



## State of Arkansas Grievance Policy and Procedure FAQs

- 1. Can I use the grievance process if I received a written warning?**
  - a. No. An eligible Employee may only use the grievance process for a termination or suspension without pay.
- 2. My coworker and I don't get along and I want to file a grievance against them, can I?**
  - a. No. An eligible Employee may only file a grievance against his or her immediate supervisor or a supervisor within the chain of command.
- 3. How long do I have to file a grievance?**
  - a. Five (5) business days from the date of the termination or suspension without pay. The first business day begins the day after the termination or suspension without pay.
- 4. Can I amend the grievance form after I submit it?**
  - a. Yes. The Employee is permitted to amend the form one time to correct any errors.
- 5. If the Grievance Officer determines that the complaint is not eligible for the grievance process, can I appeal that decision?**
  - a. Yes. The Grievance Officer must notify the Employee in writing of the reason(s) the complaint is not eligible, and that the Employee can appeal to the Office of Personnel Management (OPM) for a final decision.
- 6. Can I be represented at the mediation or grievance hearing?**
  - a. Yes. The Employee may choose to be represented by an attorney or other representative. The attorney or representative is presumed to act on behalf of the Employee and is subject to the required deadlines.
- 7. Who do I notify if I choose to be represented?**
  - a. The Employee must notify the Grievance Officer and provide contact information for the representative.
- 8. What if I need an interpreter for the mediation or grievance hearing?**
  - a. The Employee should notify the Grievance Officer and OPM if interpreter services are needed.
- 9. Can the mediation or grievance hearing be rescheduled?**
  - a. Yes. In limited situations, the mediation or hearing may be rescheduled. The Employee or representative is responsible for contacting the Grievance Officer regarding availability. The Employee's case may be dismissed if the Employee or representative fails to timely communicate with the Grievance Officer.
- 10. How is the mediator selected?**
  - a. OPM selects the mediator from its roster. The mediator must be a current state employee but cannot be employed by the agency involved in the grievance and must remain in good standing with OPM.
- 11. Can I have witnesses testify at the mediation?**
  - a. No. The mediation session is limited to the Employee, the Employee's representative, the Department manager or supervisor, the Department's attorney, and the mediator.

**12. Does the mediator make a final decision?**

- a. No. The mediator facilitates the conversation between the Employee and the Department. The Employee and the Department can agree on terms of a settlement.

**13. Can I have witnesses testify at the hearing?**

- a. Yes. The Employee and Department may request that individuals with direct knowledge be available to testify. The Employee and Department must notify the Grievance Officer of the witness list prior to the scheduled grievance hearing.

**14. Who notifies the witnesses that they are requested to testify?**

- a. The Grievance Officer will notify Employees who are requested to testify. The Employee or Department is responsible for notifying any non-Department individual who is requested to testify.

**15. Is a witness required to use leave to testify at a hearing?**

- a. No. The Department cannot require an Employee to use their accrued leave to testify at a grievance hearing.

**16. Can a witness testify by phone?**

- a. Yes. The Employee, Department, and hearing officer must have an opportunity to question the witness.

**17. Is the hearing a closed hearing?**

- a. Yes. Only individuals required or requested to attend the hearing may be present.

**18. Is the hearing recorded?**

- a. Yes. The hearing is audio recorded.

**19. Who is responsible for having the audio recording transcribed?**

- a. The Grievance Officer will make sure the recording is transcribed if the Department, Hearing Officer, or Employee request a transcript or if the Employee appeals the case to OPM.

**20. Can I present documentation (evidence) at the grievance hearing?**

- a. Yes. The Employee or Department may present evidence to support its case. The Hearing Officer will determine whether the evidence will be made part of the file as an exhibit.

**21. Can I appeal the final decision from the Department Secretary?**

- a. Yes. The Employee can submit the appeal form to the Grievance Officer.

**22. How long do I have to submit the appeal form?**

- a. The Employee has no later than seven (7) business days to submit the form.

**23. Who presides over the appeal hearing?**

- a. The State Employee Grievance Appeal Panel.

**24. Can SEGAP make a recommendation without a hearing?**

- a. Yes. The Employee and Department may agree to let SEGAP decide the case based solely on the file. The Employee and Department would not present any evidence or testimony. The Employee must notify the Grievance Officer if he or she requests to have the decision made based solely "on the record."

**25. Can my attorney or representative participate in the hearing on my behalf?**

- a. No. The Employee is required to participate in the mediation or hearing.

**26. Can I participate in the mediation or hearing by phone?**

- a. Yes, as long as the Department agrees.

- 27. What if I fail to participate in the mediation or hearing?**
- a. If the Employee fails to participate in the mediation or hearing, a default decision in favor of the Department will be issued, provided the Employee did not give notice to OPM prior to the hearing detailing the reason for not appearing.
- 28. How long is the appeal hearing?**
- a. The Employee and Department are each given one (1) hour to present their case. SEGAP may grant additional time.
- 29. Can I add documentation to the case file after the Secretary's decision has been issued?**
- a. No. If the case is appealed, the Employee may be allowed to present new evidence at the appeal hearing. The final decision on whether new evidence is allowed is determined by SEGAP.
- 30. What evidence can be presented at the appeal hearing?**
- a. The Employee and Department may present anything that is already in the file. The Employee may present new evidence or testimony only if it could not reasonably have been presented at the Department's hearing.
- 31. Can the Department present new evidence or testimony?**
- a. Only if the new evidence or testimony is offered as rebuttal to the Employee's new evidence or testimony.
- 32. Are the Arkansas Rules of Evidence strictly applied in a grievance hearing?**
- a. No, the rules are informally followed. The hearing officer will determine relevancy of evidence and testimony and apply the proper weight.
- 33. Can I have witnesses testify at the Appeal Hearing?**
- a. Yes. The Employee and Department may request that individuals with direct knowledge be available to testify. The Employee and Department must notify the Grievance Officer of the witness list prior to the scheduled grievance hearing.
- 34. What if a requested witness testified at the Administrative Review Hearing?**
- a. The witness's testimony is limited to clarifying information only. The witness will not repeat what is already in the transcript.
- 35. What if the Department Hearing Officer or SEGAP member has a conflict of interest in the case?**
- a. The Department Hearing Officer is an impartial individual and must recuse from the case if he or she has personal knowledge of the case and can no longer be impartial. The Department Secretary, or his or her designee, will select an alternative Department Hearing Officer for the Administrative Review Hearing. The TSS Secretary or OPM will select an alternative SEGAP member.
- 36. Can the Department Hearing Officer or SEGAP member have ex parte communication?**
- a. No. The Department Hearing Officer or SEGAP member is prohibited from communicating with the Employee or Department unless both sides are directly involved in the communication.
- 37. Is the Appeal Hearing recorded?**
- a. Yes. The hearing is audio recorded and the Employee or Department may request a copy of the recording. OPM does not transcribe the recording.
- 38. What is the contact information for OPM?**
- a. 501-682-1753 or [OPM.Disputeresolution@dfa.arkansas.gov](mailto:OPM.Disputeresolution@dfa.arkansas.gov).