

**Agency:** North Dakota Department of Transportation  
**Author:** Human Resources Division  
**Contact Person:** Bob Evans  
**Group:** Personnel Policies  
**Category:** Employee Relations  
**Policy Number:** II-2  
**Title:**  Complaint and Grievance Policy  
**Original Date:** 02/01/1980  
**Revised Date:** 03/01/2004

## **COMPLAINT AND GRIEVANCE POLICY**

The department provides a method for all employees (regular, probationary, and temporary) to resolve work-related problems. This procedure is an orderly process for hearing employee complaints and grievances and for resolving the problem in a timely manner. Applicants for employment may use this process to file complaints of discrimination, retaliation, or reprisal.

If an employee has a problem, the employee should talk about it informally with his or her supervisor. If the supervisor cannot or will not assist in correcting the problem, the employee has the right to submit a formal complaint or grievance, depending on the situation. Employees and applicants may present a complaint or grievance without fear of future discrimination, retaliation, or reprisal.

An employee or applicant who is considering submitting a complaint or grievance should become familiar with the following general information before completing the form. If an employee or applicant needs assistance in submitting a complaint or grievance, he or she should contact an affirmative action representative or a representative of the Human Resources Division (HRD), or the Civil Rights Office (CRO).

### **General Information**

It is an employee's right, depending on his or her employment status, to submit formal complaints and/or grievances to resolve work-related problems that cannot be resolved within the work group. Applicants may file a complaint of discrimination, retaliation, or reprisal. The following definitions determine eligibility to file a complaint and/or grievance.

**Complaint** – Dissatisfaction with aspects of employment or work conditions because of discrimination (based on race, color, religion, sex, national origin, age, status with regard to marriage or public assistance, political opinions or affiliations, physical or mental handicap or disability, or participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential

business-related interests of the employer), retaliation, or reprisal. All employees and applicants for employment are eligible to file a complaint.

**Grievance** – Dissatisfaction with work conditions, work relationships, or the interpretation of policies, rules, regulations, or legislation used in personnel practices. This includes termination, suspension, demotion, reduction in force, forced relocation, or acts of retaliation or reprisal. Temporary and probationary employees and applicants for employment cannot file a grievance. (ND Administrative Rule 4-07-20-01.)

**Classification and Pay Grade Appeals** – Separate procedures are established for classification and pay grades. See Chapter 59.5-03-02, Classification and Pay Grade Appeals, North Dakota Administrative Code.

Employees will be allowed reasonable time during regular work hours, without loss of pay or leave time, to make necessary contacts and preparations for processing the complaint or grievance.

Upon written request and subject to the established department copying fee, the department will make available the necessary specified information to assist the employee or applicant in processing a complaint or grievance.

## **Procedure**

The following are formal steps of the complaint and grievance procedure. **All steps must be followed within the given time frames.** An employee's or applicant's right to continue the complaint and grievance procedure will be lost if he or she does not proceed as required below.

To process a formal complaint or grievance, an employee or applicant **must** complete and submit a Complaint or Grievance Form (SFN 9963) to the Director **within 15 working days** after the incident occurred or from the time he or she knew, or reasonably should have known, of the problem. The completed form should state the exact nature of the complaint or grievance, the issues involved, and the solution requested.

An employee may submit a written request to the Director to waive the deadline in order to attempt to resolve the matter informally within the work group. If an employee does not request a waiver of the deadline and submits a complaint or grievance after the deadline, the Director may still accept the complaint or grievance for review if the informal discussion process with the employee's supervisor(s) can be verified.

The Director determines whether the complaint or grievance will be formally investigated. (For information on the Workplace Investigation Process see NDDOT Personnel Policy Statement II-12.)

A complaint and a grievance may be processed at the same time. Complaints and grievances filed by a group(s) of employees or applicants about a similar or common concern will be processed as a single complaint or grievance.

The Director will attempt to make a final written decision regarding the complaint or grievance **within 20 working days** from the date the form is received. The Director will notify the employee or applicant filing the complaint or grievance in writing if the decision is to be delayed.

All decisions of the Director are final except as stated below.

### **Appeal to Human Resource Management Services**

A regular employee who is not satisfied with the Director's decision regarding a complaint of discrimination, retaliation, or reprisal or regarding a grievance in the case of termination, suspension, demotion, reduction in force, or forced relocation, may appeal to Human Resource Management Services (HRMS). The Complaint or Grievance Form (SFN 9963) **and** the HRMS Appeal Form (SFN 3096) **must** be submitted to HRMS **within 15 working days** from the date the Director's decision was received. The address is:

Director  
Human Resource Management Services  
14th Floor  
600 East Boulevard Avenue  
Bismarck, ND 58505-0120

Phone: (701) 328-3290  
TTY: (701) 328-4083

HRMS will refer the appeal to the Office of Administrative Hearings to determine if the appeal is timely and is an issue for which HRMS has jurisdiction. An Administrative Law Judge will either schedule a hearing or dismiss the appeal.

Temporary and probationary employees and applicants for employment are not eligible to appeal to HRMS but may pursue recourse with the following agencies.

## North Dakota Labor Department - Complaint Procedure

The department encourages all employees and applicants to follow its complaint and grievance process. However, an employee or applicant may choose to file or appeal the department Director's decision regarding **complaints of discrimination, retaliation, or reprisal** to the North Dakota Labor Department. The U. S. Equal Employment Opportunity Commission (EEOC) has designated the Labor Department as the agency to handle charges of employment discrimination, retaliation, or reprisal filed with the EEOC that are within the state's jurisdiction.

The employee or applicant must file or appeal the complaint to the Labor Department **within the appropriate time frame identified by law**. Depending on the type of complaint, the time frame can vary from 300 days to one year. Employees or applicants may contact the Labor Department for more information on the types of complaints or appeals that can be filed with their agency. The address is:

North Dakota Labor Department  
Sixth Floor  
600 East Boulevard Avenue  
Bismarck, ND 58505-0120

Phone: (701) 328-2660  
TTY: (701) 328-2887

## U. S. Department of Transportation - Complaint Procedure

**Discrimination complaints** based on race, color, religion, sex, age, national origin, or disability and **complaints of retaliation or reprisal** may be filed directly with, or appealed to, the Secretary, U.S. Department of Transportation. The complaint or appeal **must** be filed, in writing, no later than **180 days after the date of the alleged discrimination, retaliation, or reprisal**, unless the time for filing is extended by the Secretary. The complaint or appeal may be filed before, during, or after the complaint is filed with the North Dakota Department of Transportation. The address is:

Secretary  
U. S. Department of Transportation  
400 Seventh Street, Southwest  
Washington, D. C. 20590

<p><b>DISCLAIMER:</b> North Dakota Department of Transportation (NDDOT) Personnel Policies are not intended as a contract of employment and do not constitute one. NDDOT may change, delete, suspend, or discontinue any policy or benefit described herein at any time with or without prior notice.</p>
---