


# Grievance Policy

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	<b>Louisiana Department of Health (LDH)</b>	
	<b>Policy Number</b>	35.4
	<b>Content</b>	Provides policy and procedures for determining the cause of a grievance and guidelines for resolving the problem or complaint
	<b>Effective Date</b>	October 26, 2020
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If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/override/supersede the conflicting section within the Program Office or facility policy.

## I. POLICY STATEMENT

It is the policy of The Louisiana Department of Health (LDH) to resolve problems at the lowest possible supervisory level and at the earliest possible opportunity. All classified LDH employees shall have access to this grievance policy for resolving problems.

Appointing Authorities may implement procedures for the processing of grievances within the parameters provided by this policy. Appointing Authorities are officers or employees authorized by statute or by lawfully delegated authority to make appointments to positions in the State Service.

Any employee who retaliates against another employee for filing a grievance may be subject to disciplinary action up to and including dismissal.

Any employee who uses his or her position to coerce, attempt to coerce or improperly influence any person involved in the grievance process shall be subject to disciplinary action up to and including dismissal.

This policy is established in accordance with the Louisiana State Constitution, Article X, Section 10, Paragraph (A) (1), as well as State Civil Service Rule 3.1 (m).

## **II. PURPOSE**

The purpose of this grievance policy is to provide a method for determining the best way to resolve problems or complaints. This procedure is intended for use when a problem or complaint arises and the resolution is within the jurisdiction of LDH.

## **III. APPLICABILITY**

This policy applies to all Offices of LDH.

## **IV. IMPLEMENTATION**

The effective date of this revised policy is October 26, 2020.

## **V. RESPONSIBILITIES**

- A. Assistant Secretaries, the Deputy Secretary, the Undersecretary and the Medicaid Director/Medicaid Executive Director are responsible for assuring that managers and supervisors within their organizational authority comply with the provisions and the intent of this policy.
- B. The LDH-HRTSD Human Resources Director is responsible for administering grievance procedures to be utilized by all LDH offices/facilities and ensuring that all employees are made aware of the grievance policy and have access to it.
- C. Human Resources professionals in LDH are responsible for providing guidance and counsel to Assistant Secretaries, the Deputy Secretary, the Undersecretary, the MVA Director, managers, supervisors and employees in grievance-related matters and for monitoring and coordinating grievance activities as outlined in this policy.
- D. Employees are responsible for including all facts pertinent to the grievance in their original grievance statement and advancing the grievance through the process as described in Section IX of this policy (Processing the Grievance) as appropriate.

## **VI. EXCEPTIONS**

Any exceptions to this policy must be approved by the LDH Secretary.

## VII. GENERAL PROVISIONS

### A. Choosing the right process

It is extremely important that employees know what situations should be handled through an agency grievance as opposed to a State Civil Service appeal because there are respective time limits to file either a grievance or an appeal. If an employee chooses the wrong process, the employee may find that the time limit for the correct process has expired by the time the mistake is discovered.

A grievance is handled entirely within the agency and is not appealable to the State Civil Service Director or to the State Civil Service Commission.

1. Issues appealable to the State Civil Service Director include:
  - a. An allocation or reallocation decision (Civil Service Rule 5.3);
  - b. The rejection of an application (Civil Service Rule 22.5);
  - c. A determination that an applicant lacks the minimum qualifications (Civil Service Rule 22.5);
  - d. A Reviewer's decision concerning a PES rating given to a permanent employee (Civil Service Rule 10.14).
2. Issues appealable to the State Civil Service Commission include:
  - a. A suspension without pay, reduction in pay, involuntary demotion, or dismissal of a permanent employee;
  - b. A non-disciplinary removal of a permanent employee;
  - c. A layoff of a permanent employee;
  - d. An employment action/decision that discriminates against an employee because of his or her political or religious beliefs, sex or race;
  - e. An employment action that violates a State Civil Service Rule or the State Civil Service Article (Article X, Part 1 of the State Constitution).
3. Issues grievable to the agency include but are not limited to health and safety concerns, disputes between supervisors and subordinates or among workers, perceived unfair treatment that does not rise to the level of discrimination, and changes in work location or hours.
4. Other issues – Matters within the jurisdiction of the Equal Employment Opportunity Commission (EEOC) cannot be adjudicated through this grievance resolution procedure. Improvement Letters, Letters of Warning, Reprimand or Counseling and Supervisory Plans are handled by written response and not through the grievance process (Civil Service Rule 12.9). PES reviews are handled through State Civil Service Chapter 10 rules and not through the grievance process.

### B. Prior to filing a written grievance, employees are encouraged to try to resolve any disagreement through discussion with the appropriate supervisor.

- C. An employee filing a written grievance:
  - 1. Must ensure that working on the grievance does not interfere with his or her responsibility to do the job assigned by the agency.
  - 2. Must exercise care to include all facts pertinent to the grievance under consideration, as the employee shall not be permitted by the respondents to enlarge his or her original written statement and/or relief sought to include additional information that goes beyond the scope and context of the original grievance.
  - 3. Shall have the right to be represented at any meeting on the grievance by a co-worker of his or her choice or, if he/she is a union member, by the steward, local representative or facility union representative. The same representative shall represent the employee through all applicable steps. The employee's representative shall be granted reasonable time off (up to twelve hours per month) during his or her working hours to represent the grievant without loss of pay and without charge to annual or compensatory leave credits. Before leaving his or her duty station an employee representative (union or non-union) shall obtain approval from his or her immediate supervisor and shall not leave his or her duty station without his or her supervisor's approval.
  - 4. Neither the grievant nor the respondent shall have legal counsel present in any part of the grievance process.
  
- D. Grievances may be consolidated if an employee files multiple grievance related to the same issue(s) or if separate grievances filed by two or more employees involve the same issue(s).

## **VIII. REASONS FOR DISMISSAL**

A respondent may summarily dismiss the grievance at his or her step for any of the following reasons:

- A. The issue grieved is outside the jurisdiction of this process (See Section VII.A of this policy).
- B. The grievant is not employed by LDH.
- C. The grievant transfers to another Program Office within the Department.
- D. The person against whom the grievance is filed does not work for LDH.
- E. The grievance has not been made in the required manner or within the prescribed time period for filing at the initial or succeeding steps.

- F. The grievance duplicates a previous grievance submitted by the same employee(s) provided the previous grievance was processed in accordance with this policy.
- G. The employee has failed to appear at the scheduled time and place for any meeting regarding his or her grievance.

When a respondent dismisses a written grievance, he/she shall notify, in writing, the grievant, any previous respondents, and the Human Resources Office.

## **IX. PROCESSING THE GRIEVANCE**

A. The grievance procedure consists of four formal steps and a grievance may be settled at any step. If an employee is not aware of who is the appropriate respondent at a given step, he/she should contact the Human Resources Office for guidance. Human Resources Directors and their staffs are located at the following offices and facilities:

- Louisiana Department of Health, Office of Management and Finance/Division of Human Resources, Training and Staff Development (HRTSD)
- Pinecrest Supports and Services Center (PSSC)
- Central Louisiana Supports and Services Center (CLSS)
- Eastern Louisiana Mental Health Systems (ELMHS)
- Central Louisiana State Hospital (CLSH)
- Villa Feliciana Medical Complex (VFMC)

STEP I – The Step I respondent is the employee’s immediate supervisor.

All grievances shall be presented within 14 working days from the date the employee first became aware of, or should have become aware of, the reason(s) for his or her grievance.

The grievance shall be in writing on the appropriate form and submitted to the employee’s immediate supervisor (the employee should keep a copy of his or her grievance at each step-in case any respondent does not return it to him or her).

The supervisor shall provide a copy of the grievance form to his or her respective Human Resources Office within one working day of the receipt of the grievance. The supervisor must furnish the employee a written statement of his or her decision within 7 working days.

If the employee is not satisfied with the supervisor's decision, or he/she does not receive a response within the prescribed timeframe, he/she shall check the appropriate box on the form and within 7 working days present his or her grievance in writing to the Step II respondent.

STEP II - The Step II respondent is usually a delegated Appointing Authority in the employee's chain of command such as a Facility Administrator in a 24-hour facility; a Regional Manager within a region of LDH; or a Section Head, Division Director or Bureau Director within LDH Headquarters.

The Step II respondent shall provide a copy of the grievance form to the Human Resources Office within one working day of receipt of the grievance.

The Step II respondent must:

- Conduct an investigation (including a meeting or telephone conversation with the grievant and, if applicable, the person or persons who are the subject of the employee's grievance) **OR**
- Review the first step decision.

The Step II respondent must furnish the employee a written statement of his or her decision within 14 working days of the receipt of the written grievance.

In the event that the employee is not satisfied with the decision of the Step II respondent, or he/she does not receive a response within the prescribed timeframe, he/she shall check the appropriate box on the form and present his or her grievance to the Step III respondent within 7 working days.

STEP III – The Step III respondent is usually an Assistant Secretary or equivalent position depending upon the employee's chain of command.

The Step III respondent shall provide a copy of the grievance form to the Human Resources Office within one working day of receipt of the grievance.

The Step III respondent must:

- Conduct an investigation (including a meeting or telephone conversation with the grievant and, if applicable, the person or persons who are the subject of the employee's grievance) **OR**

- Review the first and second step responses.

The Step III respondent must furnish the employee a written statement of his or her decision within 21 working days of receipt of the grievance.

In the event that the employee is not satisfied with the decision of the Step III respondent, or he/she does not receive a response within the prescribed timeframe, he/she shall check the appropriate box on the form and present his or her grievance to the Step IV respondent within 7 working days.

STEP IV – The Step IV respondent for employees of the Office of the Secretary is the LDH Secretary or Designee. The Step IV respondent for the Office of Management and Finance and Medical Vendor Administration is the LDH Undersecretary. The Step IV respondent for all other employees of LDH is the LDH Deputy Secretary. The decision of the Step IV respondent shall be final.

The Step IV respondent shall provide a copy of the grievance from to the Human Resources Office within one working day of receipt of the grievance.

The Step IV respondent shall take appropriate steps to:

1. Review all information in prior steps **OR** investigate the grievance, which may include discussion with the grievant and, if applicable, the person or persons who are the subject of the employee's grievance.
2. Furnish the employee with a written statement of his or her decision within 21 working days of the receipt of the grievance.
3. Provide a copy of the Step IV decision, the grievance form and all related documentation to the Human Resources Office.

#### B. MODIFICATION OF STEPS

1. An individual office may modify the steps to fit its organizational structure. Grievances across office/division lines may be filed directly with the first level manager with jurisdiction over both parties.
2. If an employee's grievance is against anyone in the employee's chain of command, the employee may skip the grievance step that would directly involve that individual and proceed to the next step. Skipping a step does not increase the number of steps available to the employee.

C. GRIEVANT AND RESPONDENT PROCESSING RESPONSIBILITIES

1. The grievant bears the responsibility of advancing the grievance and being at every scheduled meeting.
2. If at any time during the processing of the grievance a respondent does not have the authority to resolve the grievance; he or she shall indicate so in the response section of the grievance form and immediately return the form to the grievant.

D. EXTENSION OF TIME REQUIREMENTS

The time requirements at each step of a grievance may be extended by the respondent if circumstances beyond the control of the grievant or the respondent prevent their meeting the required timeframes.

E. FORMS

The most current Louisiana Department of Health Grievance Form (HR 35) shall be the official grievance procedure form and may be obtained online or from the employee’s Human Resources Office. Continuation sheets may be attached if additional space is needed.

The official form shall be used for recording the employee’s grievance and the decisions made by respondents at appropriate steps of the grievance procedure. At each step of the grievance the grievant and respondent shall sign and date the form and the respondent shall return the original copy of the grievance response to the employee for his or her personal use.

**X. GRIEVANCE MAINTENANCE AND DISPOSITION**

- A. Human Resources offices and respondents shall maintain copies of all grievance forms and related documents for grievances filed at their level for a minimum of 3 years.
- B. The Human Resources office shall keep track of the number and nature of grievances to help define and address internal problems and complaints.
- C. Grievances shall not be retained in an employee’s personnel file or performance appraisal activity file.

**XI. REVISION HIS OR HERTORY**

Date	Revision
October 14, 1977	Policy created
April 15, 1987	Policy revised



December 5, 1997	Policy revised
June 13, 2011	Policy revised
January 23, 2013	Policy revised
May 24, 2017	Policy revised
May 28, 2019	Policy revised
October 26, 2020	Policy revised