

	STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES		POLICY AND PROCEDURE NUMBER 08.02.023	PAGE 1 of 5
	Policy and Procedure		EFFECTIVE DATE August 26, 1994	
SUBJECT Grievance -- Written Responses		SUPERSEDES		DATED
TITLE Personnel Administration	CHAPTER Personnel	APPROVED BY Signature on File		

PURPOSE AND SCOPE

Introduction:

This procedure provides uniform guidelines for all supervisors and managers when writing to labor organizations representing state employees, with emphasis on complaints or grievances.

Note: Oral communications with labor organizations and employees on a variety of labor relations matters, including grievances, are not addressed in any length, due to the wide variety of circumstances and contexts in which they occur. However, a brief section on oral exchanges is included at the end of this procedure.

More detailed information on grievance processing is contained in the Supervisor's Guide to Grievance Handling segment of the departmental Supervisor's Guide.

Definitions:

For purposes of these procedures, the following definitions apply.

- A. "Regional/System Director (or equivalent)" means:
1. Northern, Central & Southeast Regional Directors
 2. Director, Alaska Marine Highway System
 3. Director, Engineering & Operations
 4. State Chief Engineer
 5. Director, Planning
 6. Director, Information Systems
 7. Director, Administrative Services
 8. Director, Statewide Aviation, Leasing & Airport Administration

- B. "Division Director" means either the first level of "director" classification within a grievant's chain-of-command (e.g., "Regional M&O Director"), or the functional equivalent in an agency unit which does not have full division status, but reports directly to a Regional Director (e.g., "Chief, Planning & Administrative Services").

Reference:

Department Policy DPOL 01.01.040, *Delegation of Authority - Organization and Personnel*

DISTRIBUTION

All holders of the Department of Transportation & Public Facilities Procedures Manual.

PROCEDURE

- A. Grievance procedures vary in the number of steps/levels prescribed for filing grievances. In addition, there are variations in procedures for specific types of grievances (e.g., "class action" or "disciplinary"). Always refer to the applicable contract grievance procedure governing any dispute for specific provisions.
- B. Whenever possible, written communications with state employee unions, including but not limited to grievance responses, should be reviewed by the Regional/System Personnel Office and approved by the appropriate division director or Regional/System Director (or designee). Specific exceptions to this requirement are identified in subsection G.
- C. Supervisory/Director Level Responses
 1. Authority for approval of grievance responses and other correspondence directed to labor organizations/unions may be delegated. Delegations of authority must be in writing.
 2. Check all grievances for procedural defects before responding. All parties must comply with procedural requirements in contracts, including but not limited to:

- a. Grievance submissions at the appropriate step/level.
 - b. Compliance with grievance procedure time frames.
 - c. Use of appropriate alternate dispute resolution procedures when specified in the contract (e.g., evaluation appeals, classification appeals, complaints, Notice of Pay Problem, etc.)
3. Grievances which are untimely, submitted at the improper level, or which should be filed under an alternate dispute resolution procedure, are to be rejected on procedural grounds, without comment on the substantive merits.
 4. If a grievance cannot be answered within allotted time frames, due date extensions may be requested through the appropriate Regional/System Personnel Officer.
 5. Grievance related materials must be transmitted by closed "confidential" envelope or equivalent means to protect confidentiality.
 6. Original, completed grievance responses should be sent to the Regional/System Personnel Office for proper distribution. If this is not possible due to time constraints, the respondent must distribute copies to:
 - a. the Grievant
 - b. the Union
 - c. Regional/System Personnel Office
 - d. Headquarters Personnel/Payroll
 - e. Department of Administration, Division of Personnel/EEO (Labor Relations)
 7. No supervisor/manager may exceed his/her authority in responding to grievances. No grievance response may grant relief exceeding the parameters of, or contrary to, the terms of any contract. Consult with your Regional Personnel Officer regarding any questions of authority under collective bargaining agreements.

D. Commissioner-level responses:

1. Delegation

Authority for responding to grievances on behalf of the Commissioner is delegated to the Deputy Commissioner (refer to the Delegation of Authority Policy 01.01.040 pertaining to Organization and Personnel).

2. Staff assignments

Headquarters (HQ) Personnel/Payroll staff are responsible for investigation, analysis, and draft responses to grievances received at this level.

HQ Personnel/Payroll staff will coordinate any necessary investigation and proposed responses at this level with the affected Region(s)/System(s),

through the Regional Personnel Office. Appropriate Regional Personnel Offices will be copied on responses.

E. Grievance resolutions/settlements:

NOTE: Within the limits of their delegated authority, supervisory personnel may grant grievances (in whole or part) provided that the relief granted does not exceed the parameters of, or is not contrary to, the terms of the applicable contract. The granting of a grievance is an admission of contract violation, and is precedent-setting.

"Resolutions/settlements" are negotiated agreements to conclude a dispute on a non-precedential basis, without admission of contract violation. Generally, these agreements are titled "Letter of Grievance Resolution" or "Letter of Understanding." In most cases, either grievance response time frames are extended or held in abeyance while resolution negotiations are underway, or such negotiations in the period before a dispute is scheduled for arbitration.

1. No agent of this department may enter into written grievance resolutions. By gubernatorial directive, authority to enter into agreements with unions on any subject (including grievances) is delegated only to the Commissioner of Administration. Settlements may be proposed as described below.
2. All proposed settlements of employment-related disputes -- including grievances -- require the prior approval of the Deputy Commissioner before they may be transmitted to the Department of Administration for action.
3. Internal proposals: Proposed settlements may be submitted to the Deputy Commissioner from any Region through its personnel office, and Headquarters Personnel/Payroll. All proposals will be evaluated by Headquarters Personnel/Payroll, prior to transmittal to the Deputy Commissioner.

Technical assistance in composing proposals may be provided by either Regional/System Personnel Offices or the HQ Personnel/Payroll staff.

Clearly mark proposed settlements "DRAFT" and "CONFIDENTIAL"; transmit in sealed envelope or other secure means. Written rationale should normally be included; however, initiators will be contacted to discuss merits as necessary.

4. External proposals: Settlement proposals may originate outside the department, usually from the union or the Department of Administration. They are also subject to approval of Headquarters Personnel/Payroll and the Deputy Commissioner prior to execution. Settlement proposals of external origin will be discussed with Regional/System officials prior to approval/disapproval.

F. Implementation of Settlements or Arbitration Awards:

Because of the wide variety of circumstances and types of actions which may be necessary for the implementation of grievance settlements/resolutions and arbitrator's awards, no fixed procedure is established. However, Headquarters Personnel/Payroll will normally be the organizational unit responsible for determining what must be done, by whom and when. Written implementation instructions will be transmitted through Regional/System Personnel Officers. In most cases, Regional Personnel Offices will be responsible for calculation of any back pay awards which are granted.

G. Other Correspondence with Labor Organizations:

1. Except as noted below, no official of this department may correspond with labor organizations representing state employees without the express prior approval of the appropriate Regional Director or the Deputy Commissioner.
2. Exceptions: No prior approval is required on correspondence to unions in the following circumstances:
 - a. Personnel office generated reports required by contract (e.g., bargaining unit additions/separations, seniority rosters, etc.)
 - b. Requests for factual information directed or forwarded to personnel offices.
 - c. Correspondence from personnel offices concerning procedural issues (e.g., scheduling of hearings, meeting dates, etc.)
 - d. Notifications expressly required by contract (e.g., copies of disciplinary actions, reports of findings on performance evaluation disputes, etc.)
 - e. Responses to "Employee Notice of Pay Problem" submissions.
 - f. Any other correspondence not prohibited by earlier parts of this procedure, or established departmental or government practices, as deemed necessary in the best interest of the state by the Regional/System Personnel Officer.

H. Oral Communications:

Many grievances result from misunderstandings or lack of information provided to affected employees and/or their designated labor representatives. Some of these grievances may be averted by candid, factual discussions between supervisors/managers and labor representatives. Such discussions are encouraged to foster mutual respect and mutual problem solving. Consultation with or active participation by the Regional/System Personnel Office is recommended whenever possible.