



Supervisor Essentials



UNDERSTANDING AND USING THE GRIEVANCE PROCEDURE

WELCOME
Please complete pre-test





What is a Grievance?

- **A formal way to bring work-related concerns to the attention of management.**
- **Resolution of issues at lowest possible level in the organization.**



Why a Grievance Procedure?

- **Due process**
- **Fair and prompt review and resolution of disputes**
- **Use encouraged in law (VA. Code *21-116.03)**



What do you think?

**What can you do to minimize the
likelihood of a grievance?**



Role of the Supervisor

Supervisors are responsible to:

- **Inform staff that the grievance procedure is available to them.**
- **Reflect support for employee use of the grievance procedure.**
- **Encourage employees to contact EO if any concern about discrimination.**
- **Reflect support for EO as an employee resource.**



Role of Employee Relations

- **Accurate information and guidance to managers**
- **Accurate information and guidance to employees**
- **Neutrality/balance**
- **Adherence to policy and timelines**



Who has access to the Grievance Procedure?

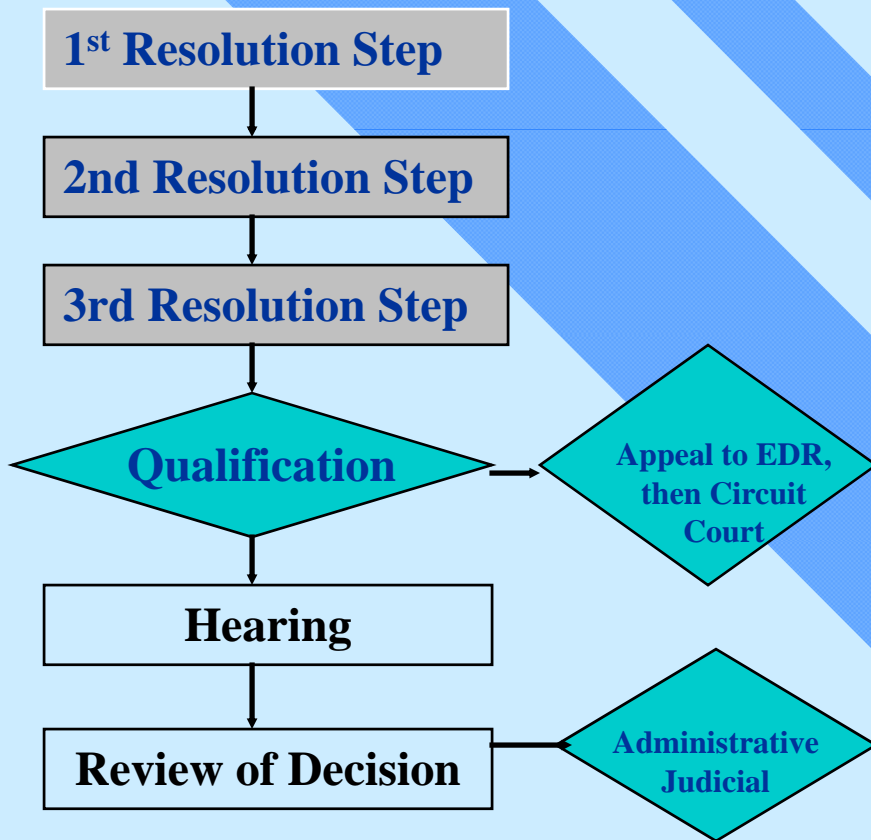
- **Non-probationary classified employees**
- **Employed at the time grievance is initiated (unless termination or involuntary separation)**

(Hourly employee do not have access.)

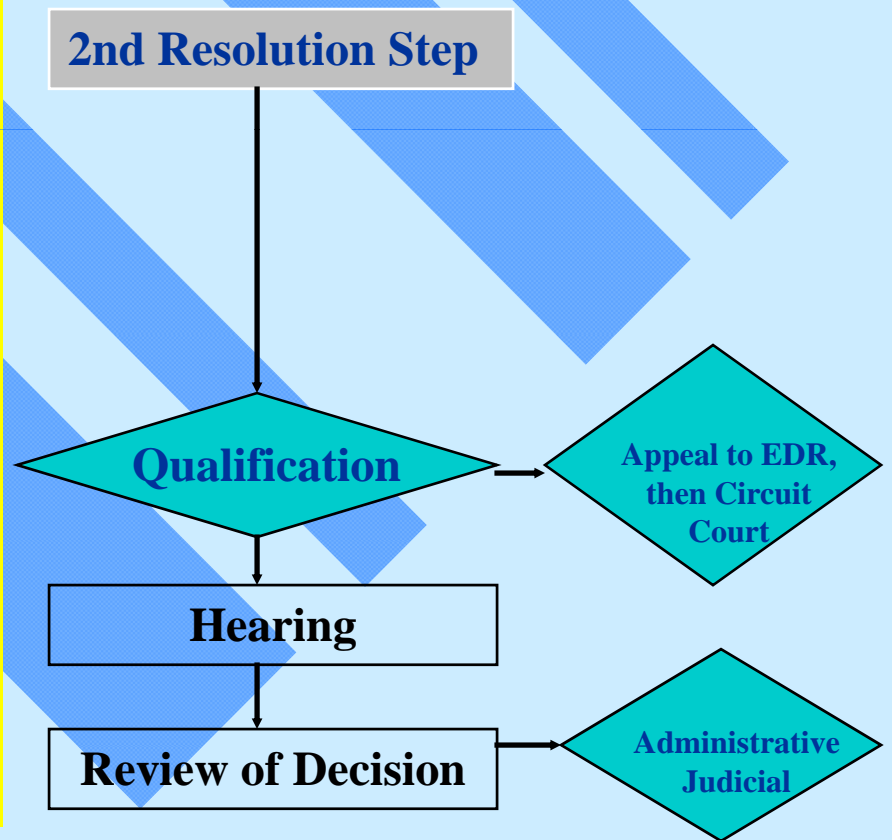


The Grievance Process

Management Resolution Steps



Expedited Process





Compliance Issues

- **Time Compliance**
 - **30 calendar days to initiate Grievance**
 - **5 workdays**
 - **1st step resolution**
 - **2nd step meeting**
 - **2nd step response**
 - **3rd step response**
 - **Grievant's response to each of the above**



What happens if Non-Compliance?

- **Notification of non-compliance:**
 - In general, must go to the employee
 - Goes to agency head if agency is out of compliance
 - Give 5 additional workdays to correct

- **If not corrected**
 - Appeal to EDR
 - EDR may order the party to correct the non-compliance or render a decision against the non-complying party if just cause is not shown



Progressive Phases of the Grievance Process

- 1. Management Resolution Steps (3 successive levels)**
 - **1st Resolution Step (Supervisor)**
 - **2nd Resolution Step (Dean/Director)**
 - **3rd resolution Step (VP)]**

- 2. Qualification for Hearing**
 - **Determined by agency head.**



Progressive Phases of the Grievance Process

3. Hearing

- **Were actions warranted and reasonable?**

4. Review of Hearing Decisions

- **Administrative Review**
- **Judicial Review**



The Grievance Procedure

- **2nd and 3rd Step Respondents are designated by the Agency**
- **ODU designations**
 - **1st step = Supervisor**
 - **2nd step = Dean/Director**
 - **3rd step = Vice President**



EXPEDITED GRIEVANCES

Grievance involving:

- **Claims of discrimination and/or retaliation against immediate supervisor**
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- **Termination, demotion, suspension, loss of wages**

May initiate with:

- **Next higher level of supervisor**
-

- **Second-step respondent**
- **Hearing**



The Grievance Procedure

How to Begin

- **Consult with ER Manager**
- **Grievance Form A or Expedited Form A**
- **Grievance Procedure Manual**
 - **Read Manual**
 - **Complete the Form A/Expedited Form A**
 - **Present Form to Management**
 - **Consult with HR and EDR as Needed**



First Resolution Step

When Employee presents a written grievance:

- **Accept grievance, if immediate supervisor**
- **Enter date of receipt**
- **Review grievance**
- **Notify ER Manager, Kathy Williamson**



First Resolution Step

Within 5 workdays determine:

- **Eligibility**
- **Timeliness**
- **Identify issues raised by the employee**
- **Gather and review facts presented**
- **Analyze the information**



Analyze The Information

- **Is the rule, policy or standard reasonable?**
- **Was it communicated to the employee?**
- **Has enforcement been consistent?**
- **Is the discipline appropriate?**
- **Is there sufficient documented evidence?**
- **Was the investigation fair and objective?**
- **Is granting relief a good management decision?**



Exercise I

Introducing Raul Garcia

Analyze the Information



First Resolution Response

Within 5 workdays:

- **Provide response on grievance form; use attachment for details.**
- **Include the reasons for the decision and facts supporting the decision.**
- **Meet with employee to provide response.**



Second Resolution Step

- **Director or Dean accepts grievance**
- **Enter date of receipt**
- **Review grievance**
- **Consult ER Manager**
- **Conduct fact-finding meeting with grievant within five workdays**



2nd Step - Employee Option

If employee fears that 2nd step respondent is discriminatory or will retaliate:

- **Request agency designate another second-step respondent; or**
- **Waive meeting with the second-step respondent - written response only.**
- **If waived, the employee must be allowed to meet with the third-step respondent**



The Second Step Meeting

Preparing for fact-finding meeting

- *Identify issues and information needs*
- *Develop questions to be asked*
- *Identify appropriate witnesses*
- *Gather relevant information*



Conducting The Meeting

Effective Techniques for information gathering:

- **Ask grievant to provide their complaint**
- **Listen carefully**
- **Summarize or paraphrase**
- **Clarify using open-ended questions**
- **Assess credibility and reliability of witnesses**



After The Meeting

- **Five workdays to respond**
 - **Review and analyze information**
 - **Was management action appropriate?**
 - **Decide about relief**
 - **Provide response on Grievance Form (add attachments if needed)**



Exercise II

Instructions: Complete the portion of the Form as if you are the Second Step Respondent.

- ❖ Who do you want to talk with about this grievance?**
- ❖ What information do you need?**
- ❖ What policies/procedures/practices would you like to see?**



Third Resolution Step

- **Vice President accepts grievance**
- **Enter date of receipt**
- **Review grievance**
- **Meeting with employee optional**
- **Respond within 5 workdays.**



Qualification For Hearing

Actions Which *AUTOMATICALLY* Qualify

- **Formal Discipline (a Written Notice)**
- **Dismissal for unsatisfactory performance.**



Qualification For Hearing

Actions Which *May* Qualify

- **Unfair application or misapplication of policies, procedures, rules, and regulations**
- **Discrimination**
- **Arbitrary or capricious performance evaluation**
- **Retaliation**
- **Adverse employment actions**



Qualification For Hearing

Actions Which *Do not* Qualify

(unless misapplication, retaliation, or discrimination exists)

- **Classification and compensation decisions**
- **Contents of policies**
- **Methods, Means and Personnel**
- **Hiring decisions**
- **Informal supervisory actions**



Hearing Officer Limitations

Hearing Officer CAN:

- **Reinstate to former or similar position.**
- **Uphold, reduce or rescind actions**
- **Award full, partial, or no back pay** (interim earnings are deducted)
- **Restore full benefits and seniority.**
- **Order agency to comply with applicable law and policy.**



Hearing Officer Limitations

Hearing Officer CANNOT grant:

- **Selection for position**
- **Upward reallocation**
- **Higher performance rating**
- **Transfer or reassignment**

Only management can direct these personnel actions



The Hearing

- **Conducted by Hearing Officer**
- **Decision within 30 calendar days of appointment of hearing officer**
- **Witnesses may be called**
- **Hearing Officer Decision**
- **Implement decision immediately and fully**
- **Hearing Decision Review**
- **Final Administrative Decision**
- **University and employee may have attorney**



Hearing Decision Review

- **Three Types of Administrative Review**
 - **Reconsideration (new information)**
 - **Consistency of decision with policy**
 - **Compliance with the Grievance Procedure**
- **Final Administrative Decision**



Hearing Decision Review

- **Judicial Review of Final Administrative Decision**
 - **Circuit Court Review**
 - **Court Appeals**
 - **University Counsel**



A Word on Retaliation

- **Respect an employee's right to grieve and/or complain.**
- **Manage your emotions in dealing with conflict.**
- **Consistently follow relevant procedures.**



The Grievance Procedure

Grievance Procedure Manual and Forms - EDR Web Site

<http://www.edr.state.va.us>

Standards of Conduct, Policy 1.60 from DHRM Web Site

<http://www.dhrm.state.va.us>



Wrap Up

- **PARKING LOT?**
- **OTHER QUESTIONS**
- **POST TEST**
- **SESSION FEEDBACK FORM**

- **THANK YOU!**