



State of Arkansas Grievance Policy and Procedure FAQs

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

12. Does the mediator make a final decision?

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

13. How soon after requesting an Administrative Review Hearing will it be scheduled?

- a. The Administrative Review Hearing should be scheduled for a date no later than 15 business days after the Grievance Officer receives the request. If it must be scheduled for a later date, all participants should cooperate to ensure the Administrative Review Hearing is scheduled as soon as possible but no later than 30 business days.

14. Can I request to have witnesses testify at the Administrative Review Hearing?

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

15. Who notifies the witnesses that they are requested to testify at the Administrative Review Hearing or Appeal Hearing?

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

16. Is a witness required to use accrued leave to testify at the Administrative Review Hearing or the Appeal Hearing?

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

17. If the Administrative Review Hearing is held in-person, can the Employee participate by phone?

- a. Yes, so long as the Department and Hearing Officer have an opportunity to question the Employee.

18. If the Administrative Review Hearing is held in-person, can a witness testify by phone?

- a. Yes, so long as the Employee, Department, and Hearing Officer have an opportunity to question the witness.

19. Is the Administrative Review Hearing a closed hearing?

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

20. Is the Administrative Review Hearing recorded?

- a. Yes. The hearing is audio recorded.

21. Who is responsible for having the audio recording transcribed?

- a. The Grievance Officer will make sure the recording is transcribed.

22. Can I present documentation (evidence) at the Administrative Review Hearing?

- a. Yes. The Employee or Department may present evidence to support its case. The Hearing Officer will determine whether the evidence will be made part of the file. The Arkansas Rules of Evidence are applied informally.

23. Can I appeal the final decision from the Department Secretary?

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

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

- a. The Employee has no later than ten (10) business days to submit the form.

25. Who presides over the Appeal Hearing?

- a. The State Employee Grievance Appeal Panel (SEGAP).

26. Can I add documentation to the case file after the Secretary's decision has been issued?

- a. No. If the case is appealed, the Employee may be allowed to present new evidence at the Appeal Hearing pursuant to the Grievance Policy and Procedure. The final decision on whether new evidence is allowed is determined by SEGAP.

- 27. Can my attorney or representative participate in the Mediation, Administrative Review Hearing, or Appeal Hearing on my behalf?**
- No. The Employee is required to participate in the Mediation or any grievance hearing.
- 28. Can SEGAP make a recommendation without an Appeal Hearing?**
- Yes. The Employee and Department may agree to let SEGAP decide the case based solely on the file provided to them. The Employee and Department would not present their case. The Employee must notify the Grievance Officer to request to have the decision made based solely on the record.
- 29. What if the Employee fails to participate in a scheduled Mediation or grievance hearing?**
- If the Employee fails to participate in the scheduled Mediation or grievance hearing, a default decision in favor of the Department will be issued, provided the Employee did not give notice to the Grievance Officer or OPM prior to the Mediation or grievance hearing detailing the reason for not appearing.
- 30. How long is the Appeal Hearing?**
- The Employee and Department are each given one (1) hour to present their case. SEGAP may grant additional time during the Appeal Hearing.
- 31. What evidence can be presented at the Appeal Hearing?**
- The Employee and Department may present anything that is already in the file. The Employee may present new evidence or testimony only if it could not reasonably have been presented at the Administrative Review Hearing. Depending on the new evidence or testimony, either OPM or SEGAP will determine whether it may be allowed.
- 32. Can the Department present new evidence or testimony at the Appeal Hearing?**
- Yes, but the new evidence or testimony can only be offered as rebuttal to the Employee's new evidence or testimony.
- 33. Can the Employee or Department request to have witnesses testify at the Appeal Hearing?**
- Yes. The Employee and Department may request that individuals with direct knowledge be available to testify. The Employee and Department must notify the Grievance Officer of the witness list prior to the scheduled Appeal Hearing.
- 34. What if a requested witness testified at the Administrative Review Hearing?**
- The witness's testimony is limited to clarifying information only. If the witness is allowed to testify at the Appeal Hearing, the witness will not be allowed to repeat what is already in the transcript.
- 35. What if the Hearing Officer or SEGAP member has a conflict of interest in the case?**
- The Hearing Officer is an impartial individual and must recuse from the case if he or she has personal knowledge of the case and can no longer be impartial. The Department Secretary, or his or her designee, will select an alternative Department Hearing Officer for the Administrative Review Hearing. The TSS Secretary or OPM will select an alternative SEGAP member.
- 36. Can the Hearing Officer or SEGAP member have ex parte communication with the Employee or Department?**
- No. The Department Hearing Officer or SEGAP member is prohibited from communicating with the Employee or Department unless they, the Grievance Officer, and OPM (if an Appeal Hearing), are directly involved in the communication.
- 37. Is the Appeal Hearing recorded?**
- Yes. The Appeal Hearing is audio recorded. The Employee or Department may request a copy of the recording. OPM does not transcribe the recording.
- 38. What is the contact information for OPM?**
- 501-682-1753 or OPM.Disputeresolution@dfa.arkansas.gov.