decision is needed, in which case a decision must be given the employee within three (3) working days thereafter.

###### Part B.

If a satisfactory resolution is not reached by this process, the employee should reduce the grievance to writing, identifying the nature of the grievance and the expected remedy on Grievance Form A. Such written grievance should be presented to the immediate supervisor within three (3) working days of the supervisor's verbal reply. The supervisor must then reply in writing within three (3) working days.

GRIEVANCE FORM		FORM A	
Grievant _____	Position & Unit _____		
Date Submitted _____	Date Grievance Occurred _____		
Nature of Grievance _____			
Specific Relief Expected _____			
First Step Remedy _____			
		Supervisor	Date
Acceptable _____	Not Acceptable _____	Grievant	Date
Second Step Remedy _____			
		Management	Date
Acceptable _____	Not Acceptable _____	Grievant	Date
Third Step Remedy _____			
		Management	Date
Acceptable _____	Not Acceptable _____	Grievant	Date

##### Second Step: Management Level

If a satisfactory resolution is not reached at the first step, the employee may so indicate on the grievance form and submit the grievance to the next level of supervision within ten (10) working days. A meeting to review the grievance shall be held between the employee and the second level supervision within three (3) working days. The time limit between the second step submission and the second step meeting may be extended by mutual agreement.

At the second step meeting, the employee may have a legal counsel or fellow employee of his or her choice present. The second step supervisor may likewise have a witness present if he or she so desires. A second step written reply to the grievance shall be provided to the employee within three (3) work days after the second step meeting.

##### Third Step: Upper Management Level

If a satisfactory resolution is not reached at the second step, the employee may submit the grievance to the agency head or to the chief executive in the facility or geographic unit, whichever is lower (i.e., highway district, community college, mental institution) in which the employee is located. Submission to the third step must occur within ten (10) working days of the second step reply. Third level management will meet with the employee within three (3) working days or indicate an extension is necessary. Such extension shall not exceed three (3) additional work days except by mutual agreement. The employee may have a legal counsel or fellow employee of his or her choice present at the third step meeting. Management may have a witness of its choice likewise in attendance. Management shall render a written reply to the grievance within three (3) working days following the third step meeting.

##### Fourth Step: Panel Hearing

If the reply from the third step meeting is not acceptable to the grievant, he/she may submit the grievance to a fourth step panel hearing. The request for a fourth step panel hearing shall be indicated by the employee on Form B and submitted to the third level supervision. A request for panel hearing must be submitted within ten (10) working days of the third step reply.

Supervision shall then submit the request (Form B) with a copy of the grievance (Form A) to the agency head who will arrange for the panel selection and schedule the panel hearing.

Such hearing shall be held within ten (10) working days of the date of request unless the selection involves the use of the circuit court.

#### THE PANEL

PANEL HEARING		FORM B	
Grievant _____	Date of Submission _____		
Nature of Grievance _____			
Reason for Requesting Panel Hearing _____			
Decision of Panel Hearing _____			
Date of Hearing _____	Place of Hearing _____		
Panel Members: _____		(Employee Selection)	
_____		(Agency Selection)	
_____		(Selected by Other Panel Members)	
Issue: _____			
Decision and Award _____			
Signed _____			
_____	_____	_____	_____
Panel Member	Panel Member	Panel Member	Panel Member

A panel shall be chosen which shall be composed of three members and shall be chosen in the following manner: one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. To insure an objective panel, the grievant and supervisors replying at the first three levels of the grievance, may not serve on the panel. Panels chosen in compliance with these require-