



Martin Luther King, Jr.
OUTPATIENT CENTER

POLICY AND PROCEDURE

DIVISION: ADMINISTRATION	NUMBER: 04-011
SUBJECT: GRIEVANCE PROCEDURE	
SECTION: HUMAN RESOURCES	PAGE: 1 OF: 5
REVIEWED BY: HR ADMINISTRATOR AND POLICY & PROCEDURE COMMITTEE	EFFECTIVE DATE: 08/16/1978
TO BE PERFORMED BY: ALL MANAGERS AND EMPLOYEES	REVIEWED DATE: 04/16/07
	REVISED DATE: 04/2017

PURPOSE

To provide an equitable system for the resolution of employee grievances as defined in the applicable Memoranda of Understanding (MOU).

POLICY

Employee grievances shall be responded to within specified time limits without discrimination, coercion, restraint, or reprisal against any employee who may submit a formal or informal grievance. For employees who are *not* represented by the collective bargaining process, the procedures contained within this policy shall govern the presentation and response to such matters. For employees who *are* represented by collective bargaining, this policy shall provide general guidelines regarding the grievance process, but deference is made to provisions of the applicable negotiated Memorandum of Understanding (MOU) which shall govern the grievance process, including time limits for submission and response at each level of consideration.

PROCEDURE

Grievance Format

A formal grievance can be filed on the departmental "Grievance Form" (Attachment 1) available through on-site Human Resources (HR) or on documents used by the grievant's employee union. Either form should be honored and used in response to the grievance.

Timeliness

The date a grievance is received must be documented on the grievance form upon receipt at each level. A grievance submitted for a third level hearing should bear two previous dates or clock stamps.

Unless otherwise required by the grievant's applicable MOU, all actions associated with the filing, scheduling, hearing and response regarding either an informal or formal grievance are predicated upon a standard ten (10) day period.

The timeliness of the submitted grievance should be immediately confirmed upon receipt. If a grievance is untimely (submitted after the time limits set forth by the governing MOU or, for non-represented grievants, after the time limits set forth by this policy) it should be returned to the grievant and its untimeliness noted in the response space. For example:

"Grievance is untimely in accordance with the current MOU governing (cite the grievant's payroll title)".

If an untimely grievance presents a problem that should be addressed by the organization, an administrative resolution for the problem should still be facilitated outside of the grievance process.

Representation: Preparation and Presentation

All grievants, both represented and non-represented, are entitled to representation during the preparation and presentation of a grievance. The grievant's representative can literally be anyone designated by the grievant. The grievant is entitled to have **one** such representative as an active participant in the grievance hearing. Where there is a request to have more than one representative present, it should be clearly determined as to which representative shall have an active voice **before** the hearing begins.

A County employee selected as a representative in a grievance is required to obtain the permission of his/her immediate supervisor to be absent from duty to attend a grievance meeting. Reasonable advance notice shall be given to the supervisor to ensure that departmental operations will not be unduly disrupted. No employee shall forfeit the right to assistance or representation because of a management imposed delay.

Scheduling

An employee has the right to present their grievance during their normal business hours. Care should be exercised not to schedule a grievance hearing on the grievant's scheduled time-off or regular day off.

Coordination of Grievance Hearings

First and second level grievances should be submitted to on-site Human Resources (HR) for coordination of the grievance meetings. If a third level grievance meeting is required, on-site HR will forward the request to DHS HR Employee Relations and update the Employee Relations grievance database with the supporting information. DHS HR Employee Relations will coordinate the third level grievance meeting.

Waiver of Hearing

Designated Hearing Officers shall not independently waive their responsibility to respond at any level of the grievance presentation without consultation with DHS HR Employee Relations Division and written agreement by all parties concerned.

Time Limits and Response

At all levels, **the written responses must be made within five to ten business days** in accordance with the applicable MOU. For non-represented employees the standard time frame for all actions (submission, scheduling and response) is ten (10) business days.

Failure by Management to respond to the employee's grievance within the time limits specified automatically grants the employee, or their designated representative, the right to move the grievance to the next level, up to and including arbitration, as appropriate.

Any time limits established in this grievance procedure, may be extended by *mutual* agreement as confirmed in writing between the grievant and their designated representative. Waiver of grievance hearing at any level requires concurrence of the DHS HR Employee Relations Division.

In responding to the grievant, the written response should be simple and brief. If the requested remedy is to be granted, wording for the response shall be "Requested remedy granted". If it is determined that the original action will be held and the remedy cannot be granted, the response shall read "Grievance denied." Limiting the written response is not, in any way, intended to stifle discussion during the hearing.

The original grievance form shall be returned to the grievant with a copy retained by the hearing Officer. In the upper right hand corner of the grievance document, the Hearing Officer must indicate the actual date upon which the grievant was either handed or mailed their copy of the Hearing Officer's decision.

When responding to any level of grievance hearing wherein the employee has had representation, a copy of the response may also be provided to the employee's representative, if requested. Where specific requirements exist within the context of the governing MOU relative to provision of the hearing officer's decision to the employee's union representative, the provisions of the MOU will be met.

A grievance may revert to a prior level for reconsideration. However, if any grievant fails to appeal from one level to the

next within the time limits established either by this grievance policy/procedure – or – by the provisions of their governing MOU, the grievance shall be considered closed on the basis of the last decision and shall not be subject to further appeal or consideration.

Modification to the Grievance

Any modification to the grievance complaint or requested remedy must be clearly stated. If either is unclear, the grievance should be returned to the grievant for revision, additions, clarification, correction, etc. The original submission date shall be honored.

Requests to amend and/or expand the scope of the grievance and/or requested remedy during the actual grievance hearing, at any level, may be considered by the Hearing Officer subject to consultation with Employee Relations Division representative. If, however, such amendment or expansion will require additional fact finding in order to render an informed decision, the Hearing Officer should make a request during the hearing for additional response time for such purpose. If adequate time cannot be agreed upon to permit reasonable fact finding and response, it is prudent for the Hearing Officer to decline to permit amendment or expansion and instead to recommend the filing of a subsequent grievance.

GRIEVANCE PROCESS

The following schematic is intended to provide a simple reference regarding general steps in the grievance process, and to identify the responsibilities of each party. However, the individual requirements of any governing Memorandum of Understanding will prevail. For non-represented grievants, the steps described herein shall be adhered to:

Grievance Level	Employee’s Responsibility	Hearing Officer’s Responsibilities
Informal Level	Within 10 days from the actual occurrence of the matter on which the grievant’s complaint is based, or within 10 days from the grievant’s actual knowledge of such occurrence, the grievant shall present the complaint – and – their requested remedy either verbally or in writing to their immediate supervisor.	Within 10 days from the grievant’s presentation of their complaint, the immediate supervisor shall respond <u>in writing</u> to the employee. Such response shall either grant or otherwise deny the remedy requested by the grievant.
First Grievance Step: First Level Management	Within 10 days from <i>either</i> the immediate supervisor’s response to an informal grievance that is deemed unsatisfactory –or- from <i>either</i> the actual occurrence of the matter on which the grievant’s complaint is based <i>or</i> the grievant’s actual knowledge of such occurrence, the grievant shall present two (2) copies of a formal grievance, legibly written, on either the union or departmental grievance form, stating in plain language and in detail the specific action, MOU provision, rule, or regulation that is the subject of the grievance and the resolution requested. The grievance must be presented to the immediate supervisor. The grievant should retain one (1) copy of the grievance document for their record, <u>and</u> submit one (1) copy to the MLK OPC on-site Human Resources. <i>Unless expressly granted by the Hearing Officer, the scheduled grievance hearing will be limited to those matters contained on the written grievance form, as originally presented.</i> Note: In matters involving physician and/or dental post-graduates – and- members of the Professional Staff Association, the First Level Hearing Officer shall be the Chief Physician of the grievant’s medical service area, or their designee, unless otherwise determined by the DHS office of Human Resources, Employee Relations Unit.	Within 10 days from receipt of the formal written grievance document, the assigned <i>hearing Officer</i> must either schedule and conduct a formal hearing of the matter – or – review and research the matter presented within the grievance – and – provide a written decision to the grievant to either grant or otherwise deny the remedy requested by the grievant by completing and returning the <i>original</i> grievance document to the grievant – and – simultaneously providing a copy of the dispositioned grievance document to the MLK OPC on-site Human Resources. The MLK OPC on-site Human Resources office will record the nature and disposition of the first – and subsequent – level grievance(s) in a cumulative database maintained to trend and report all employee grievances on a periodic basis.

Grievance Level	Employee's Responsibility	Hearing Officer's Responsibilities
<p>Second Grievance Step:</p> <p>Hearing Officer: Middle Level Management</p> <p><u>MLK OPC</u> Division Manager/Facility Manager/Area Administrator</p>	<p>Within 10 days from receipt of the Hearing Officer's written determination of the first level grievance, the grievant may appeal the Hearing Officer's decision to Middle Management by submitting the original grievance document <u>and</u> one (1) copy, containing the Hearing Officer's decision, to the Middle-Management level.</p> <p>The grievant should retain one (1) copy of the grievance document for their record <u>and</u> submit one (1) copy to the on-site Human Resources office. <i>Unless expressly granted by the Hearing Officer, the scheduled grievance hearing will be limited to those matters contained on the written grievance form, as originally presented.</i></p> <p>Note: <i>In matters involving physician and/or dental post-graduates – and – members of the Professional Staff Association, the Second Level Hearing Offer shall be the MLK OPC Medical Director or their designee, unless otherwise determined by the DHS Human Resources Office, Employee Relations Unit.</i></p>	<p>Within 10 days from receipt of the grievant's original grievance document, the second level Hearing Officer shall review the grievance materials and meet with the parties involved. The meeting will be coordinated by on-site HR with hearing officer, the grievant, and the representative identified by the employee, if any. Within 10 days from such meeting, the Hearing Officer shall conduct fact finding as appropriate and render a written decision to the grievant on the original grievance document. The Hearing Officer is not limited to granting or denying a grievance for the reasons stated at any prior step in the procedure.</p> <p>The Hearing Officer will provide a copy of their decision to the grievant and to the on-site Human Resources Office. Upon the grievant's specific request to either the Hearing Officer or the Human Resources Office, a copy of the grievance decision will be provided to their representative.</p>
<p>Third Grievance Step:</p> <p>Administrative Level Management</p> <p><u>MLK OPC</u> Chief Executive Officer or designee</p> <p><u>DHS:</u> Chief Executive Officer or designee</p>	<p>Within 10 days from receipt of the Hearing Officer's written determination of the second level grievance, the grievant may appeal the Hearing Officer's decision to Administrative Management by submitting the original grievance document and one (1) copy, containing the Hearing Officer's decision, to the MLK OPC Human Resources Office.</p> <p>The grievant should retain one (1) copy of the grievance document for their record.</p> <p>Unless specifically granted by the Hearing Officer, the scheduled grievance hearing will be limited to those matters contained on the written grievance form, as originally presented.</p> <p>Note: <i>In matters involving physician and/or dental post-graduates-and- attending physicians, the Third Level Hearing Officer shall be the DHS Director of Clinical Affairs, unless otherwise indicated by the DHS Human Resources Office, Employee Relations Unit.</i></p>	<p>Within 10 days from receipt of the grievant's original grievance document, the Employee relations Unit of the DHS Human Resources Office will schedule a third level hearing of the grievance by a neutral Hearing Officer at an Administrative Management level, and notify the grievant of the date/time/ to appear.</p> <p>Unless mutually agreed, the grievant is responsible for providing notification to their representative relative to the scheduled hearing date/time/location.</p> <p>The Hearing Officer shall review the grievance materials, meet with the parties involved, conduct fact finding as appropriate, and render a written decision to the grievant on the original grievance document. Simultaneously, the Hearing Officer will provide a copy of their decision to the DHS Human Resources Office, Employee Relations Unit.</p> <p>If, in a matter involving a <i>represented</i> grievant, the Hearing Officer fails to render a decision within the specified time limit, the grievant or their representing union shall have the option of escalating the grievance to arbitration by alleging violation of a negotiated agreement between the parties.</p> <p>On matters that do not directly concern or involve the interpretation or application of specific terms and provisions of a MOU, or are not subject to arbitration pursuant to a negotiated contract, the written decision of the designated 3rd level Hearing Officer shall be final.</p>

DEFINITIONS:

A Represented Employee is one who is a member of a classification or group that is represented by a recognized employee union for the purposes of collective bargaining regarding the negotiation of terms/conditions of employment, resulting in a binding Memorandum of Understanding (MOU).

A Non-Represented Employee is one who is not a member of a classification or group that is represented by a recognized employee union for the purposes of collective bargaining and, therefore, for whom there is no binding MOU or other form of contract to govern the terms/conditions of their employment.

A Grievant is the individual employee who has filed either an informal or formal grievance.

The Hearing Officer is the assigned management representative who has the responsibility of hearing/researching the grievance matter at a given level, and issuing a determination to either grant or deny the grievance.

REFERENCES:

Memorandum of Understanding (MOU)
Supervisor/Managers Guidebook to Handling Grievances

NOTED AND APPROVED:

Cynthia M. Oliver, Chief Executive Officer

Date

Ellen Rothman, M.D., Chief Medical Director

Date

Lessie Barber, Nursing Director

Date

Signature(s) on File.