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			OPI:	HRM		
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				Approving Authority	Quincy L. Booth Director	
	SUBJECT:	EMPLOYEE GRIEVANCE PROCEDURE (NON-UNION)				
	NUMBER:	3320.2D				
	Attachments:	Attachments 1-6				

SUMMARY OF CHANGES:

Section	Change
	<i>Minor Changes Were Made.</i>

APPROVED:



Quincy L. Booth, Director

9/10/2018
Date Signed

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1. **PURPOSE AND SCOPE.** To establish grievance procedures for non-union employees of the D.C. Department of Corrections (DOC) consistent with District regulations.
2. **POLICY.** DOC supervisors and managers should work to resolve employee concerns informally when practicable. An employee may elect to submit their grievance in writing, and shall be provided a full and impartial consideration and review process.
3. **APPLICABILITY.** These procedures apply to all employees, *except* those who are covered by a collective bargaining agreement, which provides for a grievance or appeal procedure.
4. **PROGRAM OBJECTIVES.** The expected results of this program are:
 - a. To inform employees of the grievance process as set forth in DCMR §6-1626 et seq.
 - b. All grievances shall be made in writing using the Employee Grievance Form (Attachment 1) and submitted to the grievance official. The grievance official shall acknowledge receipt (Attachment 2) accept and begin processing, deny the grievance if improper, or request additional information.
 - c. If the grievance official accepts the grievance, he or she will proceed to the first level grievance review and issue a first level grievance decision (Attachment 3). Upon receipt of that decision, the employee may notify the grievance official in writing that he or she is not satisfied with the first review decision. Upon receipt of this notification, the grievance official shall forward all materials to the second level grievance official.
 - d. The second level grievance official (applicable Deputy Director) will issue a decision and upon receipt of that decision (Attachment 3), the employee may notify the original grievance official in writing that he or she is not satisfied with the second level review decision. Upon receipt of this notification, the original grievance official shall forward all materials to the third level grievance official.
 - e. The third level grievance official (Agency Head) will issue a decision and upon receipt of that decision, (Attachment 3), the employee may notify the original

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grievance official in writing that he or she is not satisfied with the third level review decision.

- f. Upon receipt of this notification, the original grievance official shall forward all materials to the personnel authority (DCHR) for a final level grievance review. The decision of the personnel authority shall be final.
- g. DOC employees are assured freedom from restraint, coercion, interference discrimination or reprisal for use of the grievance process.

5. NOTICE OF NON-DISCRIMINATION. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2-1401.01 et seq., (hereinafter, “the Act”), the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

6. DIRECTIVES AFFECTED

a. Directives Rescinded

- 1) PP 3320.2C Employee Grievance Procedure (8/10/2016)

b. Directives Referenced

- 1) PP 3300.1D Employee Code of Ethics and Conduct

7. AUTHORITY

- a. District Personnel Manual, DCMR §16-6-1626 et seq. (Grievances)
- b. D.C. Code § 24-211.02, Powers; Promulgation of rules.
- c. D.C. Code § 2-501, et seq., Administrative Procedures Act.

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- d. D.C. Code § 2-1401.1, et seq., Human Rights Act.
- e. D.C. Official Code §1-604.01 (Personnel Authority)
- f. District Personnel Manual, DCMR §§ 6-815.8, 815.9 and 815.10, 845.4, 845.5
- g. District Personnel Manual, §§6-1143.29, 1143.40, and 1152.5,
- h. District Personnel Manual, DCMR §16-6-1626 et seq. (Grievances)
- i. District Personnel Manual DCMR §§6-1208.6 and 6-1266.8

8. STANDARDS REFERENCED. None

9. DEFINITIONS

- a. *Days* - are calendar days for all periods of more than ten (10) days; otherwise, days are business days.
- b. *Grievance Official* - The employee's supervisor who has the authority to resolve the grievance and for whom there is no conflict of interest (typically the immediate supervisor or the immediate supervisor's immediate superior).
- c. *Personnel Authority* -An individual or entity with the authority to administer all or part of a personnel management program as provided in D.C. Official Code 1604.01 *et seq.* The Personnel Authority for Final Review pursuant to this policy is the D.C. Office of Human Resources (DCHR).
- d. *Supervisor*. An individual who supervises another employee or his or her activities.

10. ALLOWABLE GRIEVANCES. Any matter under the control of the District Government which impairs or adversely affects the interest, concern, or welfare of employees.

11. NON ALLOWABLE GRIEVANCES

The following actions may not be the subject of a grievance:

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- a. An allegation of unlawful discrimination, or any other matter within the jurisdiction of the D.C. Office of Human Rights;
- b. According to D.C. Code §1-606.3, a final agency decision affecting a performance rating which results in removal of the employee, an adverse action for cause that results in removal, reduction in force, reduction in grade, placement on enforced leave, or suspension for *10 days or more*. (note that but may be appealed directly to the Office of Employee Appeals (OEA). For enforced leave actions of *less than 10 days* and for corrective actions, the employee may elect to pursue a grievance within 10 business days of receipt of the final agency action);
- c. The non-selection for promotion from a group of candidates who were properly ranked and certified;
- d. The non-adoption of a suggestion.
- e. The disapproval of a quality step increase, performance award, or other kind of honorary or discretionary award;
- f. Rating factors, written comments, or other items which are parts of a performance appraisal made under the provisions of Chapter 14 of the D.C. Personnel Manual, which items may instead be relevant to an appeal (also under Chapter 14) of the rating level assigned;
- g. A termination during a probationary period (DCMR §6-814.3);
- h. A written decision by the pay authority either granting or denying a pay claim (DCMR §6-1152.5);
- i. A termination of an additional income allowance pursuant to §1143.27 or failure by an agency head to offer an additional income allowance to an employee (DCMR §6-1143.29);
- j. Failure by an agency to offer a hiring bonus to an applicant or employee (DCMR §6-1143.40);
- k. Disciplinary actions taken against attorneys pursuant to Chapter 36 of Title 6B DCMR shall not be subject to grievance procedures established in §1627-§1637;

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- l. An agency head's decision to exclude classes of positions from participating in an alternative work schedule shall be final and not subject to appeal or grievance (DCMR §6-1208.6);
- m. If an amicable resolution of the grievance is reached through mediation, the terms of the resolution shall be reduced to writing in a Mediation Settlement Agreement and shall be binding on all parties and is not subject to review by any administrative body, court or other tribunal (DCMR §6-1635.5);
- n. Employees who are demoted to a lower grade supervisory position voluntarily or involuntarily, and who, for reasons of performance, does not satisfactorily complete the supervisory probationary period, shall be entitled to be assigned to a non-supervisory position at the same grade and pay as the supervisory position to which the employee has been demoted DCMR §6-815.9);
- o. Any matter agreed to by the applicant or employee (DCMR §6-1627.2); or
- p. Anything not subject to a grievance or appeal as set forth by law or regulation;
- q. A requirement of law, or of rules or regulations, established under the D.C. Administrative Procedures Act; or by a court or other competent authority ;

12. PREPARATION FOR SUBMITTING A GRIEVANCE

- a. An employee shall be given administrative leave at reasonable times for the purpose of consulting with District government personnel officials, an equal employment opportunity officer, or with a supervisory or management official of higher rank than the employee's immediate supervisor, concerning the employee's grievance.
- b. The employee shall be required to ask his or her immediate supervisor to indicate a convenient time when he or she can be excused without unduly disruption to the work schedule, and shall be required to inform the supervisor of the name of the official the employee needs to consult with, or office to be visited.

13. SUBMITTING A GRIEVANCE AND TIME LIMITS

- a. An employee may submit a grievance concerning a continuing practice or condition at any time.

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- b. An employee must submit a grievance concerning a particular act or occurrence within forty-five (45) **business** days after the date that he or she knew or should have known of the act or the occurrence
- c. All grievances must be submitted in writing and made using the Employee Grievance Form (Attachment 1).
- d. A grievance is submitted at the lowest supervisor level in the chain of command which has the authority to grant the remedy or relief sought. A grievance is considered submitted when it is received by the grievance official. The final decision shall be rendered or issued in writing, as appropriate, by the grievance officials.
- e. Grievances may be submitted to the grievance official by one of the following means:
 - 1) By mail to the grievance official's principle business address;
 - 2) By email to the grievance official; or
 - 3) By hand delivery to the grievance official's principle business address.

14. THE INITIAL GRIEVANCE PROCEDURE

An initial grievance is submitted in writing to the employee's immediate supervisor or supervisor at the lowest level in the chain-of-command which has authority to grant the relief sought

- a. The initial grievance shall include a detailed explanation of the employee's dissatisfaction and the relief or remedy sought. Employees must submit their grievance on the Employee Grievance Form (Attachment 1).
- b. Within five (5) business days of receipt, the grievance official shall acknowledge receipt and begin processing the grievance, deny the grievance as untimely or not allowable under law or regulations, or request that the grievant supply additional information. This decision must be issued in writing (Acknowledgement of Receipt Form, Attachment 2).
- c. If, after the initial grievance review, the grievance official acknowledges the grievance, the grievance official shall proceed to the first level grievance review.

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15. THE FIRST LEVEL GRIEVANCE REVIEW

After the initial review and acceptance of the written grievance set forth in section 12 above, Within five (5) business days of acknowledging the grievance, the grievance official, or designee, shall interview the grievant and review the record. The grievance official shall inform the grievant that he or she has the option of pursuing mediation.

- a. Mediation-The grievant shall be informed of the option to mediate their grievance and provided the Guidelines for Grievance Mediation (Attachment 4). The grievant shall execute either the DCHR Agreement to Mediate (Attachment 5) or a Declination of Mediation (Attachment 6). If mediation is elected mediation shall proceed as follows:
 - 1) The grievance official shall forward a copy of the agreement to the personnel authority. Within five (5) business days, the personnel authority (DCHR) shall designate an individual to serve as a mediator and the agency head, or his or her designee, shall designate an appropriate agency official to serve as the agency representative.
 - 2) The mediator shall schedule the mediation date(s) and conduct the mediation proceedings in such a manner as to ensure a fair and equitable result. However, the mediation process must be concluded within thirty (30) days from the date the mediator was designated by the personnel authority. If mediation has not concluded within that time period, the matter shall be returned to the grievance official for the first level of review.
 - 3) The parties may agree to any permissible remedies. If an amicable resolution of the grievance is reached through mediation, the terms of the resolution shall be reduced to writing in a Mediation Settlement Agreement and signed by all parties, including the mediator. The written resolution shall be binding on all parties and is not subject to review by any administrative body, court or other tribunal.
 - 4) If the parties are unable to resolve the grievance through the mediation process, the grievance shall be returned to the grievance official to resume the first level grievance review. Grievances shall be returned to the grievance official by the mediator on either the date the mediator determines that no resolution can be reached or thirty (30) days from the date the mediator was designated by the personnel authority, whichever is earlier.

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- b. **First Level Grievance Review**-If mediation is declined or a grievance is returned to the grievance official pursuant to 14(1) i-iv) above, the grievance official shall proceed with the First Level Grievance Review.
- 1) Within five (5) days of acknowledging the grievance, the grievance official, or designee, shall interview the grievant and review the record.
 - 2) During the interview, the grievance official, or designee, shall note the grievant's specific allegations, the facts supporting those assertions and the relief being sought by the grievant.
 - 3) The grievance official, or designee, shall interview the subject of the grievance and any additional witnesses deemed appropriate to the grievance.
 - 4) Following each interview, the grievance official shall summarize each interview in writing.
 - 5) Within five (5) business days of the interview, the first level grievance official shall issue a grievance decision and report based on the totality of the facts.
 - a) If the grievance official finds that the grievance is substantiated by the facts, the grievance decision shall specify the remedy being provided and the date the remedy will be implemented.
 - b) If the grievance official finds that the grievance is not substantiated by the facts, then the grievance shall be denied.
 - 6) Within five (5) days of the issuance of the first level grievance decision, the employee may notify the grievance official in writing of his or her dissatisfaction with the decision accompanied by supporting documents and arguments that support the employee's position.
 - 7) Within two (2) business days, upon receipt of the employee's notification, the first level grievance official shall forward the notification and materials to the second level grievance official (Deputy Director or other direct report to the Director) for review. The materials forwarded shall include

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the grievance application, the grievance official's decision and report, any interview summaries, any records reviewed by the grievance official in rendering his or her decision, and the notification requesting second level review.

16. THE SECOND LEVEL GRIEVANCE REVIEW

- a. The second level grievance review shall be governed by the following provisions:
 - 1) At the second level grievance review, the grievance shall be reviewed by a second level official (the applicable Deputy Director) in the grievant's chain of command who reports directly to the agency head.
 - 2) If the first level grievance official reports directly to the agency head (Deputy Director), the grievance request for further review shall proceed to the agency head for Third Level Review. (b) If the first level grievance official is the agency head, the grievance request for further review shall proceed to DCHR for Final Review.
 - 3) If the first grievance official is DCHR, the grievance official's decision shall be deemed the decision of the personnel authority and the decision shall be a Final Review.
- b. Within no more than ten (10) business days, the second level official may interview the grievant and any other individuals deemed necessary. An interview summary shall be created following any interview.
- c. Within twenty-one (21) calendar days of receipt of the grievance, after having completed any interviews, and any further investigation that may be deemed appropriate by the second level official, the second level official shall issue a second level grievance report and decision based on the totality of the facts.
 - 1) If the grievance official finds that the grievance is substantiated by the facts, the grievance decision shall specify the remedy being provided and the date the remedy will be implemented.

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- 2) If the grievance official finds that the grievance is not substantiated by the facts, then the grievance shall be denied.
- d. Within five (5) business days of the issuance of the second level grievance decision, the employee may notify the *original* grievance official in writing of his or her dissatisfaction with the decision accompanied by supporting documents and arguments that support the employee's position.
 - e. Within two (2) business days of receipt of the employee's notification, the *original* grievance official shall forward the notification and the materials to the third level grievance official (the Agency Head) for review. The materials forwarded shall include the grievance application, the second level official's decision and report, any interview summaries, any records reviewed by the second level official in rendering his or her decision, and the notification requesting third level review.

17. THE THIRD LEVEL GRIEVANCE REVIEW

At the third level of grievance review, the grievance shall be reviewed by the Agency Head.

- a. In his or her discretion, and within no more than ten (10) business days, the agency head may interview the grievant and any other individuals deemed necessary.
- b. An interview summary shall be created following any interview.
- c. After having completed any interviews, and any further investigation that may be deemed appropriate by the agency head, the agency head shall issue a third level grievance report and decision based on the totality of the facts.
- d. If the agency head finds that the grievance is substantiated by the facts, the grievance decision shall specify the remedy being provided and the date the remedy will be implemented.
- e. If the agency head finds that the grievance is not substantiated by the facts, then the grievance shall be denied.

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- f. The third level grievance decision shall be issued no more than twenty-one (21) calendar days following the notification specified in § 1631.6 and shall inform the grievant of his or her right to seek a final review.
- g. Within five (5) business days of the issuance of the third level grievance decision, a grievant may notify the original grievance official in writing that he or she is not satisfied with the decision and request a final review. Upon receipt of this notification, the grievance official shall proceed to the Final Grievance Review by DCHR.
- h. Within two (2) business days of receiving the grievance request for a final review, the original grievance official shall forward all materials the agency received during the grievance process to the personnel authority, DCHR.

18. THE FINAL GRIEVANCE REVIEW

An employee shall be entitled to present a grievance under the Final Grievance Review as follows:

- a. The final level of grievance review, the grievance shall be reviewed and decided by the personnel authority, DCHR.
- b. The personnel authority, DCHR, shall conduct a thorough records review of the grievance.
 - 1) If the personnel authority, DCHR, finds that the grievance is substantiated by the facts, the grievance decision shall specify the remedy being provided and the date the remedy will be implemented.
 - 2) If the personnel authority, DCHR, finds that the grievance is not substantiated by the facts, then the grievance shall be denied.
- c. The decision of the personnel authority, DCHR, shall be delivered to the agency and the grievant no more than thirty (30) calendar days after receiving the grievance request. The decision of the personnel authority shall be final and not subject to any further grievance or appeal before any administrative body or court.

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19. DISMISSAL OF GRIEVANCE

The Department may dismiss a grievance in the following instances:

- a. A grievant may request a dismissal of the grievance at any time.
- b. A grievance official may dismiss a grievance if the grievant substantially fails to carry out his or her responsibilities; fails to participate with; or otherwise impedes the grievance process under this chapter.
- c. A dismissal issued pursuant to this section following the issuance of a second level grievance decision shall be final.
- d. A dismissal of a grievance under this section shall not stop or otherwise enlarge the time limits established in this policy.

20. REJECTION OF GRIEVANCE. During the initial grievance review process, if the grievance is not submitted timely or consists of a matter not covered under the grievance procedures, the employee shall be so advised;

21. EMPLOYEE RESPONSIBILITY

- a. All employees must comply with the procedures of the grievance regulations set forth in this policy as required by DCMR §6-1627, et seq.
- b. Employees must use the Forms attached to this policy.
- c. As set forth in Attachment 1, Grievance Form, each grievance shall include the following:
 - 1) The name, e-mail address, and phone number of the employee seeking the relief;
 - 2) For employees, the name, e-mail address, phone number, and agency of his or her immediate supervisor;
 - 3) The name of the agency at issue;
 - 4) A concise written statement of facts, including dates, that establishes the alleged violation;

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- 5) A written statement as to the applicant or employee's injury; and
- 6) The relief sought by the applicant or employee.

22. RECORDS AND REPORTS

- a. *Records.* Deciding officials shall maintain an accurate record of all grievances.
- b. *Destruction of Reports.* Any destruction of reports shall be done so in accordance to *PS 2000.2 Retention and Disposal of Department Records*.

23. DISSEMINATION. A copy of this Program Statement shall be permanently posted on all employee bulletin boards. In addition, a copy shall be made available to each employee upon request.

Attachments

Attachment 1 – Employee Grievance Form
Attachment 2 – Acknowledgment of Receipt Form
Attachment 3 – Level 1 Employee Grievance (Grievance Review Forms)
Attachment 4 – Guidelines for Mediation
Attachment 5 – Agreement to Mediate
Attachment 6 – Declination of Mediation

DOC/PP3320.2D/9/10/2018



Government of the District of Columbia

Grievance Form

Use this form to file a grievance pursuant to Chapter 16 of the District Personnel Manual. An overview of the grievance process and filing instructions can be found on the next page.

Grievant Information

Full Name:

Last

First

M.I.

Email Address:

E-mail Address

Phone Number:

Work Phone

Personal Phone

Agency:

Employee ID:

Alleged Violation(s)

What provision(s) of the District Personnel Manual, or other laws or regulations, have been violated?

Alleged Violations

Background

What happened? Provide a concise narrative, including dates, that establishes the alleged violation(s).

Factual Statement

Relief

What relief are you seeking? Please be specific in how you would like your grievance resolved.

Relief Requested

Employee Certification

I certify that the information provided in this document is true and accurate. In addition, I understand that the making of a false statement on this document is a violation of law and subject to criminal penalties.

Employee Signature

Date

Acknowledgment of Receipt

If delivered in person, you may have the official you serve acknowledge receipt by signing below.

Printed Name / Title

Email address

Phone number

Grievance Official's Signature

Date

Grievance Process

The grievance process is a method of addressing concerns and disputes concerning your employment or application for employment with the District of Columbia government. The grievance process is outlined below.

File	Submit this form to an official who has the authority to resolve your dispute. Usually this will be one of your supervising officials.
Discuss	After receiving your grievance, the official will schedule a time to discuss your concerns with you.
Mediate	If you choose, you may request that all parties sit down and attempt to find a mutually acceptable resolution to your grievance.
Investigate	If warranted, the official handling your grievance will investigate the grievance. This might involve interviewing additional people.
Resolve	<p>You will receive a written resolution to your grievance.</p> <p>A grievance may be “sustained,” in which case, the official will specify the remedy to be applied.</p> <p>A grievance may also be “denied,” which means the complaint could not be substantiated.</p> <p>Depending on the complexity of the grievance, a resolution should be provided to you within 45 days. But, it could take longer.</p>

Filing Instructions

Grievances must be in writing and filed with the appropriate official.

1. Complete this form. Be concise, but include sufficient detail so that your concerns/complaints are easily understood and the relief you are seeking is clear.
2. Submit the completed form to an official who has the authority to provide you the relief you are seeking. The official may be your immediate supervisor, a division head, an agency head and, in some cases, could be the Department of Human Resources. You should have the official to whom you provide this form sign under the “Acknowledgment of Receipt” section.
3. **If you submit this form to the Department of Human Resources (DCHR),** DCHR will review your submission and, if appropriate, your grievance will be referred to a more appropriate agency. If this happens, you will be notified.



D.C. DEPARTMENT OF CORRECTIONS

Original Grievance Official (print name): _____

Title: _____

Unit: _____

ACKNOWLEDGEMENT OF RECEIPT- EMPLOYEE GRIEVANCE (NON-UNION)

THIS ACKNOWLEDGMENT SHOULD BE COMPLETED WITHIN FIVE (5) DAYS OF RECEIPT. THE GRIEVANCE FORM MUST BE ATTACHED.

GRIEVANT'S NAME (LAST, FIRST, MI): _____

This form serves as acknowledgment that your grievance was received by (agency name) _____ on _____ 20__, pursuant to DPM §1628 et seq.

In accordance with DPM §1627, employees may grieve any agency action taken if they have suffered or will suffer harm as a result of that violation, with some exceptions.

Based on a preliminary review of the information contained in your grievance the Grievance Official has reviewed the submission and confirms the following:

The grievance is timely:

☐ The grievance concerns a continuing practice or condition, or

or

☐ The grievance concerns a particular act or occurrence and was submitted within forty-five (45) days after the date that he or she knew or should have known of the act or the occurrence.

The grievance is a proper subject:

☐ The grievance concerns a corrective action or a suspension of **less** than ten (10) days and was submitted within ten (10) days from the issuance date of the final agency action.

or

☐ The grievance is a matter subject to review pursuant to the **EMPLOYEE GRIEVANCE PROCEDURE (NON-UNION) 3320.2D**.

Conflict of Interest Clearance:

☐ The grievance was submitted to an individual with authority to resolve the grievance and for whom there is no conflict of interest (typically the immediate supervisor or the immediate supervisor's immediate superior).

Denial of Grievance:

☐ If the grievance is denied, please provide the allowable reason(s) for the denial.

For your convenience, you may access the provisions referred above on dchr.dc.gov by clicking on the Policies and Procedures tab and selecting the Electronic District Personnel Manual, then accessing Chapter 16.

Within five (5) days of the date of this acknowledgment, the grievance official will schedule an interview to obtain additional information about this matter for the record. Furthermore, we will explain your rights to request mediation and/or continue the grievance process.

GRIEVANCE OFFICIAL'S NAME/TITLE (print) _____

GRIEVANCE OFFICIAL'S SIGNATURE _____

DATE _____

GRIEVANT'S SIGNATURE _____

DATE _____



LEVEL I EMPLOYEE GRIEVANCE REVIEW FORM

First level grievance official (print name): _____

Title: _____

Date received: _____

FIRST LEVEL REVIEW

- Grievance official will respond to grievances within ten (10) business days.
- Within five business (5) days of acknowledging the grievance, the grievance official, or designee, shall interview the grievant and review the record.
- Within five business (5) days of interviewing the grievant, the grievance official, or designee, shall issue a first level grievance report and decision.

REPORT:

Grievance is substantiated and remedy provided - (circle) YES or NO

If YES, please specify the remedy being provided and the date the remedy will be implemented below:

Date remedy will be implemented: ____ 20__

First Level Reviewer's Signature _____

Date _____

FOR EMPLOYEE: Has this issue been resolved? YES or NO - If not, please circle "NO" and notify the grievance official in writing within five (5) days of your dissatisfaction if you so desire.



LEVEL II EMPLOYEE GRIEVANCE REVIEW FORM

Second level grievance official (print name): _____

Title: _____

Date received: _____

SECOND LEVEL REVIEW

- The second level grievance official will respond to grievances within twenty- one (21) calendar days.
- Within ten (10) business days of receipt, the official, in his or her discretion, may interview the grievant and any witnesses and review the record.
- After review of the record, the second level grievance official shall issue a second level grievance report and decision.
- The report and decision shall include a summary of the interview(s), if any, and any investigation based on the totality of the facts.

REPORT:

Grievance is substantiated and remedy provided - (circle) YES or NO

If YES, please specify the remedy being provided and the date the remedy will be implemented below:

Date remedy will be implemented: ____ 20__

Second Level Reviewer's Signature _____

Date _____

FOR EMPLOYEE: Has this issue been resolved? YES or NO - If not, please circle "NO" and notify the original grievance official in writing within five (5) days of your dissatisfaction if you so desire.



LEVEL III EMPLOYEE GRIEVANCE REVIEW

Third level grievance official (print name): _____

Title: _____

Date received: _____

THIRD LEVEL REVIEW

- The third level grievance official will respond to grievances within twenty- one (21) calendar days.
- Within ten (10) business days of receipt, the official, in his or her discretion, may interview the grievant and any witnesses and review the record.
- After review of the record, the third level grievance official shall issue a third level grievance report and decision.
- The report and decision shall include a summary of the interview(s), if any, and any investigation based on the totality of the facts.

REPORT:

Grievance is substantiated and remedy provided - (circle) YES or NO

If YES, please specify the remedy being provided and the date the remedy will be implemented below:

Date remedy will be implemented: ____ 20__

Third Level Reviewer's Signature _____

Date _____

FOR EMPLOYEE: Has this issue been resolved? YES or NO - If not, please circle "NO" and notify the **original** grievance official in writing within five (5) days of your dissatisfaction if you so desire.



DCHR Guidelines for Mediation

A. Mediation Conference: Schedule, Expected Duration, and Accommodations

Grievant Name: _____

Submission Date of Grievance: _____

Original Grievance Official: _____ Title: _____

Agency: _____

The Mediation conference will be held on

Date: _____

Time: _____

Location: _____

Mediator Name: _____ Mediator Title: _____

Please note that it is not unusual for the mediation session in cases of this type to last 4-6 hours. Please be sure that everyone's schedule is cleared until for six hours. If this time is not possible, please advise me immediately of the latest time that you and your participants could attend. A decision can then be made whether another day with greater availability needs to be found.

Please immediately advise Lissette Ortiz, Employee Relations Specialist, on 202-442-9688, if either of you or anyone accompanying you has any physical or other disability that may need to be accommodated during the conference.

B. What is Mediation and How Does It Work?

I hope that each of you will carefully study this letter and the enclosed materials and discuss its contents with others whom you have designated as attending the session. **Everyone** needs to come to the conference as prepared as possible to participate fully in the mediation process, including presenting documentation you feel is necessary to support your position. It is important to underscore that while representatives may have an important role in mediation, the primary parties to the dispute have the major role in explaining their own view of the problem.

1. Phases of the Mediation Conference

The mediation conference will begin with an opening statement from the mediator regarding their role as a neutral party. Mediators are not an advocate or legal representative for or against either party. After the opening statement, the mediator will ask for uninterrupted opening statements from each of the parties. The mediator will ask the complainant to explain in their own words the complaint and what remedy is being sought. After the complainant's opening statement, the mediator will give the complainant's representative (if any) an opportunity to add anything they feel is helpful in understanding the complainant's perspective. The mediator will then ask the respondent, or management representative, to make an opening statement. After the respondent has completed their opening statement, the mediator will give any other management representatives who may be present an opportunity to add to the opening statement. Following the opening statements, both participants will enter into a joint discussion where clarifying questions can be asked and potential solutions, if any, can be discussed.

Following the joint discussions, the mediator will meet privately (caucus) at least once with each side. Individual private meetings are confidential, subject to the limitations discussed below, and any information shared during this meeting that the party indicates is to be kept confidential will not be shared in the other caucus or when the parties reconvene. Following the caucuses, the mediator will reconvene a joint session and determine if there is any area of agreement on any issue. If not, the parties will continue to negotiate, possibly re-caucusing with the mediator until it is clear that a settlement is or is not going to emerge at this session. If a settlement is reached, the mediator will ask the parties and their participants, if present, to draft the terms of a memo of agreement that are acceptable to all parties and that could be either signed at the session or if needed, taken to another individual who would need to authorize the agreement. Either party will be free to consult with appropriate legal, union, or management representatives to apprise them of their legal rights, and/or authority to agree to certain terms in the proposed memo of agreement. If there is a need or desire to reconvene the mediation on another day that decision will be jointly made by the parties and the mediator at the end of the day.

A signed settlement, or memo, of agreement must be approved by Agency Counsel and will be binding on the parties if signed. Accordingly, the agreement can generally be used as evidence in a later proceeding in which either of the parties alleges a breach of the agreement. It is also important that the participants understand that any written agreement reached during the course of the mediation may eventually become public record.

2. Confidentiality

This is not a legal proceeding and the rules of evidence do not apply. Confidentiality is a critical part of the mediation and if the dispute does or does not settle and ultimately goes to any administrative or judicial proceeding, the mediator will not willingly testify for or against either party. There are some obvious exceptions to this rule, including, but not limited to: (1) disclosing to the mediator that you plan to commit an act of fraud, waste, or abuse; or (2) that you plan to commit a violent physical act. In these instances, the mediator shall be required to share this information with appropriate authorities.

Having said that, please keep in mind that the facts that were discoverable before the mediation session do not become confidential merely because they were presented during a mediation conference. Only those things said or written in confidence to the mediator during the mediation will not be disclosed, unless one of the exceptions, including those discussed above, applied. This means that neither the mediation agreement nor the resulting mediation settlement agreement, if any, are confidential. For example, certain District government officials will have to review the proposed mediation settlement agreement.

The complainant must agree that, should this mediation not resolve the dispute, no request shall be made for the information from the mediator in any future legal proceeding – unless there is a dispute with the mediator as a result of the mediation process. If anyone asks you to provide information about what was discussed in this mediation session, it is very important that you say nothing and that you immediately notify Gia Stancell, Policy Manager, at the D.C. Department of Human Resources.

3. Representation

Either party may choose to come to the mediation conference alone, with a representative, or with legal counsel, subject to negotiate policies for bargaining unit employees. If you plan to have a representative present, please notify the mediator prior to the mediation session so that the other party has the opportunity to bring a representative as well. Failure to notify the mediator of your intent to bring a representative prior to the mediation session could lead to a cancellation of this mediation.

C. Conclusion

I want to emphasize that each participant should come to the mediation prepared to present and discuss a variety of ways to resolve the dispute. It is unrealistic to expect that simply restating each side's views of the issue is somehow going to resolve the dispute. Before and during the mediation conference, I urge each participant to think of all possible ways that this matter might be settled to the mutual satisfaction of the parties. The mediator's task is to keep the parties talking, working, and exploring all aspects of the dispute, including a variety of possible solutions. The mediation process is designed to enhance this type of communication and problem solving. I look forward to working with you in an effort to resolve this matter.

If you or your representatives have any questions about the mediation process, please contact our Employee Relations team by e-mail at dchr.policy@dc.gov or by calling 202-442-9700.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Human Resources

PP 3320.2
Attachment 5



DCHR AGREEMENT TO MEDIATE

1. I have received the attached Guidelines for Mediation from D.C. Department of Human Resources (DCHR), thereby confirming my agreement to mediate.
2. I have read and understand the mediation process described in the attached Guidelines for Mediation, Attachment 4, PP 3320.2, Employee Grievance Procedure. If mediation does not succeed in resolving this dispute, I understand that the formal grievance process may be resumed **as long as applicable time limits are met**.
3. The parties agree that the entire mediation session is a compromise negotiation. All promises, proposals, conduct, and statements made in the course of the mediation session are confidential and will not be disclosed except as required by law. See D.C. Official Code §§ 16-4203 and 16-4207. The Grievant also agrees they will not disclose or discuss any settlement with other agency employees (except his or her representative and responsible management personnel). The Grievant recognizes and authorizes DCHR to disclose the terms of any settlement agreement to District government officials who may need to review and approve the terms of a mediation settlement agreement.
4. I agree to conduct the mediation according to the terms of the attached Guidelines for Mediation.
5. ☐ I will ☐ I will not have a representative present at this mediation session.

Signature

Employee ID

Date

Please sign and return to the D.C. Department of Human Resources, Employee Relations at
dchr.policy@dc.gov



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Human Resources

PP 3320.2
Attachment 6



DCHR DECLINATION OF MEDIATION

1. I have reviewed the attached Guidelines for Mediation, Attachment 4, PP 3320.2 Employee Grievance Procedure.
2. I have read and understand the mediation process described in the attached Guidelines for Mediation.
3. I DO NOT agree to participate in mediation regarding this matter.

Signature

Employee ID

Date

Please sign and return to the D.C. Department of Human Resources, Employee Relations at
dchr.policy@dc.gov