

<p align="center">GEORGIA DEPARTMENT OF JUVENILE JUSTICE</p>	<p align="center">Transmittal # 16-09</p>	<p align="center">Policy #3.23</p>
<p>Applicability: {x} All DJJ Staff {x} Administration {x} Community Services {x} Secure Facilities (RYDCs and YDCs)</p>	<p>Related Standards & References: State Personnel Board Rules , 478-1-.20, 478-1-.27 O.C.G.A. §45-22-11, §45-19-20, et. seq. 45-20-3, 45-20-3.1, 45.20-4 Title VII of the 1964 Civil Rights Act 42 USC @ 2000e. et. seq., as amended by the Civil Rights Act of 1991 DJJ 2.7, 3.51, 3.80 4-JCF-6D-04, 3-JDC-1C-05-1</p>	
<p>Chapter 3: PERSONNEL</p>	<p>Effective Date: 7/15/16 Scheduled Review Date: 7/15/17</p>	
<p>Subject: EMPLOYEE COMPLAINT PROCEDURE</p>	<p>Replaces: 4/1/12 Office of Human Resources</p>	
<p>Attachments: A – Employee Complaint Form B – Employee Group Complaint Form C – Notice of Eligibility to File a Complaint</p>	<p>APPROVED:  _____ Avery D. Niles, Commissioner</p>	

I. POLICY:

The Department of Juvenile Justice is committed to the fair and equitable treatment of employees in all aspects of human resource management. The Department shall provide eligible employees a timely and orderly process for addressing employee complaints and reaching a fair and equitable decision. Employees should make reasonable attempts to resolve employment issues, concerns, and/or disputes with their immediate supervisor prior to the filing of a written complaint. The effort to resolve employment issues may include the use of mediation.

II. DEFINITIONS:

Adverse Action: A disciplinary action taken against an employee, which results in suspension without pay, salary reduction, demotion, or termination. It addresses an employee’s work-related problems in the areas of attendance, performance, or conduct when lesser disciplinary actions have not corrected the problem or where the problem is significant.

Business Days: Monday through Friday, excluding state holidays and furlough days.

Classified Employee: An employee who has attained permanent status during the current period of continuous service and the permanent status grants the employee additional notice and appeal rights.

Filing: The act of an eligible employee submitting an Employee Complaint Form (Attachment A) to the Complaint Coordinator.

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Complaint: A claim by an eligible employee that the employee’s personal employment has been affected by unfavorable employment decisions or conditions due to unfair treatment.

Complaint Coordinator: The person designated by the Department to be responsible for receiving complaints, determining eligibility, and tracking the processing of complaints.

Complaint Review Official: The person designated by the Commissioner or designee to conduct reviews of complaints filed by unclassified employees.

Complainant: An employee who has filed a complaint in accordance with the procedure established by this policy.

Letter of Concern: A Letter of Concern, the least severe punitive of the progressive discipline steps, addresses an employee’s specific problem in the area of attendance, performance, or conduct. The objective is to ensure that the employee recognizes that a problem exists, to mutually develop an effective solution, and to avoid the need for further progressive disciplinary action.

Letter of Reprimand: A Letter of Reprimand addresses an employee’s continuing or significant work-related problem in the areas of attendance, performance, or conduct. The reprimand will also include a Performance Improvement Plan.

Mediation: An informal problem-solving process in which a certified mediator helps disputing parties to reach a mutually satisfactory agreement.

Receipt: The date and time a document is delivered to the addressee by mail, facsimile, or personal delivery.

Unclassified Employees: An employee whose employment relationship may be discontinued at any time for any reason other than an unlawful reason.

III. PROCEDURES:

- A. Any employee may file a complaint, except:
 1. An employee who is already seeking relief on the same matter through other administrative or judicial procedures outside of the Department;
 2. An employee who has been notified of termination; or
 3. An employee who reports directly to the Commissioner.
- B. Employees may file a complaint without fear of unlawful discrimination or reprisal.

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- C. Any employee who knowingly supplies false or misleading information in a complaint, or who attempts to harass, intimidate, or retaliate against an employee as a result of filing a complaint or providing testimony or evidence regarding a complaint will be subject to disciplinary action, up to and including, dismissal from employment.

- D. This policy does not limit the rights of management to direct the workforce in accomplishing the Department's mission. The complaint process does not alter the at-will employment relationship between the Department and unclassified employees.

- E. Valid issues under this Complaint process for employees include:
 - 1. Allegations of unlawful discrimination on the basis of race, color, religion, sex, national origin, age, disability, pregnancy, childbirth or related medical conditions, genetic information, or sexual orientation;
 - 2. Allegations of sexual or other forms of unlawful harassment;
 - 3. Retaliation for filing a complaint or participating in the complaint process;
 - 4. Erroneous, arbitrary, or capricious interpretation or application of policies, procedures, rules, regulations, ordinances, or statutes;
 - 5. Unsafe or unhealthy working conditions;
 - 6. Retaliation or intimidation for exercising any right under the Rules of the State Personnel Board or policies of the agency; or
 - 7. For classified employees only: Letter of Reprimand or Adverse Action.

- F. Non-valid issues include, but are not limited to, the following:
 - 1. Complaints against co-workers;
 - 2. Issues that are pending or have been adjudicated by the Georgia Commission on Equal Opportunity, or through other state or federal administrative or judicial procedures;
 - 3. Issues that are subject to appeal, review or relief through other provisions of other Department policies (e.g., DJJ 3.80, Employee Progressive Discipline Policy);
 - 4. Performance responsibilities, expectations, and evaluations;

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5. Demotion, reassignment, furlough, or termination of employment, including but not limited to, termination resulting from a reduction in force, Adverse Action, or job abolition;
6. Selection of an individual to fill a position, unless it is alleged that the selection violates an applicable State Personnel Board Rule, a Department policy, (see DJJ 3.51, Recruitment and Selection) or state or federal law;
7. Permanent changes in work hours or duties and responsibilities unless the changes are unsafe or unlawful;
8. Temporary work assignments that do not exceed 90 calendar days;
9. Budget and organizational structure, including the number or assignments of positions in any organizational unit;
10. Relocation of employees unless the relocation qualifies for reimbursement (see DJJ 2.7, Payment of Employee Relocation Expenses);
11. Internal security practices established by the Department;
12. Any matter that is not within the control of the Department;
13. Disciplinary issues (DJJ 3.80, Employee Progressive Discipline) not subject to review; and
14. Leave approval or denial unless based on an unlawful discriminatory basis.

G. General Provisions:

1. Employees may contact the DJJ Employee Relations/EEO Section for assistance in filing a complaint.
2. At any step in the procedure, any party to a complaint may request mediation. The Complaint Coordinator will make the final determination regarding the appropriateness of the referral. The Complaint Coordinator will suspend the complaint until the mediation process is complete. When the mediation process is complete, the complaint process will continue or terminate.
3. A Complainant may voluntarily withdraw a complaint at any point by written notice to the Complaint Coordinator. A withdrawn complaint is terminated and may not be re-filed. However, the Office of Human Resources reserves the right to continue a review, if deemed warranted (e.g., unlawful discrimination, policy clarification)

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4. Upon separation of the employee, either by dismissal or resignation, the Complaint Coordinator will determine if the complaint review needs to continue even though relief is no longer available to the Complainant.
5. If an employee seeks administrative or judicial relief outside of the Department after beginning the complaint procedure, the complaint review procedure will stop.
6. Employees having a common complaint may submit one group complaint using the Employee Group Complaint Form (Attachment B). The complaint may identify no more than 2 Complainants as selected spokespersons. Employees who choose to file a group complaint waive their individual rights to file separate complaints on the same subject. The Complaint Coordinator may consolidate multiple complaints filed by an employee into a single complaint. The Complaint Coordinator may consolidate separate complaints filed by two or more employees regarding the same issues into a group complaint.
7. An employee utilizing the Employee Complaint Procedure will be excused from duty for up to 4 hours during regular work hours to prepare a complaint. An employee is allowed no more than 12 hours per calendar year to prepare complaints.) The Complaint Coordinator will have the authority to resolve any dispute regarding the determination of reasonable and necessary time for preparing a complaint.
8. The Office of Human Resources will maintain current, accurate records of each complaint filed and the nature and disposition of all complaints filed. These records are subject to audit by the State Personnel Administration.

H. Time Provisions:

1. The employee must file the complaint within 10 business days of the issue, or within 10 business days of the date the employee became aware or should have become aware of the issue. The Complaint Coordinator may waive or extend the filing deadline.
2. The complaint is filed when “received” by the Complaint Coordinator.
3. The day received does not count towards any time limit specified in this policy.
4. All parties to a complaint must agree to extend the time limits specified in this policy.

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5. The Complaint Coordinator may extend any time limit specified in this policy due to:
 - a) Emergency;
 - b) Medical disability;
 - c) Legally mandated absence on the part of the complainant, Departmental representative, or a witness; or
 - d) Missing or incomplete documentation or information.
6. The Complaint Coordinator will immediately notify the complainant of the period of extension and the reason(s) for the extension.

I. Complaint Process:

1. An employee may initiate a complaint by filing an Employee Complaint Form (Attachment A) with the Complaint Coordinator. Any documents supporting the stated allegations must be attached to the Complaint Form.
2. The complaint must contain a statement of the incident(s) or violation(s) involved, the parties involved, the date(s) the incident(s) or violation(s) occurred, how the complainant's employment has been unfavorably affected, and the relief sought. If the complaint involves the interpretation or application of a rule or policy, the complaint must identify the rule or policy at issue.
3. The complainant may not add additional issues and requested remedies or relief to the complaint after it has been filed.
4. Within 10 business days of receipt of a complaint, the Complaint Coordinator will review the complaint to determine the eligibility of the issue(s) and provide written notice to the Complainant(s) that:
 - a) The issue is not eligible, including the specific reason(s) for the determination, and that the complaint process is being terminated;
 - b) The issue alleges unlawful discrimination and will be processed according to the provisions of a separate complaint procedure for allegations of unlawful discrimination (see Section K); or
 - c) The issue is eligible, including an explanation of how the complaint will be processed. This notice must also be provided to the first level of supervision having the authority to grant the requested relief.

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J. Internal Review Process:

1. Within 15 business days of the notice that an issue is eligible, a Complaint Review Official will be assigned.
2. The Complaint Review Official will review the complaint based solely on written statements and documents provided and, if necessary:
 - a) Interview Complainants, Respondents, witnesses and others;
 - b) Clarify and/or interpret policies;
 - c) Meet with the parties to facilitate an agreement;
 - d) Explore alternative dispute resolutions (e.g., mediation); or
 - e) Written allegations are shared with all relevant parties.
3. Barring prior settlement of the complaint by agreement of the parties, the Complaint Review Official will make a final determination of the appropriate corrective action, if any. The Complaint Review Official will submit the final determination to the Complaint Coordinator, in writing, within 80 calendar days of the filing of the complaint.
4. Within 10 business days of receipt of the final determination, the Complaint Coordinator will advise the complainant, in writing; of the final determination and that the Department has concluded processing the complaint. The entire process must be completed within 90 days from the filing of the complaint.

K. Complaints alleging unlawful discrimination and/or harassment will be reviewed by the Complaint Coordinator and will be processed as follows:

1. The complaint will be investigated pursuant to the Department's procedure designed specifically for unlawful discrimination complaints, in which case the procedural time limitations may be extended by 30 business days.
2. The investigation findings will be submitted to the reviewing official. The Deputy Commissioner or reviewing official will make the final determination of the appropriate corrective action, if any.
3. The Complainant will be advised of the final determination of the appropriate corrective action, in writing, and that the Department has concluded processing the complaint.

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- L. Complaints alleging violations of Public Employee Hazardous Chemical Protection and Right to Know Act will be processed in the same manner as all other complaints. If the employee is not satisfied with the Complaint Review Official's decision, the employee may file a complaint with the DJJ Director of Planning and Preparedness. If still unsatisfied, the employee may file a complaint with the State Office of Insurance and Safety Fire Commissioner within 30 calendar days.
- M. The Notice of Eligibility to File a Complaint (Attachment C) must be permanently and prominently posted on the official bulletin board of each office/facility.
- N. Complaints, including the nature and disposition of the complaint will be maintained in accordance with federal and state record retention schedules.
- O. Classified Employees Only:

Upon receipt of the agency's final decision on a complaint, a classified employee who believes that the agency has violated any provision(s) of the State Personnel Board Rules may file an appeal in writing with the Office of State Administrative Hearings. The appeal must be filed within 10 calendar days of receipt of the agency's final decision on the complaint. The appeal must include the specific provision(s) of the Rules alleged to have been violated and any documentation that would support the allegation.

IV. LOCAL OPERATING PROCEDURES REQUIRED: NO