



**Office of Human Resources  
Standard Operating Procedure  
HR SOP #303**

**Subject:** Employee Complaint Resolution

**Effective Date:** December 16, 2019

**Policy Statement:**

The Department of Natural Resources (DNR) recognizes the need to be responsive to employees and their needs and for a consistent and orderly process for addressing and resolving employee complaints in a fair and timely manner. To meet this need, the Department will administer an Employee Complaint Resolution procedure in accordance with State Personnel Board Rules.

Employees and their respective supervisors are encouraged to make reasonable efforts to resolve issues prior to the filing of a written complaint. However, efforts to resolve issues informally must be handled in a manner that will permit the employee to meet the deadlines and procedures established by this Standard Operating Procedure (SOP).

No employee will be penalized, formally or informally, for voicing a complaint in a reasonable, business-like manner, or for participating in this complaint resolution process. Anyone who intentionally supplies false or misleading information in connection with a complaint or anyone who attempts to or actually harasses, intimidates, or retaliates against an employee for using this Employee Complaint Resolution procedure or for providing information in connection with a complaint will be subject to disciplinary action, up to and including termination of employment.

**NOTE:** See the *Employee Complaint Resolution Official Policy Statement* (Attachment 1).

**Definitions:**

**Classified Employee:** An employee in the classified service as defined by the State Personnel Board Rules.

**Complaint Resolution Coordinator:** The Human Resources Director/Designee who is responsible for receiving complaints, determining eligibility for the Employee Complaint Resolution procedure and tracking the processing of complaints.

**Complaint Review Official:** The Human Resources Director/Designee who is responsible for conducting complaint reviews.

**Filing:** The act of an employee submitting a complaint to the Complaint Resolution Coordinator.

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

**Complaint Form:** *Complaint Form* (Attachment 2) provided for the employee to file complaints.

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

Retaliation: means an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise impacting an individual for submitting (or assisting with submitting) a complaint or reporting discrimination or harassment, for participating in a discrimination or harassment investigation or proceeding, or for otherwise opposing discrimination or harassment.

Sexual Harassment: Physical, verbal, or non-verbal/visual conduct that is either (1) directed toward an individual or (2) reasonably offensive to an individual because of his or her sex. Therefore, for purpose of this Policy, "Sexual harassment" includes physical, verbal, or non-verbal/visual conduct.

Unclassified Employee: An employee in the unclassified service as defined by the State Personnel Board Rules.

Workday: A Monday through Friday business day exclusive of state holidays.

### **Procedure:**

#### **Notice Requirement:**

All DNR employees are made aware of the procedure by its posting on the Department Intranet site at <http://dnrintranet.org/hr/standard-operating-procedures> and the posting of the Employee Complaint Resolution Official Policy Statement on Official Bulletin Boards throughout the agency and on the electronic Official Bulletin Board at [https://dnrintranet.org/hr/official\\_bulletin\\_board](https://dnrintranet.org/hr/official_bulletin_board)

#### **Eligible Employees:**

Any employee may use the Employee Complaint Resolution Procedure for timely-filed, eligible issues, except an employee who:

- Has been notified of separation from employment; or
- Is seeking relief on the same matter through other administrative or judicial procedures.

A complaint filed by an eligible employee prior to becoming ineligible will cease to be processed through this procedure upon the employee's separation from employment or upon the employee's filing for relief on the same matter through another administrative process or a judicial process.

#### **Eligible Issues:**

An employee may use the Employee Complaint Resolution procedure to address a complaint related to any:

- Allegation of unlawful discrimination based on race, color, national origin, religion, age, disability, sex (not sexual harassment), genetic information, political affiliation, protected uniformed service, or other legally protected category; (the handling of Sexual

Harassment complaints is addressed in DNR SOP HR505) posted at <https://dnrintranet.org/hr/standard-operating-procedures>

- Allegation of unlawful harassment other than sexual harassment;
- Retaliation for filing a complaint or participating in the Employee Complaint Resolution procedure;
- Retaliation or intimidation for exercising any right under the Rules of the State Personnel Board or DNR policies;
- Erroneous, arbitrary or capricious interpretation or application of policies, procedures, rules, regulations, ordinances, or statutes;
- Unsafe or unhealthy working condition(s);
- Any matter specifically included as eligible by DNR's policies or procedures; or
- For classified employees only: written reprimand or written confirmation of an oral reprimand.

### Ineligible Issues:

An employee cannot use the Employee Complaint Resolution procedure to address a complaint related to:

- sexual harassment or related retaliation (which shall be handled under the procedures provided in the Statewide Sexual Harassment Prevention Policy);
- unlawful discrimination containing allegations of sexual harassment (such complaints will be handled under the procedures provided in the Statewide Sexual Harassment Prevention Policy);
- Suspension, demotion, salary reduction, or separation from employment;
- Issues that are pending or have been adjudicated by the State Personnel Board, the Georgia Commission on Equal Opportunity, or through other state or federal administrative or judicial procedures;
- Issues that are subject to appeal, review, or relief as provided for in other DNR policies and procedures;
- Performance expectations and evaluations;
- Actions implementing a Reduction in Force or furlough plan;
- Selection of an individual to fill a position, unless an allegation is made that the selection violates an applicable State Personnel Board Rule, DNR policy, law, or regulation;
- Permanent changes in work hours or duties and responsibilities, unless a change is unsafe or unlawful;
- Temporary work assignments that do not exceed 90 days;

- Budget and organizational structure, including the number or assignment of positions in any organizational unit;
- Relocation of employees unless the relocation qualifies for reimbursement under Office of Planning and Budget regulations;
- Internal security practices established by DNR;
- For unclassified employees only: written reprimand or written confirmation of an oral reprimand;
- Any matter that is not within the jurisdiction or control of DNR.

### Filing a Complaint:

An employee initiates the Employee Complaint Resolution procedure by timely filing a complaint with the Office of Human Resources (OHR). A complaint is considered received on the day it is delivered to OHR by mail, facsimile, or personal delivery.

The complaint must identify at a minimum:

- The eligible issue(s) involved;
- The parties involved;
- The date(s) the incident(s) or violation(s) occurred (if known);
- How the employee was unfavorably affected or treated;
- The relief sought; and
- Any policy, procedure, rule, regulation, ordinance, or statute at issue and how it was erroneously interpreted or applied.

### Time Limit for Filing a Complaint:

A complaint must be filed within ten workdays of the occurrence of the subject of the complaint or within ten workdays of the date the employee becomes aware or should have reasonably been aware of the problem. The Complaint Resolution Coordinator has the discretion to grant a waiver or extend the filing deadline.

### Processing a Complaint:

#### Initial Eligibility Determination:

Within ten workdays of receiving a complaint, the Complaint Resolution Coordinator will review the complaint to determine the timeliness and eligibility of the issue(s) and provide a written determination to the complaining employee.

- If the issue is not eligible to proceed through the Employee Complaint Resolution procedure, the written determination will include the specific reasons for the determination and notice that the formal complaint process is being terminated or if the complaint is related to sexual harassment, notice will be given to explain that the complaint will be handled under the Statewide Sexual Harassment Prevention Policy.

- If the issue is eligible, the written determination will specify the manner in which the complaint will be processed (i.e., through the Employee Complaint Resolution procedure, SOP HR505, *Harassment* or SOP HR504, *Equal Employment Opportunity*). A copy of the determination will be provided to the first level of supervision having the authority to grant the requested relief.

#### Options for Processing Unlawful Discrimination/Harassment Complaints:

When a complaint involves allegations of unlawful discrimination and/or harassment based on race, color, national origin, religion, age, disability, sex (which does not meet the definition of sexual harassment), genetic information, political affiliation, protected uniformed service, or other legally protected category, the Complaint Resolution Coordinator will process the complaint in one of three ways:

- Allow the complaint to proceed as set forth in this procedure;
- Investigate the complaint according to SOP HR505, *Harassment* or SOP HR504, *Equal Employment Opportunity*.
- Advise the employee in writing that DNR has concluded processing the complaint and that the employee may present the matter to the Georgia Commission on Equal Opportunity or the Equal Employment Opportunity Commission.

#### Complaint Review Process:

The Complaint Review Official will conduct a review of the complaint within fifteen workdays.

The Complaint Review Official may do any of the following:

- Base the review solely on written statements and documents provided;
- Interview the employee, witnesses, and others;
- Meet with the parties to facilitate an agreement;
- Clarify and/or interpret relevant law, rule, policy, procedure, etc.; or
- Explore alternative resolutions.

If the parties resolve the issue(s) during the complaint review process, the Complaint Resolution Coordinator will provide written notice to the complaining employee and supervisor confirming resolution and the conclusion of the Employee Complaint Resolution procedure.

If the parties do not resolve the issue(s) during the complaint review process, the Complaint Review Official will issue written findings and recommendations to the Deputy Commissioner, or for employees assigned to EPD, the Assistant Director. The Deputy Commissioner/Assistant Director will then issue a written decision regarding the complaint and requested relief. Such decision will be final and will conclude the Employee Complaint Resolution procedure.

#### Time limits:

The maximum time for determining eligibility and processing a complaint through the Employee Complaint Resolution Procedure is ninety calendar days. This time frame is extended by thirty

calendar days when a complaint is processed through SOP HR505, *Harassment* or SOP HR504, *Equal Employment Opportunity*.

### Extension of Time Limits:

Upon agreement of all parties to a complaint, any time limit specified in this procedure may be extended. The Complaint Resolution Coordinator or Complaint Review Official may unilaterally extend any time limit specified in this procedure due to emergency, medical disability, legally mandated absence on the part of a relevant party involved with the complaint issues or review process, or due to operational necessity. The employee shall be immediately notified of the period of extension and the reasons for the extension.

### Preparation Time:

An employee utilizing the Employee Complaint Resolution procedure will be excused from duty for up to four hours during regular work hours, as approved by the supervisor, to prepare a complaint. Such preparation time is without loss of pay or leave credits. Preparation time includes time spent reviewing the employee's personnel file, preparing a complaint, and meeting with witnesses. Meetings with the Complaint Review Official are considered work time and do not count as preparation time.

No more than twelve hours of regular work hours per employee per calendar year will be permitted for preparation time associated with complaints.

Employees using the Employee Complaint Resolution procedure must obtain supervisory approval before using preparation time during regular work hours. A request to prepare during a particular time may be denied due to operational or other business needs.

The Complaint Resolution Coordinator has the authority to resolve any dispute regarding the determination of reasonable and necessary time for preparing a complaint and participating in the process.

### Group Complaints:

Employees having a common complaint may sign and submit one group complaint, identifying up to two of the employees as selected spokespersons for the group. Employees who choose to file a group complaint waive their individual rights to file separate complaints on the same subject.

### Consolidating Complaints:

The Complaint Resolution Coordinator may consolidate multiple complaints filed by an employee into a single complaint.

The Complaint Resolution Coordinator may consolidate separate complaints filed by two or more employees regarding the same issue(s) into a group complaint.

### Assistance:

An employee who needs assistance in filing or processing a complaint may consult with the Complaint Resolution Coordinator by contacting OHR. In no case shall the staff assigned to assist an employee be a party or respondent to the employee's complaint.

#### **Withdrawal of Complaint:**

An employee may voluntarily withdraw his/her complaint at any point during the process by submitting a request in writing to the Complaint Resolution Coordinator. A complaint that is withdrawn may not be re-filed.

#### **Classified Employee Appeal Rights:**

Upon receipt of DNR's final decision on a complaint and provided remedy is not available through the Georgia Commission on Equal Opportunity, a classified employee may file an appeal in writing with the Office of State Administrative Hearings if:

- The employee is not satisfied with the agency's final decision on the merit of a complaint alleging violation of the Rules of the State Personnel Board; or,
- The employee is not satisfied with the agency's final decision on a complaint related to relocation, alleged unlawful discrimination, or alleged unjust coercion or reprisal because of an appeal or internal complaint proceeding; or,
- The employee believes the agency violated the procedure outlined in State Personnel Board *Rule 478-1-.20, Employee Complaint Resolution Procedure*, while processing the complaint.

The appeal must be filed or postmarked within ten calendar days of receipt of DNR's final decision on the complaint. The appeal must include the specific provision(s) of the SPB Rules alleged to have been violated and any documentation that would support the allegation.

#### **Retention:**

Complaints alleging discrimination or harassment based on race must be retained for four years in OHR. All other complaints must be retained for two years in OHR.

#### **Attachments:**

Attachment 1 – *Employee Complaint Resolution Official Policy Statement*

Attachment 2 – *Complaint Form*