



**GEORGIA DEPARTMENT OF HUMAN SERVICES
Human Resources Policy # 1502**

UNCLASSIFIED EMPLOYEE COMPLAINT PROCEDURE

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References: Rules of the State Personnel Board 478-1-20 — Employee Complaint Resolution Procedure

The Department of Human Services (DHS) recognizes the need for a process to resolve non-disciplinary employment concerns of unclassified employees. The complaint procedure for unclassified employees is established to provide eligible employees with an orderly process for reviewing allegations of unfavorable employment decisions or conditions in a timely manner. Unclassified employees eligible to file a complaint may do so without fear of unlawful discrimination or reprisal.

This procedure does not compromise the rights of management to direct the workforce in accomplishing the mission of the Department. The procedure is not applicable to disciplinary matters and does not alter the employment at-will relationship between the Department and unclassified employees.

Employees are encouraged to bring work-related concerns to the attention of their supervisors for review and possible resolution prior to filing a complaint. Attempts at informal resolution of complaint issues, which may include mediation, must be handled in a manner that will permit the employee to meet deadlines established by this procedure for filing a complaint.

SECTION A: DEFINITIONS

1. For the purposes of this policy, the following terms and definitions apply (Terms and Definitions):
 - a. "Employee" an individual hired by an agency to provide services for wages and excludes independent contractors, volunteers, unpaid interns and board members paid on a per diem basis.
 - b. "Classified Employee" an employee with procedural appeal rights set forth who was hired into a classified position on or before June 30, 1996 and who has remained in a classified position without a break in service since that date.
 - c. "Unclassified Employee" an employee who was hired after June 30, 1996, or who has occupied an unclassified position at any time since July 1, 1996. Unclassified employees have an employment-at-will status, with limited exception for

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employees with more than 18 years of service who established Employees' Retirement System (ERS) membership before April 1, 1972.

- d. "Filing" the act of submitting a complaint to the agency Complaint Resolution Coordinator.
- e. "Complaint" a claim filed by an eligible employee when their personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.
- f. "Complaint Form" a form provided by the agency for the filing of employee complaints.
- g. "Receipt" the date and time at which a document is delivered by mail, electronic transmission or personal delivery.
- h. "Workday" Monday through Friday are considered DHS business days excluding state holidays.

SECTION B: EMPLOYEE ELIGIBILITY

- 1. All unclassified employees, except those identified below, are eligible to file a complaint.
 - a. Unclassified employees who have been notified of separation from employment, suspension, demotion, or disciplinary salary reduction.
 - b. Unclassified employees seeking relief through other administrative or judicial procedures.

SECTION C: ELIGIBLE ISSUES

- 1. Retaliation for using the complaint procedure,
- 2. Erroneous, arbitrary or capricious interpretation or application of human resource policies and procedures,
- 3. Unsafe or unhealthy working conditions (e.g., allegations of occupational exposure to hazardous chemicals),
- 4. Allegations of harassment (other than sexual harassment), and,
- 5. Allegations of unlawful discrimination or sexual harassment.

NOTE: Allegations of unlawful discrimination due to race, color, sex, national origin, disability, age or religious or political opinions or affiliations and allegations of

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sexual harassment will be addressed through the Unlawful Discrimination Complaint Procedure (DHS Human Resources Policy #1503).

SECTION D: INELIGIBLE ISSUES

1. Issues which are pending or have been concluded by the Georgia Commission on Equal Opportunity or through other administrative or judicial procedures;
2. Performance responsibilities, expectations and evaluations;
3. Relocation of employees, except where the costs of relocation qualify for reimbursement under regulations promulgated by the Office of Planning and Budget;
4. Temporary work assignments which do not exceed ninety (90) calendar days;
5. Permanent changes in work hours or duties and responsibilities, unless such changes are manifestly unsafe, illegal, or can be shown to unfavorably affect an employee's personal employment;
6. Budget and organizational structure, including the number or assignment of positions in any organizational unit;
7. Internal security practices established by the Department;
8. The selection of an individual to fill a position unless it is alleged that the selection is in violation of a written Department policy;
9. Termination, reduction in salary, demotion, suspension without pay, reassignment, furlough, layoff from duties because of lack of work, or other actions resulting from a staff reduction or job abolition;
10. Written reprimands, written confirmation of oral reprimands, work plans and/or attendance plans, or any other document worded similar to a written reprimand regardless of where the document is placed or how it is distributed; and,
11. Any matter which is not within the jurisdiction or control of the Department.

SECTION E: IMPROPER USE OF THE COMPLAINT PROCEDURE

1. All state officers, supervisors, DHS Third Party Representatives and employees are prohibited from the following:
 - a. Knowingly supplying false or misleading information in a complaint; or,

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- b. Attempting to harass, intimidate, or retaliate against any State officer, supervisor, DHS Third Party Representative or employee for filing a complaint, or providing testimony or evidence regarding a complaint.
2. Improper use of the complaint procedure may result in disciplinary action, up to and including separation from employment.

NOTE: The Office of Human Resources (OHR) must be consulted prior to initiating disciplinary action under these circumstances.

SECTION F: COMPLAINT PREPARATION TIME

1. An eligible employee may be allowed up to four (4) hours of work time to prepare a complaint. The employee must specify the time period requested to prepare a complaint and receive approval from their supervisor to ensure that the workplace is not adversely impacted. Such time shall be during regular work hours, without loss of pay or leave credits. OHR may authorize additional work time, if determined appropriate.
 - a. Preparation time shall include such activities as meeting with witnesses and reviewing the employee's personnel file.
 - b. Such time is independent of any time spent in a complaint review session with the Complaint Review Official.
 - c. OHR has the authority to resolve any dispute regarding the determination of reasonable and necessary time for preparing and processing a complaint.

SECTION G: DHS THIRD PARTY REPRESENTATIVE

1. An employee and/or supervisor involved in a complaint may ask another DHS employee to act as a DHS Third Party Representative. Serving as a DHS Third Party Representative is voluntary.
 - a. Staff designated to assist employees with filing complaints and human resources representatives cannot serve as DHS Third Party Representatives.
 - b. DHS employees may serve as DHS Third Party Representatives in no more than two (2) complaints per calendar year.
 - c. Time spent as a participant in a complaint review meeting is considered work time.
 - d. DHS Third Party Representatives may request up to four (4) hours of work time per complaint (in addition to time spent in a complaint review meeting) for the purpose of assisting the employee or supervisor involved in the complaint.

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- e. Management is to make reasonable efforts to authorize DHS Third Party Representatives to be absent and provide appropriate work time, as requested, for the purpose of assisting the employee or supervisor involved.

SECTION H: FILING A COMPLAINT

1. A complaint should be filed as soon as possible, and must be received by OHR:
 - a. within ten (10) workdays after the occurrence upon which the complaint is based; or,
 - b. within ten (10) workdays of the date the employee became aware, or should have become aware, of the issue(s) through the exercise of reasonable diligence.

NOTE: "Workday" refers to Monday through Friday, excluding State holidays. The complaint must be received by OHR no later 5:00 p.m. on the 10th workday.

2. OHR may extend any time limit specified in this procedure due to emergency, medical disability or legally mandated absence on the part of the employee. The employee and other involved individuals will be notified immediately of the reasons for and the length of the extension.

NOTE: In situations other than the above, any time limit specified in this procedure may be extended, not to exceed 90 (ninety) calendar days, upon agreement of all parties to the complaint.

3. All complaints must be filed on the Unclassified Employees Complaint Form (Attachment #1).
4. All relevant and requested information must be provided on the Unclassified Employees Complaint Form.
 - a. The complaint must contain a statement of the issues involved, how the employee's personal employment has been unfavorably affected, the relief sought, and the dates, if known, the incident(s) or violation(s) occurred.
 - b. If the complaint involves the interpretation or application of policy or procedure, the complaint must identify the policy or procedure at issue and describe how it was erroneously interpreted or applied.

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SECTION I: CONFIDENTIAL INFORMATION

1. Patient/client/resident names must not be included in any complaint related document, since this information may violate confidentiality. Initials or case numbers may be used, if they are relevant to the issues of the complaint.

SECTION J: GROUP COMPLAINT

1. A complaint may be filed by a group of eligible employees, if the alleged unfavorable employment decisions or conditions have affected each member of the group.
 - a. Members of a group complaint cannot file an individual complaint on the same issue(s).
 - b. The group must select a spokesperson to present all matters of the complaint. The group may select up to two (2) spokespersons.
 - c. Only the spokesperson(s) for a group complaint may request to use complaint preparation time.
 - d. All members of a group complaint must sign the Unclassified Employees Group Complaint Roster (Attachment #2) certifying that each employee's personal employment has been unfavorably affected and that they agree with the contents of the complaint. This roster must be submitted with the complaint.

SECTION K: WITHDRAWING A COMPLAINT

1. At the sole discretion of the complainant, a complaint may be voluntarily withdrawn at any point in the complaint procedure.
 - a. To withdraw a complaint, the employee must notify OHR in writing.
 - b. A withdrawn complaint cannot be refiled.

SECTION L: PROCESSING A COMPLAINT

1. Within 10 (ten) workdays of receipt of a complaint, OHR will review the complaint to determine the eligibility of the issue(s) and provide written notice to the individuals involved in the complaint that:
 - a. The issue is ineligible, including the specific reasons for the determination, and that the complaint process is being terminated; or,
 - b. The issue alleges unlawful discrimination or sexual harassment and will be processed according to the provisions of the Unlawful Discrimination Complaint Procedure; or,

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- c. The issue is eligible under this procedure.

SECTION M: CONSOLIDATION OF COMPLAINTS

1. When appropriate, OHR may:
 - a. Consolidate multiple complaints filed by an employee into a single complaint; and,
 - b. Consolidate separate complaints filed by two (2) or more employees regarding the same issue(s) into a group complaint.

SECTION N: MEDIATION

1. At any point in the procedure, a complaint may be referred to mediation.
 - a. The employee or supervisor involved with a complaint may request that the complaint be referred to mediation. OHR will determine, if the request is appropriate.
 - b. OHR may also refer a complaint for mediation.
 - c. If mediation is determined appropriate, OHR will schedule the session. The employee and supervisor involved must attend and cooperate fully with the process.

SECTION O: COMPLAINT REVIEW

1. Within fifteen (15) workdays of the notice that an issue is eligible, a Complaint Review Official will be appointed.
2. Within fifteen (15) workdays of appointment, the Complaint Review Official will undertake any of the following actions with regard to the complaint:
 - a. Conduct a complaint review of the complaint issues based upon available information presented; or,
 - b. Conduct a complaint review by meeting with the employee and/or supervisor involved to facilitate an agreement, clarify and/or interpret policies or explore alternative resolutions.
3. Barring prior settlement of the complaint by agreement of the employee and supervisor involved, the Complaint Review Official will submit written findings and recommendations to the DHS Commissioner or designee within 10 workdays of conducting the complaint review.

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SECTION P: COMPLAINT DECISION

1. The DHS Commissioner or designee will review the findings and recommendations of the Complaint Review Official and issue a decision in writing within ten (10) workdays of receipt of the findings and recommendations. The decision of the DHS Commissioner or designee is final and concludes the complaint process.

SECTION Q: SUSPENDING THE COMPLAINT RESOLUTION PROCEDURE

1. In the event of an emergency, OHR may suspend the complaint resolution procedure, under this policy.
 - a. While a suspension of the complaint resolution procedure may delay the filing of a complaint, it will not affect an employee's ability to file a complaint that occurred before the effective date of the suspension, once the suspension has ended.
 - b. Any complaint filed within fifteen (15) workdays after the conclusion of the complaint resolution procedure suspension will not be denied or otherwise limited.

For additional information or assistance, please contact your local Human Resource Office, or email DHS-Policies@dhs.ga.gov.