

## **COMPLAINT AND GRIEVANCE POLICY**

The Commission provides a method for all employees (regular, probationary, and temporary) to resolve work-related problems. This procedure is an orderly process for hearing employee complaints and grievances and for resolving the problem in a timely manner. Applicants for employment may use this process to file complaints of discrimination, retaliation, or reprisal.

If an employee has a problem, the employee should talk about it informally with his or her supervisor. If the supervisor cannot or will not assist in correcting the problem, the employee has the right to submit a formal complaint or grievance, depending on the situation. Employees and applicants may present a complaint or grievance without fear of future discrimination, retaliation, or reprisal.

An employee or applicant who is considering submitting a complaint or grievance should become familiar with the following general information before completing the form. If an employee or applicant needs assistance in submitting a complaint or grievance, he or she should contact an affirmative action representative or a representative of the Human Resources Division (HRD), or the Civil Rights Office (CRO).

### **A. General Information**

It is an employee's right, depending on his or her employment status, to submit formal complaints and/or grievances to resolve work-related problems that cannot be resolved within the work group. Applicants may file a complaint of discrimination, retaliation, or reprisal. The following definitions determine eligibility to file a complaint and/or grievance.

**Complaint** - Dissatisfaction with aspects of employment or work conditions because of discrimination (based on race, color, religion, sex, national origin, age, status with regard to marriage or public assistance, political opinions or affiliations, physical or mental handicap or disability, or participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related interests of the employer), retaliation, or reprisal. All employees and applicants for employment are eligible to file a complaint.

**Grievance** - Dissatisfaction with work conditions, work relationships, or the interpretation of policies, rules, regulations, or legislation used in personnel practices. This includes termination, suspension, demotion, reduction in force, forced relocation, or acts of retaliation or reprisal. Temporary and probationary employees and applicants for employment cannot file a grievance.

Employees will be allowed reasonable time during regular work hours, without loss of pay or leave time, to make necessary contacts and preparations for processing the complaint or grievance.

Upon written request, the department will make available the necessary specified information to assist the employee or applicant in processing a complaint or grievance.

## **B. Procedure**

The following are formal steps of the complaint and grievance procedure. **All steps must be followed within the given time frames.** An employee's or applicant's right to continue the complaint and grievance procedure will be lost if he or she does not proceed as required below.

To process a formal complaint or grievance, an employee or applicant **must** complete and submit a Complaint or Grievance Form to the Director **within 15 working days** after the incident occurred or from the time he or she knew, or reasonably should have known, of the problem. The completed form should state the exact nature of the complaint or grievance, the issues involved, and the solution requested.

An employee may submit a written request to the Director to waive the deadline in order to attempt to resolve the matter informally within the work group. If an employee does not request a waiver of the deadline and submits a complaint or grievance after the deadline, the Director may still accept the complaint or grievance for review if the informal discussion process with the employee's supervisor(s) can be verified.

A complaint and a grievance may be processed at the same time. Complaints and grievances filed by a group(s) of employees or applicants about a similar or common concern will be processed as a single complaint or grievance.

The Director will attempt to make a final written decision regarding the complaint or grievance **within 20 working days** from the date the form is received. The Director will notify the employee or applicant filing the complaint or grievance in writing if the decision is to be delayed. If the final written decision is not issued within twenty working days (or in a case in which the Director had indicated that the decision was to be delayed, in such additional time as had been indicated by the Director), the employee or applicant may submit the complaint/grievance to Human Resource Management Services (HR.MS) or the North Dakota Labor Department, as appropriate.

All decisions of the Director are final except as stated below:

1. A regular employee who is not satisfied with the Director's decision regarding

a complaint of discrimination, retaliation, or reprisal or regarding a grievance in the case of termination, suspension, demotion, reduction in force, or forced relocation, may appeal to Human Resource Management Services (HRMS). The appeal must be brought within a limited time frame. Contact HR.MS for details.

2. An employee or applicant may choose to file complaints of discrimination, retaliation, or reprisal with, or appeal the Director's decision regarding complaints of discrimination, retaliation, or reprisal to the North Dakota Labor Department. The US Equal Employment Opportunity Commission (EEOC) has designated the Labor Department as the agency to handle charges of employment discrimination, retaliation, or reprisal filed with the EEOC that are within the state's jurisdiction. The complaint or appeal must be filed within a limited time frame. Contact the Labor Department for details.

*Adopted and Approved by RH on August 8<sup>th</sup>, 2006*