

Number 10.0 - GRIEVANCE PROCEDURE

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Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this grievance policy is to set forth the process for the resolution of complaints and grievances filed by an employee, a group of employees, or the duly certified bargaining representative, the Vermont State Employees' Association, Inc. (VSEA) as established by the applicable labor agreement and Vermont law.

Employees and supervisors are expected to make a sincere effort to reconcile their differences at the lowest possible organizational level.

All decisions and resolutions must be consistent with the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc., the Rules and Regulations for Personnel Administration, State and Federal laws and current policies.

DEFINITIONS

COMPLAINT - is an employee's or group of employees' informal expression to the immediate supervisor of dissatisfaction with aspects of employment or working conditions under a collective bargaining agreement.

GRIEVANCE - an employee's, group of employees', or the employee's collective bargaining representative's expressed dissatisfaction, presented in writing, with aspects of employment or working conditions under a collective bargaining agreement or the discriminatory application of a rule or regulation, which has not been resolved to a satisfactory result through informal discussion with immediate supervisors.

MANAGEMENT REPRESENTATIVE - the appointing authority/administrative head of the department, or person selected as designee.

WORKDAY - Monday through Friday, excluding legal and administrative holidays and the day after Thanksgiving.

GENERAL PROCEDURES

Managers and supervisors must consult with their agency/department personnel officer regarding grievance issues to obtain guidance during the process.

When a decision is rendered on a Step II grievance, the agency/department personnel officer must forward a copy of the grievance and the decision to the Employee Relations Division of the Department of Personnel. Any additional information that is pertinent to the issue (such as letters of reprimand, performance evaluations, etc.) must also be submitted along with the grievance decision. This is to ensure that the Employee Relations staff has adequate information to review the case if a Step III grievance is filed.

VSEA may be present at Step III grievance hearings for bargaining unit employee grievances even if they do not represent the employee. The purpose is not to represent the employee, but to give their interpretation of the contract language at issue.

It is the responsibility of the management representative conducting a grievance hearing to act fairly and without prejudice in determining the facts which affect the granting or denial of a grievance. The Agreement provides instructions for the management representative in the discharge of this function including mediation of the grievance between the parties.

Employees may use a reasonable amount of work time without loss of pay or charge to accumulated leave to submit complaints or grievances, or to participate in grievance investigations or meetings, after requesting permission from the immediate supervisor.

The employer may not retaliate, harass or threaten an employee who has filed a complaint or grievance.

The Grievance Procedure Article of the Agreements Between the State of Vermont and the Vermont State Employees' Assoc., Inc. must be followed for this purpose. This article outlines time frames that must be adhered to.

LEVELS OF GRIEVANCES

Step I:

- (a) Immediate supervisor level. At this level, the complaint is discussed informally by the employee or his or her representative, or both, and the supervisor. The complaint must be filed within fifteen (15) workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint. *This is not a required first step of the grievance procedure.* A supervisor should always clarify with the employee if a discussion of a complaint is considered to be a Step I meeting.

- (b) A Supervisor may elect not to meet with the employee and/or his/her representative in a Step 1 meeting. If such election is made, the supervisor shall advise the employee within two (2) workdays of receiving notice of the complaint/grievance. The employee will then have ten (10) days to file his/her complaint or grievance in writing, to Step II – Department head level.
- (c) If a Step I complaint is initiated, the complaint shall be discussed informally by the aggrieved employee, or his/her representative, or both, and the immediate supervisor. If the issue remains unresolved, an employee must comply with the following time frames for filing to the Step II level:
 - a. within ten (10) workdays after receipt of the Step I decision;
 - b. within thirty (30) workdays from when the employee first gave notice to the supervisor of his/her complaint as outlined above, whichever occurs first
- (d) An employee may opt to bypass the Step 1 procedure and file his/her complaint directly to the Step II (departmental level). If bypassing Step I, an employee must file a written grievance to the head of the employee's department, within fifteen (15) workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint.

Step II: (1) Departmental Level. If a satisfactory resolution cannot be reached at the Step I level, or it is the desire of the employee to bypass Step I, the complaint is put in writing and submitted to the agency or department head as a formal grievance. A grievance meeting with the agency/department head, or designee, may be requested by the employee or his/her representative. The complaint must be filed within ten (10) workdays after receiving the Step 1 decision or within 30 workdays from when the employee complained to the supervisor, whichever comes first.

NOTE: Complaints may be initially filed at Step II within 15 days workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint.

On the request of a VSEA Director, and with the approval of the Department of Personnel and the applicable appointing authority, the time limits for filing a Step II

grievance may be extended for a specific period of time, not to exceed ten (10) workdays.

(2) The grievance shall be discussed informally, either in person or via telephone, within ten (10) workdays of its receipt, between the employees, and/or his or her representative, and the department head or his/her representative.

(3) The Department shall notify the aggrieved employee and his/her representative of the department's decision. in writing, within five (5) workdays after the discussion. The parties may mutually agree to postpone the discussion, but shall hold it as soon as practical.

Step III: (a) Department of Personnel level. If a satisfactory resolution cannot be reached at the Step II level, the written grievance may be submitted by the employee or his or her representative to the Department of Personnel. The employee or his or her representative may request a meeting to discuss the grievance. The grievance must be filed within ten (10) workdays after receiving the Step II decision. **NOTE:** Complaints may be initially filed at Step III if the subject matter of the grievance is clearly beyond the control of the agency, department or institution head, and must be filed within 15 workdays of the date upon which the employee could reasonably have been aware of the occurrence of the matter which gave rise to the complaint.

(b) If the employer fails to render a decision at Step II or Step III within the prescribed time limit, the employee may proceed to the next step within the time limits above. Failure to issue a written decision within the time frames specified at Step III for disciplinary action grievances may result in the automatic granting of the contractual remedy requested and directly applicable to the employee. Any dispute over such contractual remedy will be decided by the VLRB.

Step IV: Vermont Labor Relations Board (VLRB) level. An appeal of the Step III level decision may be made by the employee or his/her representative to the VLRB in accordance with the rules and regulations established by the Board. Step IV grievances must be filed within thirty (30) days of receipt of the Step III decision. **NOTE:** An employee may appeal his or her dismissal directly to the Vermont Labor Relations Board within the time limits specified by the Board

Vermont Supreme Court

An appeal of a VLRB decision may be filed with the Vermont Supreme Court within 30 calendar days of a Step IV decision. Vermont Supreme court rules of procedure and hearing schedule of the court will dictate the timing of any decision.

CONTENTS OF GRIEVANCE

A grievance must contain the following information:

1. The full name and address of the party or parties submitting the grievance;
2. Identification of the State agency, department or institution involved;
3. A statement of the facts concerning the grievance;
4. Specific references to the pertinent section(s) of the contract or of the rules and regulations alleged to have been violated;
5. A statement of the specific remedial action sought;
6. A request for a grievance meeting, if desired.