CHAPTER 15 - GRIEVANCE AND EEO COMPLAINT PROCEDURES

15.1 PURPOSE

The grievance procedure is established to provide an equitable, prompt, systematic and confidential means of resolving grievances regarding work related matters directly and personally affecting an employee. The grievance must pertain to a matter subject to control of The Adjutant General. The terms "days" and "workdays" in this chapter refers to normal Agency workdays.

It should be noted that the most effective method of resolving any problem is by following the supervisory chain. The grievance procedure should not be viewed as the primary avenue for problem resolution.

15.2 CONFIDENTIALITY

Any discussion regarding a grievance shall be restricted to those individuals who are responsible for responding to the complaint and those having knowledge pertinent to the investigation, resolution, and/or response. The preparation, submittal, review, and response to an employee grievance are confidential and will be treated as such. **Grievances will not be placed in an employee's official Personnel File.**

15.3 CONTENTS OF RESPONSES

Upon receiving the written grievance at each level, the supervising authority will investigate the grievance and respond to it. This response will include the findings of his/her impartial investigation. It will also state the employee's next step in the grievance process.

15.4 AMENDMENTS

Once a grievance is advanced to any step beyond the immediate supervisor, it <u>may not be amended</u>. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration. It is the employee's responsibility to provide documentation to support the allegations raised in the grievance.

15.5 RETALIATION

No person shall directly or indirectly use any official authority or influence in any manner to discourage the use of this procedure, nor shall any employee suffer retaliation in any form as a result of using this procedure.

15.6 PROCEDURE FOR COVERED STATUS EMPLOYEES

General provisions and restrictions of the grievance procedure for Covered status employees are contained in R2-5-701 and R2-5-702 of the Department of Administration Personnel Rules.

15.6.1 Matters Subject to Employee Grievance

This procedure may be used by Covered status employees to obtain consideration of grievances concerning allegations of discrimination prohibited by A.R.S. 41-1463, non-compliance with Department of Administration Personnel Rules, non-compliance with DEMA policy, or other work-related matters which directly and personally affect the employee. Examples of work-related matters subject to grievance include, but are not limited to: safety; health; working conditions; materials or equipment; supervisory practices considered improper or unfair; disciplinary actions such as suspensions of 40 hours or less, reprimands, or memos of concern; or any other matters subject to the authority of The Adjutant General and for which no other method of redress is provided or prohibited in the Personnel Rules.

A Covered status employee may submit a grievance concerning an overall performance evaluation or specific rating, but may not submit a grievance concerning the receipt of a performance decrease, the non-receipt of a performance increase or special performance award, the amount of any increase or decrease, or the use of any job-related supplemental rating factors to determine the receipt or amount of an increase, decrease, or special performance award.

A Covered status employee may not submit a grievance challenging the following management rights, but may submit a grievance concerning the manner of their administration insofar as these personally affect the employee:

1) The Agency's right to direct its employees.
2) The Agency's right to hire, promote, transfer, assign, and retain employees.
3) The Agency's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.

This procedure shall not be used in matters for which another method of review is available, including but not limited to:

1) Retirement, Life Insurance, or Health Insurance;
2) Suspension for more than 40 working hours, demotion, or dismissal resulting from disciplinary action;
3) Any examination, certification, or appointment;
4) Any classification action;
5) Any reduction in force action.

A Covered status employee may not submit a grievance concerning any matter not subject to the control of the Agency, except for complaints alleging a violation of the Department of Administration Personnel Rules.

15.6.2 Verbal Discussion

Prior to initiating a written grievance, the employee must have a verbal discussion with his/her immediate supervisor to attempt to resolve the problem. If the employee fails to take this step, the grievance will not be accepted through the formal grievance procedure. It is the employee's responsibility to ensure that Step I of the grievance procedure must be submitted within 10 working days after the occurrence of the action being grieved, and that these 10 working days are not extended by the date on which the verbal discussion takes place.

15.6.3 Time Off for Preparation

After the verbal discussion, an employee is allowed up to four hours with pay to prepare the grievance and/or confer with their official representative on the grievance. Employees must obtain prior supervisory approval for time off, which will be subject to the operational needs of the unit. The time an employee devotes to attending meetings scheduled by management to discuss the grievance is considered work time and is not included in the four hour limitation specified above. It is the employee's responsibility to advise his/her supervisor of the time, date, and approximate duration of the meetings so as not to unduly conflict with or impede the operational needs of the unit.

15.6.4 Representation

At any step in the grievance procedure following the verbal discussion with the immediate supervisor, an employee may select a representative to assist in the preparation of the formal grievance and subsequent responses to management. The representative may advise and/or speak for the employee during meetings concerning the grievance which are determined by management to be necessary. The employee must identify in writing on DEMA Form 018 Resolution of Grievance the selected representative by name, title and organization. Any cost for representation is at the employee's own expense.

If the representative is a State employee, that individual must request and receive approval from the representative's supervisor for annual or compensatory leave to represent the grievant(s).

A group of employees with identical issues and proposed resolutions may file a "group" grievance. All persons must sign the grievance, and the group must designate and identify a contact person. All correspondence and communications will be directed to the contact person. While some grievants may not continue the grievance at subsequent steps, new grievants may not be added once the initial grievance has been filed.

15.6.5 Formal Written Procedure

The grievance procedure for Covered status employees is designed to ensure that employees can receive a response from The Adjutant General within 40 workdays from the initial submission of a properly submitted grievance, including extensions. The time at any step may be extended by The Adjutant General with concurrence of the grievant, providing it does not potentially extend the process past the 40 workday requirement.

The employee must sign the grievance each time it is forwarded to the next step, and include a memorandum explaining in detail why the previous response is not satisfactory.

The grievance and/or its documentation will not become part of an employee's official Personnel File.

Step I – Immediate Supervisor:

Utilizing DEMA Form 018 Request for Resolution of Employee Grievance, the employee must submit a written grievance to his/her immediate supervisor within ten (10) workdays after the occurrence of the action of the matter being grieved. The date the action occurred is not counted when determining the time limit. The date of occurrence of a suspension is the first day of the suspension. The grievant must:

(1) Submit a complete statement of all the facts and circumstances involved in the alleged violations, presented in a logical and orderly manner, including names, dates, names of other persons present or having knowledge of the grievance issues, and documentation to substantiate the allegations.

(2) If the grievance alleges non-compliance with the Department of Administration Personnel Rules, identify the precise Department of Administration Personnel Rule violated and a statement as to how the employee perceives the rule was violated.

(3) Submit a statement as to what specific redress is being sought.

The immediate supervisor has three (3) workdays from the receipt of a grievance to respond in writing to the grievant. The supervisor is strongly encouraged to immediately acknowledge receipt of a grievance. Prior to making a written response, the immediate supervisor must review the grievant's issues and facts pertinent thereto as well as applicable policies and procedures.

The supervisor's response must conclude with a statement informing the employee of the right to forward the grievance to Step II. The immediate supervisor will return the original grievance and all attachments with the Step I response to the employee. The supervisor shall keep a copy of all documents.

Step II – Program Manager/Unit Commander:

If the grievant is dissatisfied with the Step I response, he/she has five (5) workdays from the date of receipt of the response to forward the grievance to the appropriate Program Manager/Unit Commander. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. The Program Manager/Unit Commander has five (5) days from receipt of the grievance package to respond to the employee's issues in writing. The response must conclude with a statement informing the employee of the right to elevate the grievance to the next step. The Program Manager/Unit Commander shall keep a copy of his/her response prior to returning the grievance package to the employee.

Step III – Division Director:

If the grievant is dissatisfied with the Step II response, he/she has five (5) workdays from the date of receipt of the response to forward the grievance to the appropriate Division Director. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. The Division Director has seven (7) days from receipt of the grievance package to respond to the employee's issues in writing. The response must conclude with a statement informing the employee of the right to elevate the grievance to the next step. The Division Director shall keep a copy of his/her response prior to returning the grievance package to the employee.

Step IV – The Adjutant General:

If the grievant is not satisfied with the Step III response, he/she may advance the grievance to The Adjutant General. This must be done in writing within five (5) days of receipt of the Step III response. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. Upon receipt of the grievance package, The Adjutant General has ten (10) days to investigate and respond in writing.

This is the final step and the response must state that it is the final decision for all grievances, except for those that allege discrimination or non-compliance with the Department of Administration Personnel Rules. For grievances alleging discrimination or non-compliance with the ADOA Personnel Rules, The Adjutant General must state in the response that the employee, if not satisfied with the response, has five (5) days to forward the complaint to the Director of the Department of Administration. The response must also provide the name and address of the Director of the Department of Administration. The Adjutant General shall keep a copy of all documents in the grievance package.

Step V – Arizona Department of Administration:

If the grievant has alleged discrimination or non-compliance with the ADOA Personnel Rules, he/she has five (5) workdays from the date of receipt of the Adjutant General's response to forward the grievance to the Director of the Department of Administration (ADOA). A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. The ADOA Director has twenty (20) workdays to review the allegations and issue a written response.

15.7 PROCEDURE FOR NON-COVERED STATUS EMPLOYEES

15.7.1 Matters Subject to Employee Grievance

This procedure may be used by Non-Covered status employees to obtain consideration of grievances concerning allegations of discrimination prohibited by A.R.S. 41-1463, non-compliance with DEMA policy, or other work-related matters which directly and personally affect the employee. Examples of work-related matters subject to grievance include, but are not limited to: safety; health; working conditions; materials or equipment; supervisory practices considered improper or unfair; disciplinary actions such as suspensions, reprimands, or memos of concern; or any other matters subject to the authority of The Adjutant General and for which no other method of redress is provided.

A Non-Covered status employee may submit a grievance concerning an overall performance evaluation or specific rating, but may not submit a grievance concerning the receipt of a performance decrease, the non-receipt of a performance increase or special performance award, the amount of any increase or decrease, or the use of any job-related supplemental rating factors to determine the receipt or amount of an increase, decrease, or special performance award.

A Non-Covered status employee may not submit a grievance challenging the following management rights, but may submit a grievance concerning the manner of their administration insofar as these personally affect the employee:

1) The Agency's right to direct its employees.
2) The Agency's right to hire, promote, transfer, assign, and retain employees.
3) The Agency's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.

This procedure shall not be used in matters for which another method of review is available, including but not limited to:

1) Retirement, Life Insurance, or Health Insurance;
2) Any classification action.

A Non-Covered status employee may not submit a grievance concerning any matter not subject to the control of the Agency.

15.7.2 Verbal Discussion

Prior to initiating a written grievance, the employee must have a verbal discussion with his/her immediate supervisor to attempt to resolve the problem. If the employee fails to take this step, the grievance will not be accepted through the formal grievance procedure. It is the employee's

responsibility to ensure that Step I of the grievance procedure must be submitted within 10 working days after the occurrence of the action being grieved, and that these 10 working days are not extended by the date on which the verbal discussion takes place.

15.7.3 Time Off for Preparation

After the verbal discussion, an employee is allowed up to four hours with pay to prepare the grievance and/or confer with their official representative on the grievance. Employees must obtain prior supervisory approval for time off, which will be subject to the operational needs of the unit. The time an employee devotes to attending meetings scheduled by management to discuss the grievance is considered work time and is not included in the four hour limitation specified above. It is the employee's responsibility to advise his/her supervisor of the time, date, and approximate duration of the meetings so as not to unduly conflict with or impede the operational needs of the unit.

15.7.4 Representation

At any step in the grievance procedure following the verbal discussion with the immediate supervisor, an employee may select a representative to assist in the preparation of the formal grievance and subsequent responses to management. The representative may advise and/or speak for the employee during meetings concerning the grievance which are determined by management to be necessary. The employee must identify in writing on DEMA Form 018 Resolution of Grievance the selected representative by name, title and organization. Any cost for representation is at the employee's own expense.

If the representative is a State employee, that individual must request and receive approval from the representative's supervisor for annual or compensatory leave to represent the grievant(s).

A group of employees with identical issues and proposed resolutions may file a "group" grievance. All persons must sign the grievance, and the group must designate and identify a contact person. All correspondence and communications will be directed to the contact person. While some grievants may not continue the grievance at subsequent steps, new grievants may not be added once the initial grievance has been filed.

15.7.5 Formal Written Procedure

The grievance procedure for Non-Covered status employees is designed to ensure that employees can receive a response from The Adjutant General within a reasonable period of time. The time limits at each step will be adhered to unless both parties at the step involved grant an extension in writing. If a response is not reached within the specified time and no extension is granted, the grievant may proceed to the next step with a written request.

If both parties agree to meet with a neutral third party in attempt to reach a resolution, conflict resolution may be used to resolve the grievance at any point in the process after initiation of Step I and prior to initiation of Step IV. If conflict resolution is requested, the response times will be suspended for a period of time mutually agreed upon by the grievant and the supervisory

authority at that level. If the parties are unable to reach an agreement through conflict resolution, the grievance procedures and timelines will be resumed and adhered to.

The employee must sign the grievance each time it is forwarded to the next step, and include a memorandum explaining in detail why the previous response is not satisfactory.

The grievance and/or its documentation will not become part of an employee's official Personnel File.

Step I – Immediate Supervisor:

Utilizing DEMA Form 018 Request for Resolution of Employee Grievance, the employee must submit a written grievance to his/her immediate supervisor within ten (10) workdays after the occurrence of the action of the matter being grieved. The date the action occurred is not counted when determining the time limit. The date of occurrence of a suspension is the first day of the suspension. The grievant must:

(1) Submit a complete statement of all the facts and circumstances involved in the alleged violations, presented in a logical and orderly manner, including names, dates, names of other persons present or having knowledge of the grievance issues, and documentation to substantiate the allegations.

(2) Submit a statement as to what specific redress is being sought.

The immediate supervisor has three (3) workdays from the receipt of a grievance to respond in writing to the grievant. The supervisor is strongly encouraged to immediately acknowledge receipt of a grievance. Prior to making a written response, the immediate supervisor must review the grievant's issues and facts pertinent thereto as well as applicable policies and procedures.

The supervisor's response must conclude with a statement informing the employee of the right to forward the grievance to Step II. The immediate supervisor will return the original grievance and all attachments with the Step I response to the employee. The supervisor shall keep a copy of all documents.

Step II – Program Manager/Unit Commander:

If the grievant is dissatisfied with the Step I response, he/she has five (5) workdays from the date of receipt of the response to forward the grievance to the appropriate Program Manager/Unit Commander. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. The Program Manager/Unit Commander has five (5) days from receipt of the grievance package to respond to the employee's issues in writing. The Program Manager/Unit Commander shall keep a copy of his/her response prior to returning the grievance package to the employee.

Step III – Division Director:

If the grievant is dissatisfied with the Step II response, he/she has five (5) workdays from the date of receipt of the response to forward the grievance to the appropriate Division Director. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. The Division Director has seven (7) days from receipt of the grievance package to respond to the employee's issues in writing. The Division Director shall keep a copy of his/her response prior to returning the grievance package to the employee.

Step IV – The Adjutant General:

If the grievant is not satisfied with the Step III response, he/she may advance the grievance to The Adjutant General. This must be done in writing within five (5) days of receipt of the Step III response. A signed memorandum stating specific reasons why the previous response is unsatisfactory must accompany the entire grievance package. Upon receipt of the grievance package, The Adjutant General has ten (10) days to investigate and respond in writing.

This is the final step and the response must state that it is the final decision for all grievances. If the grievant has alleged discrimination, the Adjutant General's response shall indicate in the response that if the employee is not satisfied with the response, he/she may contact the federal Equal Employment Opportunity Commission. The Adjutant General shall keep a copy of all documents in the grievance package.

Print Form

ARIZONA DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
REQUEST FOR RESOLUTION OF EMPLOYEE GRIEVANCE

Name:	Job Title: ☐ Covered ☐ Non-covered	Work Phone:
Date of Incident:	Supervisor's Name:	Supervisor's Phone:

Type of Grievance (check applicable boxes)

☐ **Work Related**	**Alleged discrimination based on:** ☐ Race	☐ **Performance Rating**
☐ **Disciplinary Action**	☐ Ethnic/National Origin ☐ Age	☐ **Other: (please specify)**
☐ **Personnel Rules**	☐ Disability ☐ Religion ☐ Gender	
Specify Rule Number:		

Explain the problem in detail, including all important information such as dates, places, etc. Attach additional sheets to explain each problem. If necessary, see Chapter 15 of DEMA Directive 20.1.

What do you suggest be done to correct this problem, or state the specific resolution you seek.

Action Schedule

Date of mandatory verbal discussion:	Supervisor conferred with:

Grievance Step	Employee's Schedule	Response	Employee's Signature and Date Submitted to Each Step
I. Immediate Supv	within 10 work days	within 3 work days	
II. CDR/Prog Mgr	within 5 work days	within 5 work days	
III. Division Director	within 5 work days	within 7 work days	
IV. The Adjutant General	within 5 work days	within 10 work days	

Representative's Name (if any):	Title:	Organization:

ARIZONA DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
GRIEVANCE RESPONSE

Name of Step I authority:	Date received by Step I authority:
Step I response is due within three working days upon receipt of BASIC employee grievance. Additional pages should be used for any response at higher steps.	

_____ _____

Step I authority signature Date