# Policy 2100

## From Human Resources

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| **PERSONNEL POLICY MANUAL** |
| **MoDOT Personnel Policy Title**: Grievance Procedure<br><br>**Policy Number**: 2100 **Chapter Title**: Grievances and Complaints<br><br>**Effective Date**: July 1, 2008<br><br>**Supersedes Policy Number** 2100 **Dated** April 1, 2004 **Policy Updated By**: Steve Meystrik |
| **Approved By**: Micki Knudsen, Human Resources Director<br><br>(Signature on file) |

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# POLICY STATEMENT

The department will provide an orderly and systematic process for resolving differences of opinion between the department and its employees on issues, which arise outside the scope of Personnel Policy 0505, “Equal Employment Opportunity.” This procedure is not intended to eliminate employees' rights to communicate directly with the director of audits and investigations or informally with any level of management, through administrative channels, at any time they may have a concern or a question which has not been satisfactorily answered under this policy.

# PROCEDURES

1. Except for those employees listed in paragraph 11, any full-time or permanent part-time employee who has completed his/her initial probationary period and feels unfairly treated by an action taken or omitted by the department should file a grievance. A grievance should be filed no later than 30 calendar days after the act or occurrence leading to the grievance. The opportunity to file a grievance will be denied if it is filed more than 30 calendar days after the act or occurrence leading to the grievance, unless a determination is made that the act or occurrence could not reasonably be detected until a later date. In such circumstances, the grievance must be filed within 30 calendar days from the date the act or occurrence could have reasonably been detected.

2. Appeals of disciplinary action, written warning, suspension, probation, demotion, or termination may be filed in writing directly with the director of audits and investigations, Missouri Department of Transportation, P. O. Box 270, Jefferson City, Missouri 65102. When employees in the Audits and Investigations Unit want to file a grievance or appeal, they should write to the human resources director at this same address. The human resources director will follow the same procedures as identified for the director of audits and investigations throughout the remainder of this policy.

3. A terminated full-time or permanent part-time employee who successfully completed his/her initial probationary period may elect to have his/her appeal heard either as a grievance pursuant to Steps 3 and 4 of paragraph 7 of this policy or as a formal hearing pursuant to the procedure described in Personnel Policy 2103, "Formal Termination Hearing Procedure."

4. Discipline resulting from findings of an investigation by the Audits and Investigations Unit, of the department, is not grievable to the director of audits and investigations.

5. A full-time or permanent part-time employee who successfully completed his/her initial probationary period and is terminated as the result of findings of an investigation by the Audits and Investigations Unit will be allowed the option of a formal hearing as described in Personnel Policy 2103, "Formal Termination Hearing Procedure."

6. The result or method of implementation of a job evaluation study is not grievable. In addition, salary inequity issues and performance based pay decisions are not grievable.

7. Other than the stated exceptions in paragraphs 2, 3, 4, 5 and 6 above, the following procedures will be used when filing a grievance under this policy:

Step 1: The employee must submit the grievance in writing to the local human resources manager. The employee should explain the basis for the grievance, present all the facts that caused the grievance to arise, and describe the corrective action desired.

Within five workdays after receiving the written grievance, the human resources manager will schedule a meeting with the employee and the supervisor or manager that made the decision at issue. Within five workdays after the meeting, a written reply will be presented to the employee.

The employee will have the option of including another person of his/her choice (which could be a union representative for the certified bargaining unit) to be present at Step 1 and all future grievance meetings; however, this individual will not be allowed to represent the employee, including providing legal counsel or participate at the meetings.

Step 2: If the grievance is not resolved to the employee's satisfaction at Step 1, the employee may, within five workdays after receiving the reply, forward the grievance to the district engineer, in the case of district employees, or their division leader/state engineer in the case of Central Office employees. Another meeting may be scheduled of those involved to obtain more information about the grievance. A reply will be made in writing to the employee within ten workdays following receipt of the grievance.

If a meeting is held at Step 2 and the employee requests another person of his/her choice be present (which could include a union representative for the bargaining unit), this individual will not be allowed to represent the employee, including providing legal counsel; however, he/she may ask brief clarifying questions as long as such participation is not disruptive to the process and does not hinder the department's investigation. If the individual's participation is not limited to what is outlined in this policy, the individual will be asked to leave, and the grievance meeting will proceed without that person.

Step 3: If the employee is dissatisfied with the written reply from Step 2, the employee may submit an appeal in writing to the director of audits and investigations, Missouri Department of Transportation, P. O. Box 270, Jefferson City, Missouri 65102, within five workdays after receiving the reply.

The director of audits and investigations will conduct whatever investigation is necessary to establish or validate the facts of the case. This investigation may include, but is not limited to, the scheduling of a grievance meeting or conducting interviews for the purpose of obtaining information from the grievant, the supervisor(s), and other employees involved in the matter.

Step 4: The director of audits and investigations will make a recommendation to the department director for final disposition. A summary of the information regarding the grievance will be presented to the Missouri Highways and Transportation Commission for review. The director of audits and investigations will notify the employee and supervisors

in writing of the final disposition and any corrective action that will be taken as soon as practical.

8. All steps should be carried out in the specified time, unless there are extenuating circumstances, such as absence of personnel involved, need for higher review or local investigation, etc. The employee should be kept informed of the status of the grievance when an immediate decision cannot be reached and a reply will be delayed.

9. Any investigation, correspondence, etc., involved in the processing of a grievance handled by the director of audits and investigations should be treated as confidential information to minimize publicity and embarrassment to all parties concerned; however, anonymity can not be promised to persons (public or employees) who provide information as part of the investigation. The identity of persons who provide information and the information provided shall only be disclosed to those who have a legitimate need to know or who have a lawful right to such information.

10. The Missouri Highways and Transportation Commission and appointed officials of the Missouri Department of Transportation hold a responsibility to fairly and efficiently carry out designated functions, and nothing in this procedure precludes this responsibility or authority to do so.

11. This procedure shall not apply to employees in personnel policy making and other designated positions. The following list identifies positions which are exempt from this procedure. Promotions to positions on the list cannot be filed as a grievance.

Job Titles Exempt from Personnel Policy 2100

Director, Department of Transportation

Chief Engineer

Chief Financial Officer

Director of Audits and Investigations

Director of Program Delivery

Director of System Management

Chief Counsel

Assistant Chief Counsel

Secretary to the Commission

District Engineer

Regional Counsel

Division and Unit Leader/State Engineer

Attorneys I-V

Law Clerk

Seasonal and other wage employees

# CROSS REFERENCES

Personnel Policy 0505, “Equal Employment Opportunity”

Personnel Policy 2103, “Formal Termination Hearing”

# ATTACHMENT

Grievance Flow Chart

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