



# EMPLOYEE GRIEVANCE PROCESS AT A GLANCE

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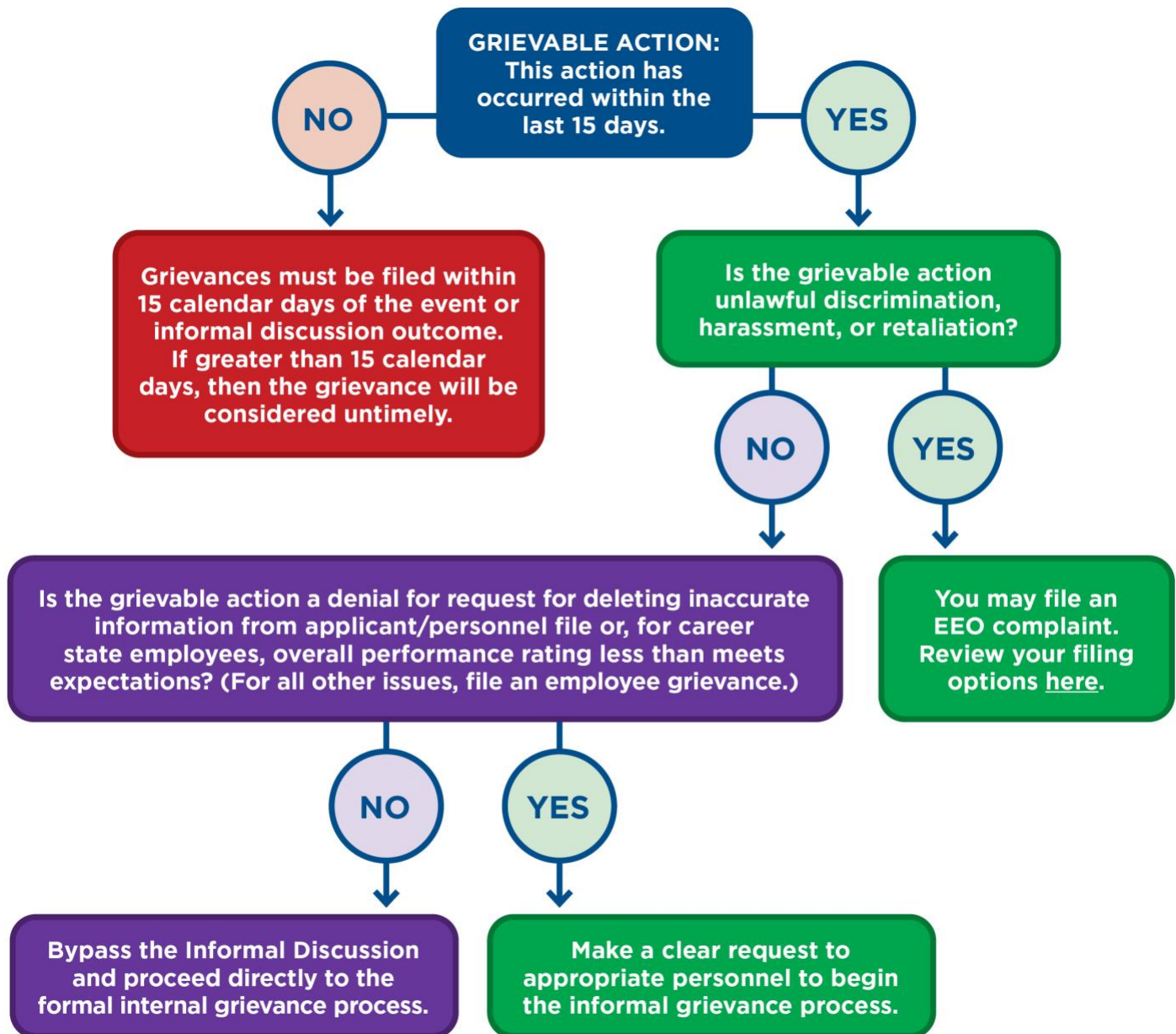
## Policy

It is the policy of North Carolina State government that a grievance process exists to allow for prompt, fair and orderly resolution of grievances arising out of employment. Each agency shall adopt this Employee Grievance Policy as approved by the State Human Resources Commission. Agencies may supplement this policy by developing additional internal procedures beyond the informal discussion process for issues that may only be grieved at the agency level.

## Key Terms

<i>Term</i>	<i>Definition</i>
Employee Relations (ER)	An office within Human Resources (HR) that works with employees and management to develop and maintain harmonious and effective working relationships throughout the department by addressing applicant, employee, and former employee grievances.
Equal Employment Opportunity (EEO)	An office with HR that ensures the protection of all applicants, employees, and former employees from discrimination, retaliation, and harassment based on protected characteristics.
Equal Employment Opportunity Commission (EEOC)	A federal agency that is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, childbirth, or related conditions, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information.
Agency	A State department, office, board, or commission.
Applicant for State Employment	A person who submits an application for initial hire, promotion or reemployment for a position in a State agency.
Complainant	An applicant, probationary State employee, former probationary State employee, career State employee or former career State employee who initiates an informal complaint through the Equal Employment Opportunity (EEO) Informal Inquiry process.
Grievant	An applicant, probationary State employee, former probationary State employee, career State employee or former career State employee who initiates a grievance.
Grievable Issue	A workplace event or action as defined by NC State statute as grievable that allows an eligible employee to challenge the alleged workplace event or action through established grievance procedures for resolution.
Career State Employee	A State employee who is in a permanent position with a permanent appointment and has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the North Carolina Human Resources Act for the immediate 12 preceding months.  Employees who are hired by a State agency, department or university in a sworn law enforcement position and who are required to complete a formal training program prior to assuming law enforcement duties with the hiring agency, department or university shall become career State employees only after being employed by the agency, department or university for 24 continuous months.
Probationary State Employee	A State employee who is exempt from the provisions of the North Carolina Human Resources Act only because the employee has not been continuously employed by the State for the time period required to become a career State employee.
Exempt Managerial Employee	An employee who holds a position delegated with significant managerial or programmatic responsibility essential to an agency's operations, such that applying standard disciplinary procedures to the employee could cause serious disruption to the agency.
Final Agency Decision (FAD)	The final decision issued by the Agency Head concludes the internal grievance process.
Informal Discussion	An informal process for addressing a grievable issue between the grievant and a member of management that may facilitate a resolution prior to the filing of a formal grievance and the process for addressing issues for which one may not file a formal grievance.

## Employee Grievances at a Glance Flowchart



For additional information on the Employee Grievance process please refer to section four of the Employee Grievance Policy. For any questions you may reach out via email: [DHHS.ER@dhhs.nc.gov](mailto:DHHS.ER@dhhs.nc.gov). For facility employees, please reach out to your on-site HR personnel.

## Grievable Issues and Who May Grieve

Issues may be grieved by an applicant for State employment, a career State employee or former career State employee, a probationary State employee or former probationary State employee, and an exempt Managerial employee. However, the types of issues that may be grieved by the outlined individuals vary and require different agency procedures. Certain statutory exempt employees may be able to grieve denial of veteran's and National Guard preference as provided for by law. Refer to N.C.G.S. § 126-82(d) and § 126-83 for details.

Please click on the box with the term that best describes your employment category to learn more about which grievable issues may be appropriate for you to pursue.

Probationary State Employee or Former Probationary State Employee	Exempt Managerial Employee	Career State Employee or Former Career State Employee	Applicant for State Employment (initial hire, promotion or re-employment)
<b>Probationary State Employee or Former Probationary State Employee:</b>	<p><b>Informal Grievance Process</b></p> <p>May grieve the following issue at the <u>agency level only</u> through the Informal discussion process. However, the individual shall not proceed with the formal internal grievance process. If applicable, individuals may follow any supplemental agency procedure for issues that may be grieved at the agency level only.</p> <ul style="list-style-type: none"> <li>• Denial of request to remove inaccurate and misleading information from personnel file (excludes the contents of a performance appraisal and written disciplinary action)</li> </ul> <p><b>Formal Grievance Process</b></p> <p>Must first grieve the following issues through <u>the formal internal grievance process</u>. If the grievant is not satisfied with the Final Agency Decision (FAD), the grievant may appeal to the Office of Administrative Hearings.</p> <ul style="list-style-type: none"> <li>• Denial of hiring or promotional opportunity due to failure to post position (unless hiring opportunity is not required to be posted by law).</li> <li>• Denial of veteran's or National Guard preference as provided for by law.</li> <li>• Any retaliatory personnel action for reporting improper government activities ("whistle blower").</li> <li>• Unlawful discrimination or harassment based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the employee believes that he or she has been discriminated against in the terms and conditions of employment.</li> <li>• Retaliation against an employee for protesting (objecting to or supporting another person's objection to) unlawful discrimination based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the employee believes that he or she has been retaliated against in the terms and conditions of employment.</li> </ul>		

**Exempt Managerial Employee:**

**Formal Grievance Process**

Must first grieve the following issues through the formal internal grievance process. If the grievant is not satisfied with the FAD, the grievant may appeal to the Office of Administrative Hearings.

- Denial of veteran's or National Guard preference as provided for by law
- Unlawful discrimination or harassment based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the employee believes that he or she has been discriminated against in the terms and conditions of employment.
- Retaliation against an employee for protesting (objecting to or supporting another person's objection to) unlawful discrimination based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the employee believes that he or she has been retaliated against in the terms and conditions of employment.

**Career State Employee or Former Career State Employee:**

Career state employees can file a grievance for all issues that Probationary State employee or former probationary State employee and Exempt Managerial employees can grieve as well as the following:

**Informal Grievance Process**

May grieve the following issues may grieve the following issues at the agency level only through the Informal discussion process. However, the individual shall not proceed with the formal internal grievance process. If applicable, individuals may follow any supplemental agency procedure for issues that may be grieved at the agency level only.

- Denial of request to remove inaccurate and misleading information from personnel file (excludes the contents of a performance appraisal and written disciplinary action).
- Overall performance rating of less than "meets expectations" or equivalent as defined in the Performance Management Policy.

**Formal Grievance Process**

Must first grieve the following issues through the formal internal grievance process. If the grievant is not satisfied with the FAD, the grievant may appeal to the Office of Administrative Hearings. In addition to the issues that may be grieved by an applicant, probationary state employee, or exempt managerial employee, a career state employee may grieve the following issues:

- Dismissal, demotion, or suspension without pay for disciplinary reasons without just cause.
- Involuntary non-disciplinary separation due to unavailability.
- Denial of reemployment or hiring due to denial of reduction in force priority as required by law (N.C.G.S. § 126-7.1).
- Denial of promotional opportunity due to failure to give priority consideration for promotion to a Career State employee as required by law (N.C.G.S. § 126-7.1).

**Applicant for State Employment (initial hire, promotion or re-employment):**

**Informal Grievance Process**

May grieve the following issues at the agency level only through the Informal discussion process. However, the individual shall not proceed with the formal internal grievance process. If applicable, individuals may follow any supplemental agency procedure for issues that may be grieved at the agency level only.

- Denial of request to remove inaccurate and misleading information from applicant file (excludes the contents of a performance appraisal and written disciplinary action).

**Formal Grievance Process**

Must first grieve the following issues through the formal internal grievance process. If the grievant is not satisfied with the FAD, the grievant may appeal to the Office of Administrative Hearings.

- Retaliation for protesting (objecting to or supporting another person's objection to) unlawful discrimination based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the applicant believes that he or she has been retaliated against in his or her application for employment.
- Unlawful discrimination or harassment based on race, religion, color, national origin, sex (including sexual orientation, gender identity and expression, and pregnancy), age, disability, genetic information, or political affiliation if the applicant believes that he or she has been discriminated against in his or her application for employment.
- Denial of veteran's or National Guard preference as provided for by law.
- Denial of hiring or promotional opportunity due to failure to post position (unless hiring opportunity is not required to be posted by law).

## Grievance Process for All Grievable Issues

If the grievance lists **unlawful discrimination, harassment, or retaliation** as the grievable issue, the grievance shall be addressed through the following options: (1) EEO Informal Inquiry Process, (2) complainant alleging unlawful discrimination, harassment or retaliation has the right, at any time, to bypass or discontinue the EEO Informal Inquiry or the formal internal grievance process and file a charge directly with the Equal Employment Opportunity Commission (EEOC), or (3) may file simultaneously internally with DHHS and externally with the EEOC at any point in either the EEO Informal Inquiry or the formal internal grievance process. Please refer to the EEO Informal Complaint Process at a Glance for more information.

### Informal Grievance Process

The employee must complete any of the required informal processes within the stated time frames.

\*Note: Disciplinary action grievances, to include dismissal, demotion, suspension without pay, as well as non-disciplinary separation due to unavailability shall bypass the Informal Discussion and proceed directly to the formal internal grievance process.

Process Order	Action Item	Action Item Description	Typical Duration	Responsible Party
1.	Initial Request	A clear** request to the supervisor or other appropriate personnel for an Informal Discussion regarding an alleged event or action must occur within <u>15 calendar days</u> of the alleged event or action that is the basis of the grievance.	≤15 calendar days, <i>the agency and grievant may mutually agree to an extension beyond 15 days.</i>	Employee
2.	Informal Discussion Acceptance	The supervisor or other appropriate personnel shall confirm the intention of the requested Informal Discussion with the employee before beginning discussions.		Supervisor/ Appropriate Personnel
3.	Informal Discussion	An attempt to make progress toward a successful resolution to the dispute.		Employee and Supervisor/ Appropriate Personnel



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4.	Outcome Communication	The outcome of the Informal Discussion shall be communicated to the employee and Human Resources by the supervisor or other appropriate personnel in writing.	See above.	Supervisor/ Appropriate Personnel
5.	Finalization	If the issue is not successfully resolved or if no written response is provided <u>within the 15-calendar day timeframe</u> , the employee may proceed by filing a formal grievance.	≤15 calendar days	Employee

**Total Time to Complete Process:** ≤ 30 Calendar days

\*Note: Time spent in the Informal Discussion is not a part of the formal internal grievance process.

\*\*Under policy, the employee must clearly state to the supervisor or other appropriate personnel that the informal discussion concerns an alleged event that may form the basis of a grievance, and the supervisor or other appropriate personnel shall confirm this intent before beginning the discussion; while a written request is recommended, it is not required.

### Formal Grievance Process

The employee must begin the formal internal grievance process by filing a written grievance request to the HR Director or designee within the agency in accordance with the Employee Grievance Policy. The grievant must file a formal grievance within 15 calendar days of the alleged event or action that is the basis of the grievance or within 15 days of receiving a response at the conclusion of any informal process(es).

Process Order	Action Item	Action Item Description	Typical Duration	Responsible Party/ Attendees
1	Mediation (STEP 1)	OSHR maintains a process to assign mediators to grievances upon agency requests. The agency shall submit the request for mediation within <u>3 business days</u> of receipt of the grievance.	Within 35 days from file date.	Grievant, Agency Respondent, and OSHR-appointed mediator(s).
2	Hearing (STEP 2)	The Step 2 grievance form must be received by the agency within <u>5 calendar days</u> of the date on which mediation resulted in an impasse. Grievant will be allowed to present the grievance to a reviewer(s) outside of the grievant's chain of command.	Within 35 calendar days of filing Step 2, <i>unless mutually agreed between grievant and agency to extend past 35 days.</i>	Grievant, Hearing Officer, Witnesses, and Appropriate agency and HR representatives.
3	Proposed Recommendation for Final Agency Decision	The Hearing Officer or Hearing Panel Chair will draft a proposed recommendation, including an explanation and justification to support the recommendation for a Final Agency Decision to be sent to the Agency Head or designee.  The Agency Head or designee shall submit their proposed recommendation for a Final Agency Decision to the Director of the OSHR or designee <u>within the 35-calendar day</u> timeframe for the Step 2 hearing process.	Within 35 calendar day timeframe for the Step 2 Hearing.	The Hearing Officer or Hearing Panel Chair, The Agency Head or Designee, and the Director of the OSHR or designee.
4	OSHR Review	The Director or designee may approve as written or may provide recommendations for modification or reversal <u>within 10 calendar days</u> of receipt of the proposed recommendation.	Within 10 calendar days of receipt of the proposed recommendation.	Director of OSHR or designee.

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5	Final Agency Decision	The agency shall issue the Final Agency Decision to the grievant <u>within 5 calendar days</u> of receipt of the OSHR review of the proposed recommendation.	The Final Agency Decision shall be issued in writing within <u>5 calendar days</u> of receipt of the OSHR review of the proposed recommendation. Which also falls within <u>90 calendar days</u> of the initial filing of the grievance.	The Agency and Grievant.
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**Total Time to Complete Process:** ≤ 90 Calendar days

## Resources

Organization	Telephone	Email	Address	Relevant Documents
<b>EEO</b>	<b>Office Telephone:</b> (984) 332-4605  <b>Fax:</b> (984) 687-9582	<a href="mailto:EEO@dhhs.nc.gov">EEO@dhhs.nc.gov</a>	DHHS Office of Equal Employment Opportunity 2001 Mail Service Center Raleigh, NC 27699-2001	<ul style="list-style-type: none"> <li>• <a href="#">EEO Informal Complaint Intake Form</a></li> <li>• <a href="#">EEO Policy</a></li> <li>• <a href="#">EEO Informal Complaint Process at a Glance</a></li> </ul>
<b>ER</b>	<b>Fax:</b> (984) 687-9580	<a href="mailto:DHHS.ER@dhhs.nc.gov">DHHS.ER@dhhs.nc.gov</a>		<ul style="list-style-type: none"> <li>• <a href="#">Grievance Filing Form</a></li> <li>• <a href="#">Employee Grievance Policy</a></li> </ul>
<b>Agency ADA HR Contact</b>	<b>Fax:</b> (984) 687-9580	<a href="mailto:Accommodation@dhhs.nc.gov">Accommodation@dhhs.nc.gov</a>		<ul style="list-style-type: none"> <li>• <a href="#">ADA Resources</a></li> </ul>

<b>OAH:</b> <b>Civil Rights Division Telephone:</b> (984) 236-1850 <a href="#">Civil Rights Division (CRD) Investigations and Services</a>	<b>EEOC:</b> <b>Regional Office Telephone:</b> 1-800-669-4000 <a href="#">Filing A Charge of Discrimination With the EEOC</a> <a href="#">U.S. Equal Employment Opportunity Commission Public Portal</a>
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