

**Section 212.270 Grievance Procedure**  
**EMERGENCY**

- a) Grievance: Any certified employee, unless otherwise excepted by this Part, may file a grievance as to the application of these Rules or any policy arising hereunder as to the impact of such application upon his employment condition of his or her status. The existence of a grievance procedure is not intended to discourage the informal resolution of complaints. The Office intends this procedure to be used infrequently and only for major matters.
- b) Grievance Procedure – Limitation: The rules of the Office and the official policy arising there under are not subject to grievance. The following are not subject to the grievance process: the discipline, demotion or discharge of Executive Employees and probationary employees who have not obtained certified status in the Office; the demotion of a certified employee from a position in which he is serving a probationary period; layoff; appointment, discharge or reinstatement, and intra-agency transfers of employees.
- c) An employee shall be allowed reasonable time with pay during working hours for the presentation of a grievance, provided that the employee has obtained permission from his Director and the employee is currently in active status on payroll therefore, and the employee's absence will not interfere with agency operations.
- d) Grievance Procedure – Abandonment – Extension
  - 1) Failure of either the grievant or the Grievance Review Committee to comply with the form or time requirements of the grievance procedure shall resolve the matter in favor of the other. The parties may mutually extend the time limits in writing at any level of the procedure. However, whenever the last day of a specified time requirement falls on a day on which the Office is closed for regular business, that time requirement shall automatically be extended to the next day on which the Office is open for regular business.
  - 2) An employee's failure to advance a grievance to the next level of this procedure within specified time limits, shall mean that the employee has withdrawn the grievance or, if the employee so indicated, accepted the last answer given in the grievance procedure.
- e) Grievance Procedure – Steps:
  - 1) Step 1: A grievant shall submit the grievance to the appropriate Director in writing, including the requested resolution to the grievance. The Director shall note the date and time upon receipt of the grievance and shall within five working days after the grievance is filed, issue a written

decision and serve a copy of the decision in person upon the grievant and place a copy of the decision in the employee's personnel file.

- 2) Step 2: If the grievance is not satisfactorily resolved or no answer is given within the time limit set forth in Step 1, the grievant may submit, within ten calendar days from the date the Director's decision was due, to the Executive Director a copy of the written statement of grievance submitted in Step 1, along with a request for a grievance hearing.

f) Grievance Review Committee

- 1) The General Counsel shall be the Chair of the Grievance Review Committee. In the absence of the General Counsel, the Executive Director shall appoint a Chair. The Chair, no later than five working days following receipt of an employee's request for a grievance hearing, shall appoint a Grievance Review Committee. The Committee shall consist of three members and shall include the Human Resources Manager. Committee members must have experience or knowledge in the areas of personnel administration and employee relations. The Director or the immediate supervisor of the grievant shall not be appointed to the Committee. If the Chair is a party to the grievance or is unavailable, the Executive Director shall designate another committee member to chair the Grievance Review Committee. If the Human Resources Manager is a party to the grievance or is unavailable, the Chair shall appoint another member.
- 2) Immediately upon appointment of the Committee, the Chair shall designate the location, time and date for hearing which shall be no later than twenty working days after receipt of the employee's request for a grievance hearing. The grievant shall promptly be notified in person or by certified mail, return receipt requested, of the time, date and place of the hearing.
- 3) The grievant and others who have knowledge of the relevant facts shall have an opportunity to present evidence in person or by written statement, after which the Committee shall meet privately to reach a recommendation. The Chair may require that testimony be given under oath or by sworn affidavit and may be recorded by an audio recording device. In the event the testimony is recorded by an audio recording device, the recording shall be retained in the office of the Director of Administrative Services for a period of three years.
- 4) The members of the Committee shall reduce their recommendations as to the disposition of the grievance to writing and submit them to the Executive Director within five working days following the hearing. A dissenting member of the Committee may make separate

recommendations. All recommendations will bear the signatures of the concurring committee members. Upon receipt of the recommendations from a grievance committee, the Executive Director, or his designee shall approve, disapprove or modify the Committee recommendations, shall render a decision within five working days thereon in writing, and cause a copy of such decision to be served upon the parties. The Executive Director's decision shall be final as to the grievant.

- 5) The written statement of the employee's grievance, the recommendations of the grievance committee, and the decision of the Executive Director thereon shall be made part of the grievant's personnel file.
  - 6) The Executive Director for good cause may extend any deadline set forth above.
- g) Representation: The grievant is entitled to be present and may be accompanied by a representative of his choice at the hearing. Only such other persons as the Chair deems advisable shall be entitled to attend the hearing.