

**Clark County Board of Mental Retardation and Developmental Disabilities**  
**Personnel Manual**  
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# Clark County Board of Mental Retardation and Developmental Disabilities

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Policy:	Grievance/Complaints	Application:	Personnel
Policy Approved:	June 24, 1997	CARF Ref:	Section I: D(P)
Policy Revised:	12/19/00, 9/17/02 (Effective October 1, 2002)	Accred. Ref:	

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## Policy

The Board firmly believes that it is important for employees to have a means by which questions, grievances and complaints arising from misunderstandings and the application of policies, procedures, and work rules are to be promptly heard, answered and action taken to resolve or clarify the situation.

Employees shall have the right to file a grievance or a complaint without prejudice. No employee shall be disciplined; harassed or treated in an unfair manner for filing a complaint/grievance or speaking at any meeting held to hear a grievance/complaint.

The purpose of this policy is to secure equitable resolution of problems at the lowest possible administrative level. It is to be used when normal communications break down and the employee feels that a proper solution has not been reached.

To accomplish this, the Board has adopted a Grievance/Complaints Procedure. An employee desiring to air a grievance/complaint must follow the steps of the procedure that are appropriate for his/her particular problem. Grievances/complaints should not be considered negative. They often are used to effect a positive change in policy or regulations for the improvement of the Program. In many cases, a grievance or a complaint that is properly resolved will lead to an improvement of the Program. In such cases, the supervisor may take a position of advocacy or support for the employee.

Grievances or complaints involving loss of pay or termination shall begin at Step Four in the procedure.

## Definitions

**Grievance:** An allegation of non-compliance with a written policy, procedure or work rule that can be appealed all the way to the Personnel Committee of the Board.

**Complaint:** A concern by an employee about an issue in the workplace that is not covered by written policy, procedures or work rules that can be appealed to the Superintendent/designee.

Days: (for the purposes of this policy) "Days" are counted from the first full day after the receipt of the grievance/complaint and shall include only scheduled workdays.

Time lines: The maximum length of time between meeting/responses, except where a different schedule is mutually agreeable. For the purpose of the grievance/complaint policy, "days" shall not include Saturdays, Sundays, holidays, or normally non-scheduled days of the persons involved. Timelines end as of date item is received so it is suggested that delivery occur in person or be date-stamped. Time lines and time limits may be extended by mutual agreement of the involved parties IN WRITING.

Tracking: The process of ensuring that time lines are met. The Department Director must "track" the grievance/complaint throughout the procedure. If a grievance/complaint is not processed by the employee to the next step of the procedure within the specified time limits or any written extensions, it shall be considered resolved on the basis of the decision at the previous step, and should be indicated: "Resolved, employee did not pursue," dated, signed and sent to the Personnel Administrator for filing as a permanent record.

Without Prejudice: The grievant/complainant has withdrawn their grievance/complaint.

### **Compensation Questions**

Employees and employee representatives shall not lose pay or benefits during normal working hours for time spent in grievance hearings. All efforts will be made to meet on regularly scheduled time, but if this is not possible, no non-exempt employee will be asked to meet without being compensated. Adjusted schedules are acceptable.

### **Goals**

- (a) To place the grievance/complaint procedure on a more professional, problem-solving basis;
- (b) To reduce conflicts and perceptions of "me against them";
- (c) To arrive at a resolution of a concern in a minimal time frame; and
- (d) To utilize the skills of the parties involved in resolving issues.

### **Legal Considerations**

Nothing in this policy is intended to deny employees any rights available by law to have redress to their legal rights, including the right to appeal to the State Personnel Board of Review, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission, or any court of competent jurisdiction. However, if the employee elects to file a grievance/complaint on the matter, it is the employee's responsibility to meet the criteria for filing with that appeal's body. The expense of any legal representation shall be born by the party utilizing it.

Where a grievant/complainant cites issues of law that the manager hearing the grievance/complaint cannot address, the grievance/complaint shall be forwarded to the Prosecuting Attorney's office for an opinion before proceeding. All the time limits shall be suspended until a response from the Prosecutor is received.

### **Outcomes**

There are four (4) possible outcomes to a grievance/complaint:

- (a) **Withdraw:** The employee has the option of withdrawing the grievance without prejudice.
- (b) **Upheld:** The decision is to grant the remedy requested.
- (c) **Denied:** The decision is that the findings of fact do not support the allegation/s and, therefore, the grievance/complaint and remedy requested is denied.
- (d) **Compromise:** The employee has a legitimate grievance but the remedy requested is improper. Prior to a compromise decision, the person responsible for hearing the grievance/complaint should ask the employee if he/she would accept the proposed offer. If not accepted, the grievance/complaint may be denied.

### **Records**

Grievances/complaints are public documents. Grievances and/or complaints are not maintained in the employee's personnel record. Grievances or complaints filed by an employee may not be used as part of their evaluation or as consideration in promotions, lateral transfers or other such personnel actions. Grievances and complaints shall be kept in a separate file in numeric order at the Personnel Office to ensure consistency in the application of policies, procedures and work rules.

If this policy directly conflicts with any collective bargaining agreement, then the collective bargaining agreement shall be controlling.

## Clark County Board of Mental Retardation and Developmental Disabilities

Policy: <u>Grievance/Complaints</u>	Application: <u>Personnel Department</u>
Procedure: <u>Grievance/Complaints</u>	Application: <u>Program-wide</u>
Procedure Revised: <u>12/19/00, 9/17/02 (Effective October 1, 2002)</u>	CARF Ref: <u>Section I:D (p)</u>
	Accred. Ref: _____

### Procedure

All formal grievances filed under this procedure shall be in writing and shall include (1) the policy/procedure/work rule violated, including paragraph referenced, (2) the facts that affect the conditions of the grievance and (3) the resolution desired. The grievance shall be presented on the approved form.

The failure of management to respond to grievant within the specified time limit or agreed upon extension will be considered to have been answered in the negative and the employee may advance the grievance/complaint to the next Step. The next supervisory level that receives a grievance may not send it back to the previous supervisor. The Department Director shall, upon completion of all steps in the process, investigate the reason that no answer was given and appropriate action shall be taken with said supervisor. A non-response by the employee will be considered agreement to management response.

The grievant must proceed through all steps of the grievance procedure in proper order and within the prescribed time limits, except as otherwise noted and agreed to in writing by all parties.

### Step One: Informal Resolution

To start the grievance process, the employee should approach the supervisor that the employee believes violated the policy/procedure/work rule. The employee must tell the supervisor that this is a Step One (1) grievance and identify the policy/procedure/work rule violated. Talk over the situation/incident with the supervisor who caused the action within three (3) days of the incident or the knowledge of the incident in a scheduled meeting. The grievant can fill out "Grievance: Informal Step One" form either before the meeting or it can be filled out at the meeting with the supervisor.

This conversation is intended to be only between the grievant and the supervisor. However, if either the grievant or the supervisor feels a need for a note taker, the supervisor will arrange for a person (confidential secretary) to take notes. The individual taking notes may not be in the line of supervision for the grievant or involved in the issue at hand. The supervisor will receive the original notes and the grievant will receive a copy.

The supervisor will give the grievant a written response (Grievance Response form) within three (3) days of the meeting. If the grievant continues to feel there is a problem, then the grievant writes a formal grievance statement to the supervisor from Step 1 within three (3) days.

### Step Two: Initial Formal Resolution

The grievant must present a written grievance on the "Grievance" form, identifying what policy, procedure or work rule has been violated, including the specific section or paragraph. The issue/facts and a requested

remedy are to be written on the form. This written grievance is presented to the supervisor who caused the action. The supervisor has 3 days to set up a meeting to discuss the matter.

This meeting consists of the grievant, the direct supervisor and where applicable, the coordinator/manager. The grievant may request the presence of a representative.

A Grievance Response form is due from the supervisor to the grievant within three (3) days after the meeting. If the situation is remedied, the grievant will sign-off in agreement with the remedy. The grievant receives the original and copies are sent to the Department Director and Personnel Director. The author of the Grievance Response is responsible for distributing copies.

If the grievance is not remedied, the employee has three (3) days to present a written request to the Department Director for Step 3. The written request can be in memo form or a notation on the Grievance Response form. The Department Director obtains all previous information from the supervisor. A copy of the Step 3 request will be sent to the Personnel Director by the Department Director.

### **Step Three: Director Level**

The Department Director has three (3) days to schedule a meeting with the grievant and supervisor or manager. The grievant may request the presence of a representative. A Grievance Response form is due from the Department Director within three (3) working days of the meeting.

If the situation is remedied, the grievant will sign-off in agreement with the remedy. The grievant receives the original and copies are sent to the Personnel Director and the supervisor/coordinator/manager by the author.

If the situation is not remedied, then the grievant has three (3) days to request a Step 4 with the Superintendent through the Personnel Department. The written request can be in memo form or a notation on the Grievance Response. The Superintendent requests all supporting documentation from the Department Director. The Personnel Director is made aware of a Step 4.

### **Step Four: Superintendent's Level**

The Superintendent may delegate the hearing of the grievance and may act upon the report received. The Superintendent/designee schedules a meeting as soon as possible, depending upon the work schedules of the grievant, Personnel Director and Department Director. The grievant may request the presence of a representative. Meetings that must be scheduled more than ten (10) days from the date the Step 4 request was received must be agreed to in writing by the grievant and the Superintendent/designee.

If the situation is remedied, the grievant will sign off in agreement with the remedy. The grievant receives the original. Copies are made by the author and sent to the supervisor and Department Director and the Personnel Director.

If the situation is not remedied, the grievant has three (3) days to request a Step 5 Review through the Personnel Department. The written request may be in memo form or as a notation on the Grievance Response form and is submitted to the Superintendent. The Superintendent and Personnel Director are made aware of a Step 5 request.

### **Step Five: Personnel Committee of the Board**

Upon the receipt of a Step 5 Grievance request, the Superintendent/designee shall notify the Personnel Committee of the need to schedule a meeting. A copy of the notice will be sent to the grievant. The Superintendent/designee shall provide the committee with a copy of the grievance and the responses provided to date. A meeting will be held at a time convenient to the Personnel Committee of the Board. Typically, the grievant, Superintendent, Personnel Director, and Department Director are in attendance at the meeting. The grievant may request the presence of a representative.

The Personnel Committee will render a determination within fifteen (15) days from the date of the meeting, with copies of the determination to all parties involved.

NOTE: All efforts to adhere to the above stated time lines will be made. However, with mutual consent (in writing), they may be extended. Emergency situations may require extension of the time lines for holding of meetings and presenting decisions. In cases of emergency, the Personnel Director will be responsible to inform all parties involved, in writing, of the emergency and set new time lines.

The decision of the Personnel Committee of the Board is final. Copies of the decision shall be made available to all parties participating in the grievance.

### **Complaint Procedure**

All formal complaints filed under this procedure shall be in writing and shall include (1) the nature of the complaint, (2) the facts that affect the conditions of the complaint and, (3) the resolution desired. The complaint shall be presented on the approved form. To begin the complaint process, the employee should approach the supervisor who performs their evaluation.

Whenever there are issues or concerns about an issue in the work place that is not covered by a written policy/procedure, employees shall follow the complaint procedures. Please refer back to the Steps One through Four in the Grievance procedure for detailed information. Below is a sketch of what occurs for complaints. The forms used are the Complaint Form and the Complaint Response form.

All formal complaints filed under this procedure shall be in writing and shall include (1) the nature of the complaint (2) the facts that affect the conditions of the complaint and (3) the resolution desired. The complaint shall be presented on the approved form. To begin the complaint process, the employee should approach the supervisor who performs their evaluation.

- (a) Start with your supervisor (Step One).
- (b) The supervisor shall set up a meeting to discuss the issue.
- (c) If the matter involves another employee who is not under that supervisor's supervision, that employee's supervisor shall be contacted and attend the meeting to assist in resolution of the issue.
- (d) If not resolved, write a formal complaint to your supervisor (Step Two).
- (e) The supervisor shall set up a meeting to discuss the issue.
- (f) If not resolved, a meeting at Step 3 is held.
- (g) If not resolved, a meeting at the Step 4 is held.
- (h) The Superintendent/designee's decision is final.

The failure of management to respond to employee within the specified time limit or agreed upon extension will be considered to have been answered in the negative and the employee may advance the

complaint to the next Step. The next supervisory level that receives a complaint may not send it back to the previous supervisor. The Department Director shall, upon completion of all steps in the process, investigate the reason that no answer was given and appropriate action shall be taken with said supervisor. A non-response by the employee will be considered agreement to management response.

The employee must proceed through all steps of the grievance procedure in proper order and within the prescribed time limits, except as otherwise noted and agreed to in writing by all parties.

#### Staff-to-Staff Issues

Discuss the issue with the other staff member/s if it is a staff to staff issue. If it is a more general complaint, start with your supervisor.

## Grievance/Complaints Process

\*Time lines may be extended if: Mutually agreeable and in writing.

		Responsible person
Event	<ul style="list-style-type: none"> <li>▪ 3 days to request Step 1</li> </ul>	<i>Grievant/complainant</i>
Step 1	<ul style="list-style-type: none"> <li>▪ 3 days to schedule a meeting</li> <li>▪ 3 days from meeting to respond in writing</li> <li>▪ 3 days from receipt of Response to ask for Step 2</li> </ul>	<i>Management</i> <i>Management</i> <i>Grievant/complainant</i>
Step 2	<ul style="list-style-type: none"> <li>▪ 3 days from receipt of Step 2, request to schedule meeting</li> <li>▪ 3 days from meeting to respond</li> <li>▪ 3 days from receipt of Response to ask for Step 3</li> </ul>	<i>Management</i> <i>Management</i> <i>Grievant/complainant</i>
Step 3	<ul style="list-style-type: none"> <li>▪ 3 days from receipt of Step 3, request to schedule meeting</li> <li>▪ 3 days from meeting to respond</li> <li>▪ 3 days from receipt of Response to ask for Step 4</li> </ul>	<i>Management</i> <i>Management</i> <i>Grievant/complainant</i>
Step 4	<ul style="list-style-type: none"> <li>▪ 3 days from receipt of Step 4, request to schedule meeting</li> <li>▪ 3 days from meeting to respond</li> <li>▪ 3 days from receipt of Response, to ask for Step 5</li> </ul>	<i>Management</i> <i>Management</i> <i>Grievant/complainant</i>
<i>(Complaints stop here)</i>		
Step 5	(Grievances only): <ul style="list-style-type: none"> <li>▪ 3 days from receipt of Step 5, Superintendent sends notice to Personnel Committee of request for Step 5 Review</li> <li>▪ Meeting with Personnel Committee is established</li> <li>▪ Within 15 days after meeting, Response to grievant/complainant</li> </ul>	<i>Superintendent</i> <i>Superintendent</i> <i>Superintendent</i>