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CIVIL SERVICE COMMISSION
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All Department and Activity Heads are requested to post this Bulletin in all work places and ensure that all employees have access to this information.

CSC Bulletin 18-03

May 18, 2018

To : All Department and Activity Heads

Subject: **Grievance Rights and Procedures for Civil Service Employees**

The Civil Service Commission has noticed what appears to be a lack of understanding of the grievance procedure among both management and non-management Civil Service employees. Situations have occurred where the established regulatory process has not been followed, sometimes depriving the employee of the full benefit of the grievance right.

This bulletin is aimed at all level of employees to provide them with a basic understanding of the grievance process and to direct them to the regulatory source for more detailed information.

1. What is the grievance process?

The grievance process is a means of settling employee-management disagreements and misunderstandings in a prompt and fair manner through a series of meetings between the employee and his or her immediate supervisor or manager to resolve the problem at the lowest possible level and as quickly as possible.

2. Where can information regarding the grievance process be found?

Detailed information and step-by-step instructions can be found in NMIAC Part 200, Sub Part G: Grievance Procedure, §10-20.2-285 to §10-20.2-294.

3. Who and what is covered by the grievance process?

The grievance process is available to all civil service employees and can be used to resolve all matters of concern or dissatisfaction to an eligible employee unless excepted by NMIAC Part 200, Sub Part G: Grievance Procedure, § 10-20.2-288.

4. What matters are not covered by the grievance process?

The following cannot be considered by the grievance process:

- (a) An adverse action appealed under NMIAC Part 200, subpart D;
- (b) A fitness-for-duty examination;

- (c) The content of published government policy;
- (d) Non-selection for appointment, promotion, or transfer from a group of properly ranked and certified candidates;
- (e) Non-adoption of a suggestion or disapproval of a merit award, performance award, or other kind of honorary discretionary award; and
- (f) An employee who is serving on probationary status.

5. How does the grievance process work?

The informal grievance process: The process begins with an informal effort to resolve the issue. If an employee or a group of employees has a matter of concern, the employee and the employee's representative, either a fellow employee or a legal counsel, will arrange to discuss the matter with the employee's immediate supervisor, or if the employee feels the relationship with the immediate supervisor is such that the matter cannot be reasonably discussed, the employee may discuss it with the next level of supervision. The employee can also contact and seek advice from the Office of Personnel Management.

It is important to be aware of the time limits set by the regulations. A grievance concerning a particular action must be presented **within ten calendar days** of the date of the action or the date the aggrieved employee became aware of the action.

If the grievance is not settled **within five calendar days**, or if the employee is not satisfied with the decision of the immediate supervisor, the employee may, **within the next ten calendar days**, put the grievance in writing and submit it to the appointing authority as a formal grievance. The written grievance must contain the following information:

- The name of the aggrieved employee and his or her work organization;
- The details of the grievance;
- The corrective action desired; and
- The name of the employee's representative, if any.

The formal grievance process: The formal grievance process takes place if the grievance cannot be resolved at the informal level with the immediate supervisor. The appointing authority will examine the grievance, discuss it with the grievant party, and render a decision, in writing, **within fourteen calendar days** after receiving the grievance. The appointing authority may involve the employee's immediate supervisor, if the appointing authority feels the involvement of the employee's immediate supervisor is appropriate to the resolution of the grievance.

If the appointing authority is not successful in settling the grievance to the employee's satisfaction **within fourteen calendar days** after the grievance is presented by the employee in writing, the employee may, within fifteen calendar days after receiving written notification of the decision, submit a grievance to the Civil Service Commission.

The Civil Service Commission shall set a time for its review of the case within a reasonable time after receiving a grievance. The Commission may elect to have the grievance heard by a hearing officer and will inform the aggrieved employee and representative of this decision as soon as possible.

Whether the grievance is heard by the Civil Service Commission or a hearing officer, the aggrieved employee and/or representative shall be allowed to appear and present the case. An appropriate management representative will also be present to present management's side of the issue. Both sides shall have the right to call witnesses in support of their positions and to cross-examine witnesses for the other side. The Commission or the hearing officer shall prepare a summary of the hearing.

Upon completion of the hearing, the Civil Service Commission shall reach a decision and present it formally to the appropriate management official and the grievant within fifteen working days following the close of the formal hearing. If the aggrieved employee is dissatisfied with the decision, after having exhausted all administrative appeal levels, the employee has recourse to the courts.

6. What is the role of the Office of Personnel Management?

The Office of Personnel Management can be contacted for advice in the early stages of the grievance by either party. However, the Office does not resolve grievances. The Director of Personnel monitors the progress of a formal grievance and is responsible for assuring that the time limits established in this procedure are met and that the formal record of the grievance is maintained and safeguarded.

7. What is the role of the Civil Service Commission?

The Civil Service Commission serves as the ultimate appellate level for grievances of employees or groups of employees. It shall accept only those formal grievances which cannot be settled to the satisfaction of all concerned in accordance with the formal grievance procedure as explained in this bulletin.

Again, as pointed out and described above, the grievance procedure is established with specific time frames. It is important that the steps of the grievance process be accomplished within these time frames by both parties.



Felicitas P. Abraham
Chairperson, Civil Service Commission

cc: Governor
Lieutenant Governor
All Members of the Senate
All Members of the House of Representatives
Director of Personnel