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Section-11 Human Resources	OP-110205	Page: 1	Effective date: 02/12/2019
Employee Grievance Resolution Procedures	ACA Standards: 2-CO-1C-02, 4-4048, 4-ACRS-7E-01, 4-APPFS-3E-15		
Joe M. Allbaugh, Director Oklahoma Department of Corrections		Signature on File	

Employee Grievance Resolution Procedures

This grievance resolution procedure establishes guidelines for the prompt and equitable

resolution of issues which are of concern to agency employees and subject to the control of the appointing authority. All employees have access to the grievance resolution process with the following exception:

Unclassified employees may not grieve personnel actions resulting in discipline (e.g., letters of reprimand, suspensions or terminations or re-assignments resulting in transfer or change of pay status) unless alleging a violation of public policy (Merit Rule 455:10-19-2).

No employee will be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under these procedures [74:840-6.2(C) and Merit Rule 455:10-19-8(a)]. A copy of these procedures will be provided to each agency employee [74:840-6.2(B) and Merit Rule 455:10-19-20(b) (1)]. (2-CO-1C-02, 4-4048, 4-ACRS-7E-01, 4-APPFS-3E-15)

For the purpose of this procedure, the term “facility” will apply to institutions and community corrections centers, the term “facility head” will apply to wardens and community corrections centers directors and the term “unit head” will apply to unit directors and probation and parole deputy directors.

I. Grievance Manager Designation

The agency director has designated a grievance manager and assistant grievance manager for the Oklahoma Department of Corrections (ODOC). Contact information is outlined in the “Employee Grievance Resolution Procedures” poster ([Attachment E](#), attached)

II. Definition and Scope

“Grievance” means a request for relief in an employment matter made by an employee, or a group of employees, which affects them and which is subject to the control of the appointing authority (Merit Rule 455:10-19-3).

Employees whose employment has been directly affected by unfair treatment, unsafe working conditions or erroneous interpretation or application of policy, procedure, merit rule or law have a right to file a grievance in accordance with Merit Rule 455:10-19 and these procedures (Merit Rule 455:10-19-23).

Grievances may include, but are not limited to, any direct or indirect form of discipline, reduction-in-force, work assignments, withholding of work, classification, reclassification, promotion, leave, performance appraisal, length of service, overtime, compensatory time, transfers, sexual harassment, discrimination or any alleged violation of the Oklahoma Personnel Act or merit rules [74:840-6.2(D)].

Grievance issues relating to open investigations of any kind, internal or external, will be rejected. Suspension with pay is not a grievable issue and will be rejected for that reason by the grievance manager.

The filing of formal grievances with the agency and appeals with the Merit Protection Commission (MPC) are separate actions with each being the

responsibility of the employee (Merit Rule 455:10-19-47).

A. Promotion

Any employee who feels that he or she has not been treated fairly with regard to a promotional action has the right to file a formal grievance. The Merit Protection Commission will accept an appeal regarding a promotional action only after such complaint has been reviewed in the formal grievance procedure [74:840-4.15(C) and Merit Rule 455:10-19-35(b)].

B. Classification

A formal classification grievance will be filed with the employing agency according to the rules for filing classification grievances promulgated by the Merit Protection Commission (Merit Rule 455:10-19-1 et seq). An employee has the right and responsibility to file a classification grievance as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor and level of assignment [74:840-4.3, Merit Rule 260:25-5-4(c) and Merit Rule 455:10-19-35(c)].

C. Discipline

Any employee who has reason to believe that any discipline imposed was not uniform, appropriate or in compliance with the agency progressive discipline policy has the right to file a formal grievance. Except for Suspensions Without Pay, Involuntary Demotions or Discharge, the Merit Protection Commission will accept appeals concerning discipline only after such complaint has been reviewed in the formal grievance procedure [Merit Rule 455:10-19-35(d)].

D. Leave

Any employee who feels that he or she has not been treated fairly with regard to annual, sick or any other leave accrual, accumulation, use, or eligibility (including leave without pay and leave sharing), has the right to file a formal grievance. The Merit Protection Commission will accept an appeal regarding leave issues only after such complaint has been reviewed in the formal grievance procedure [Merit Rule 455:10-19-35(e)].

E. Employee Performance Appraisal

Any employee who disagrees with his or her individual service rating has the right to file a formal grievance [Merit Rule 455:10-19-35(f)].

F. Discrimination

Complaints of discrimination, including sexual harassment, are subject to the grievance process as specified in these procedures [Merit Rule 455:10-19-35(g)]. Discrimination complaints can be appealed directly at the Merit

Protection Commission without utilizing the grievance process.

G. Pay Movement and Other Compensation Issues

Any employee who feels that a violation of law, rule, policy or practice has occurred with regard to pay movement mechanisms or other compensation issues has the right to file a formal grievance. The Merit Protection Commission will accept an appeal regarding pay movement mechanism and other compensation issues only after such complaint has been reviewed in the formal grievance procedure [Merit Rule 455:10-19-35(h)].

III. Mediation

Mediation services are available to resolve disputes outside of and during each step of the grievance process. All requests for mediation services will be referred to a certified mediator under the auspices of the Supreme Court of Oklahoma. The program is available at no cost and discussions between the parties made during the mediation session are confidential.

A. Request for Voluntary Mediation Services

During step one/informal discussion or step two/formal grievance, parties to a grievance issue may decide to use the services of a certified mediator to attempt resolution of their conflict. All requests for mediation services as an alternative to the grievance process will be referred to the agency grievance manager.

1. The employee requesting mediation will complete an "Oklahoma Department of Corrections Request for Voluntary Mediation Services" form ([Attachment C](#)). The grievance manager will forward the request for mediation to the agency's mediation coordinator or to the Merit Protection Commission's mediation coordinator.
2. The mediation coordinator will contact the participating parties for agreement to mediate and will facilitate the processing of the mediation session or refer the mediation to Merit Protection Commission (MPC).
3. Upon completion of the mediation process, the mediation coordinator of ODOC or MPC will contact the grievance manager and advise him/her of the disposition.
4. The ODOC mediation coordinator will maintain all documents used in the mediation process if mediated through ODOC's program.
5. All agreements signed during mediation sessions will be provided to the grievance manager.

B. Tolling the Time Limits

“Toll” means to temporarily stop or suspend applicable time limits (Merit Rule 445:10-19-3).

During either step one/informal discussion or step two/formal grievance, all applicable time limits will be tolled when an “Agreement to Mediate Workplace Conflict” form is signed by both parties [12 O.S. 1806 and Merit Rule 455:10-19-64(b)].

1. The suspension of applicable time limits will end upon conclusion of the voluntary mediation session or at such time that any participant withdraws from the voluntary mediation session [Merit Rule 455:10-19-64 (b) (2)].
2. If the grievant wishes to pursue the grievance following completion of the mediation process, at either step, the grievance will resume as though it were the day following the date the agreement to mediate was signed and continue within the time remaining.

C. Step One-Informal Discussion

Participation in mediation, whether or not it results in a resolution of any or all of the grievance issues, will serve as completion of step one of the grievance process. If the parties, as a result of the mediation session, reach a signed agreement, the grievant may elect to withdraw the grievance.

D. Step Two-Formal Grievance

1. All mediated agreements that comply with law, rule, and procedure will also be issued as the step two decision. The step two decision may address issues not resolved by the mediated agreement as long as nothing in the decision conflicts with any provision of the signed agreement.
2. If, during a mediation session, the parties are unable to reach a signed agreement, the step two decision maker will resume jurisdiction and, within the time remaining, render a decision as though mediation had never occurred.

IV. Grievance Guidelines

A. Records

1. Grievance records will be maintained separate and apart from employee personnel files [74:840-6.2(l) and Merit Rule 455:10-19-4(a)]. Disposition of grievance records will be in accordance with [OP-020202](#) entitled “Management of Office Records.”
2. An employee or former employee has the right of access to the record

of grievances filed by that employee after the grievance process has been completed [74:840-6.2(l) and Merit Rule 455:10-19-4(b) (1)].

3. Additional access to grievance files will be in accordance with the Oklahoma Open Records Act, 51 O.S. § 24 A.1 [Merit Rule 455:10-19-4 (b)].

B. Confidentiality

Employees with knowledge of formal grievances will refrain from disclosing information unnecessarily and treat grievance matters with discretion and professionalism [Merit Rule 455:10-19-23(c)].

C. Leave and Travel

1. The grievant may request the immediate supervisor to approve necessary and reasonable preparation time not to exceed four working hours in order to gather information in preparation to file and process a formal grievance. Requests should be made in advance and may be approved if the preparation time will not cause undue hardship or upset the work place operation. All preparation time will be conducted at the facility/ unit unless the supervisor directs the grievant otherwise. Such preparation time will not result in loss of pay or leave. (Merit Rule 455:10-19-37)
2. A grievant or witness whose attendance is required at meetings held to decide grievances will not be charged leave to attend such meetings (Merit Rule 455:10-19-38). Employees will provide their immediate supervisors with advance notice of scheduled meetings.
3. Employees are required to utilize a state vehicle and will be required to request a state vehicle in advance. If a state vehicle is not available, employees will be reimbursed for approved travel and other expenses which are incurred to resolve a formal grievance in accordance with the State Travel Reimbursement Act [Merit Rule 455:10-19-38(b)].

D. Employee Representation

1. A grievant has the right to be represented by a person of his or her own choosing at the Step II level of the grievance resolution procedure [74:840-6.2(E) (3) and Merit Rule 455:10-19-39 (a)].
2. The representative must be willing and available to serve and have authority to negotiate settlement [Merit Rule 455:10-19-39(b)].
3. The employee is responsible for all costs and expenses of his or her representation [Merit Rule 455:10-19-39 (c)].
4. A representative who is a state employee will be on approved leave or

leave without pay while working on the grievance during regularly scheduled work hours [Merit Rule 455:10-19-39(d)]. Any representative working on a grievance during work hours will inform the immediate supervisor and request leave appropriately. Such requests should be made in advance and may be approved if the absence will not cause undue hardship or upset the work place operation.

V. Time Limits

A. Time Calculation

For purposes of this procedure, time will be counted in terms of calendar days unless otherwise indicated. If the last day of the time period is a Saturday, Sunday or legal holiday as proclaimed by the Governor, the period will continue to the next business day (Merit Rule 455:10-19-9).

B. Filing a Formal Grievance

1. A formal grievance must be filed within 20 calendar days of the date of the act or incident [Merit Rule 455:10-19-42(a)(1)]; or within 20 calendar days of the date the employee becomes aware of, or with reasonable effort, should have become aware of a grievable issue [Merit Rule 455:10-19-42(a)(2)].
2. The grievance manager may extend the time limit for filing a formal grievance if the employee shows that he or she could not have otherwise timely filed or if the employee provides evidence that he or she was making a good faith effort to resolve the dispute informally [Merit Rule 455:10-19-42(b)].

C. Resolution Time

1. A formal grievance must be resolved within 45 calendar days after the filing of the grievance [Merit Rule 455:10-19-44(a)].
2. The grievance manager may extend the resolution time up to an additional 15 days for good cause. The party requesting the extension will request the extension in writing and state the reason for the request. If granted, the grievance manager will provide the grievant written notification of the extension prior to the expiration of the 45 day time limit and include the reasons for the extension [Merit Rule 455:10-19-44(a) (1)].
3. The grievant and the grievance manager may agree to extend the grievance time limit up to an additional 30 calendar days for good cause. The extension will be made in writing and contain the reasons for the extension [Merit Rule 455:10-19-44(a) (2)]. Copies of the extension agreement will be provided to all parties concerned.

4. In no case will the resolution time of a formal grievance exceed 90 calendar days [Merit Rule 455:10-19-44(a) (3)].

VI. Grievance Responsibilities

All employees involved in the grievance resolution process will make every effort to work towards a prompt resolution of disputes, adhere to the rules and time frames outlined in this procedure and seek to resolve disputes at the lowest level within the appropriate chain of command. Employees may use the mediation services available, using the "Oklahoma Department of Corrections Request for Voluntary Mediation Services" form ([Attachment C](#), attached) when appropriate.

A. Supervisor Responsibilities

Supervisors are responsible for the following:

1. Informing their employees of the grievance resolution procedure and the name of the agency grievance manager [Merit Rule 455:10-19-21(1) and (2)];
2. Ensuring that applicable time limits pertaining to supervisory responsibility within the grievance procedure are met [Merit Rule 455:10-19-21(3)]; and
3. Informally discussing, addressing, and resolving disputes brought to their attention [Merit Rule 455:10-19-21(4)] and referring matters to the appropriate authority when matters are outside of their authority to resolve.

B. Employee Responsibility

1. Any employee who has reason to believe his or her employment has been directly affected by unfair treatment, unsafe working conditions or erroneous interpretation or application of agency policy, procedure, merit rule or law, has a duty and responsibility to attempt to resolve the dispute informally. Thereafter, the employee has a right to file a formal grievance [Merit Rule 455:10-19-23(a)]. The grievance must be filed with the grievance manager within the 20 day time limit set by Merit Rule 455:10-19-42.
2. Any employee filing a formal grievance has the duty and responsibility to provide accurate, timely information to support and document the complaint and to make a good faith effort to resolve the dispute [Merit Rule 455:10-19-23(b)]. The grievance must fully describe the nature of the complaint and the issues involved. Mere allegations without a full description of the nature of the complaint will not be sufficient. If the grievance involves discipline, a copy of the disciplinary action will be included, if applicable.
3. Employees are responsible for completing the "Oklahoma Department of Corrections Grievance Resolution" form ([Attachment A](#), attached)

and any required attachments in accordance with this procedure and Merit Rule 455:10-19-43 and filing the completed form directly with the grievance manager. Any dispositions or attempts at informal resolution must also be included on this form in the designated area. Please note that only the Oklahoma Department of Corrections grievance form will be accepted for grievance processing.

4. Employees who have filed a grievance will promptly notify the grievance manager of any change in their mailing address.
5. Faxed copies of the grievance will be accepted. The employee, as proof of faxing, will keep the resulting activity report. It is the responsibility of the employee to verify that the grievance has been received by the grievance manager and that it is complete and in legible form.

C. Grievance Manager Responsibility

The agency grievance manager is responsible for the following:

1. Providing advice, assistance, and technical direction to the agency director, general counsel, supervisors, and employees on the grievance resolution procedure [Merit Rule 455:10-19-22(3)];
2. Reviewing formal grievances and accepting or rejecting them [Merit Rule 455:10-19-22(4)].
3. Ensuring that time limits which apply to the processing and resolution of formal grievances are met [Merit Rule 455:10-19-22(5)];
4. Facilitating the prompt, equitable and timely resolution of grievances at the lowest possible level [Merit Rule 455:10-19-22(6)];
5. Ensuring the formal grievance is reviewed and addressed by assigning a decision maker with the authority to resolve the dispute [Merit Rule 455:10-19-22(7)];
6. If the step two decision involves a change or modification of employment status or responsibilities, the step two decision maker and the grievance manager will ensure that an attorney in the General Counsel's Office is consulted regarding the legal authority for the proposed response prior to issuance. The attorney will not modify the response, but will notify the step two decision maker regarding any concerns; and
7. Maintaining grievance records and statistics.

D. All Parties Responsibilities

The step-two decision maker/investigator may request responses or

information from the agency or any person. Responses and information may be required and may be obtained through written questions, interviews or any other methods determined appropriate.

1. Failure of the agency representative, or named person to appear, respond or provide requested information may be grounds to believe the alleged violation(s) may have occurred without further review.
2. Failure of grievant, or his or her designated representative, to appear, respond or provide requested information will be grounds to dismiss the grievance without further review.

VII. Special Grievances

A. Group Grievances

1. Employees may file a formal grievance as a group when the grievance issues and remedy sought are the same or similar for each member of the group. The group will select a member to serve as spokesperson who will speak and act on behalf of all members of the group. The group is also entitled to a representative in accordance with Merit Rules 455:10-19-39 455:10-19-40(a). The spokesperson is responsible for completing and filing the "Oklahoma Department of Corrections Grievance Resolution" form ([Attachment A](#)) and "Group Grievance" form ([Attachment B](#), attached).
2. The grievance manager may consolidate formal grievances containing the same or similar issues filed by two or more employees to effect a more efficient, economical, or more timely processing and resolution of the grievances so long as it will not adversely affect the interest of the employees filing the grievances [Merit Rule 455:10-19-40(b)].
3. The grievance manager may join two or more formal grievances filed by an employee to effect a more efficient or timely processing and resolution of the grievances so long as it will not adversely affect the interest of the employee [Merit Rule 455:10-19-40(c)].
4. The grievance manager may separate a group grievance when the grievance issues and personal relief sought are not the same or similar for each employee.

B. Classification Grievances

1. Any employee who believes he or she is not classified in accordance with the work assigned on a regular and consistent basis as an integral part of his or her normal work assignment and job family descriptor has the right to file a formal grievance. [74:840-4.3(B) and Merit Rule 455:10-19-35(c)(1)].

2. Any employee who believes he or she is entitled to compensation for having performed duties on a regular and consistent basis, which do not conform to the job family descriptor for the position he or she occupies or occupied, has the right to file a formal grievance. [Merit Rule 455:10-19-35(c) (2)].
3. Classification Grievance and Allocation Decisions
 - (a) If the dispute cannot be resolved, the step two decision maker will advise the employee to complete an Office of Human Capital Management (HCM) "Classification or Allocation Dispute Review Request" form [Merit Rule 455:10-19-35(c)(4)].
 - (b) The "Classification or Allocation Dispute Review Request" (HCM-70 form) will be submitted through appropriate supervisory channels to the central Human Resources Unit [Merit Rule 260:25-5-51(a)].
 - (c) The grievance manager will provide the central Human Resources Unit with a copy of the decision directing the employee to file an HCM-70 and indicate whether the unresolved dispute concerns the job family allocation or is limited to the level assignment.
 - (d) The form will be processed in accordance with [OP-110260](#) entitled "Job Classification Procedures."
 - (e) Agency classification and reclassification decisions will not be subject to appeal to the Oklahoma Merit Protection Commission [74:840-4.3. (B)]. An employee may allege a violation of any law or rule over which the Commission has jurisdiction in the classification and reclassification process pursuant to Merit Rules 455:10-3-3 and 455:10-19-35(c)(5).

VIII. Discrimination

A. Complaints of Discrimination

1. Complaints of discrimination filed with the grievance manager will be assigned to the Employee Rights and Relations Unit (ERRU) for investigation and decision-making. Upon a determination by ERRU that a grievance does not establish a prima facie case for discrimination and/or retaliation, ERRU may return the grievance to the grievance manager for reassignment. ERRU must return the grievance within five calendar days of receipt or continue the investigative process.
2. A complaint of discrimination must describe an adverse employment condition or action which the employee believes occurred or was directed at him or her due to the employee's political or religious

opinions or affiliations, race, creed, gender (including sexual harassment), color, age (over 40), national origin or disability [Merit Rule 455:10-19-35 (g)] [74 O.S Section 840-2.9 and 74 O.S. Section 954].

3. Grievances which allege retaliation for any previous discrimination complaint will also be processed as a complaint of discrimination.
4. Time frames for resolving complaints of discrimination through the agency's grievance process will adhere to those time frames set by merit rule and this procedure. Complaints of discrimination rejected as filed untimely by the grievance manager will be forwarded to the ERRU or to an outside (external to ERRU) certified discrimination complaint investigator for review.
5. Complaints of discrimination may be filed directly with the ERRU, or with the Oklahoma Merit Protection Commission (MPC), without using the grievance process.

IX. Grievance Resolution Process

The grievance resolution process will consist of two steps: (1) informal discussion between the employee and the immediate supervisor (or lowest level supervisor with the authority to resolve the dispute) and (2) the formal grievance [Merit Rule 455:10-19-60].

A. Step One/Informal Discussion

1. The purpose of informal discussion will be to provide the employee and his/ her supervisor an opportunity to address and resolve concerns and complaints at the lowest level possible. The effort to resolve disputes at this level includes, the use of mediation. [Merit Rule 455:10-19-61(a)].
2. An employee who has a grievable issue will promptly bring the dispute to the attention of his or her supervisor. Both the employee and the supervisor will work towards informally resolving the issue [Merit Rule 455:10-19-61(b)]. Attempts to informally resolve the grievance will be made during the initial 20-day time frame. If the grievant fails to attempt resolution at the lowest level, the grievance will end.
3. If the supervisor is unable to resolve the dispute because it is not within his or her control or authority, the supervisor will refer the grievance to the person within the facility/ unit with the authority to resolve the dispute informally or advise the employee to proceed to step two [Merit Rule 455:10-19-61(c)].

B. Step Two/Formal Grievance

1. If the dispute is not resolved informally, the employee may file a

formal grievance with the grievance manager within the time frame as specified in this procedure and in merit rule [Merit Rule 455:10-19-62(a)], using the form prescribed in [Attachment A](#) [Merit Rule 455:10-19-43(a)].

2. Within three business days, the grievance manager will determine whether the formal grievance is:
 - a. Timely filed;
 - b. Presents a grievable issue within the control of the agency; and
 - c. Whether step one/informal discussion has been completed.
3. The grievance manager may accept, accept in part, reject, or reject in part grievances that have been filed. The grievance manager may refer rejected grievances for mediation services or to the appropriate authority for review outside the grievance process when applicable and notify the grievant in writing of the reason(s) for rejection.

The grievance manager will refer accepted grievances to a step two decision maker with an established due date and notify the grievant and decision maker in writing of the assignment.

4. Step two decision makers will be assigned as follows (in accordance with [Attachment D](#) entitled "Step II Decision Maker Flow Chart", attached):
 - a. The grievance manager will assign a step two decision maker outside of the grievant's chain of command.
 - b. Where possible, multiple grievances that arise from the same or similar circumstances, but are ineligible for consolidation, will be assigned to the same step two decision maker.
5. The decision maker will have 45 days in which to resolve the dispute which is extendable in accordance with merit rule and this procedure. The decision maker should make every effort to resolve the dispute within 40 days, so that the grievance manager will have the opportunity to ensure compliance with the grievance procedures.
6. A face-to-face meeting or telephone conversation is required between the employee and the step two decision maker [Merit Rule 455:10-19-62(c)].
7. The step two decision maker will provide the grievance manager with a copy of the decision for review to ensure compliance with grievance procedures. The copy provided to the grievance manager will be forwarded no less than five business days prior to the deadline provided by the merit rule, or any applicable extension of time that

has been granted. The grievance manager will review the response within a timely manner that will allow for possible revision, if necessary. Upon conclusion of the review, the grievance manager will notify the step two decision maker to provide a copy of the decision rendered.

C. Resolution Decision

Resolution decisions must:

1. Address the issues raised in the formal grievance [Merit Rule 455:10-19-45(a)];
2. Be made in writing to the employee filing the formal grievance or to the spokesperson of a group grievance [Merit Rule 455:10-19-45(b)];
3. Be delivered personally or by certified mail with return receipt to the grievance manager [Merit Rule 455:10-19-45(b)]; and
4. Once the step two decision maker has rendered a decision, the internal grievance process is completed [Merit Rule 455:10-19-60].

X. Distribution

All employees will receive a copy of this procedure in accordance with [OP-110110](#) entitled "Enrollment Procedures for New Employees." [Attachment E](#) entitled "Acknowledgement of Receipt" (attached) will be used to acknowledge employee receipt and will be filed as documentation in the field personnel file.

XI. References

OP-020202 entitled "Management of Office Records"

OP-110110 entitled "Enrollment Procedures for New Employees"

OP-110260 entitled "Job Classification Procedures"

74 O.S. § 840-6.2, § 840-4.15, § 840-4.3, § 840-2.9, § 954

12 O.S. § 1806

51 O.S. § 24.A.1

Merit Rules for Employment, Merit Rule 455:10-19, 260:25-5-4, 260:25-5-51(a)

XII. Action

The directors/regional directors are responsible for compliance with this procedure.

The director of Administration is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-110205 entitled "Employee Grievance Resolution Procedures" dated October 10, 2017

Deleted: Revision-01 dated January 29, 2018

Revision-02 dated May 16, 2018

Distribution: Policy and Operations Manual
Agency Website

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	“Oklahoma Department of Corrections Grievance Resolution Form”	Attached
Attachment B	“Group Grievance”	Attached
Attachment C	“Oklahoma Department of Corrections Request for Voluntary Mediation Services”	Attached
Attachment D	“Step II Decision Maker Flow Chart”	Attached
Attachment E	“Acknowledgment of Receipt”	Attached
Attachment F	“Employee Grievance Resolution Procedures” Poster	Attached

