



OKLAHOMA

Office of Management & Enterprise Services

Policies Complaint Process

Effective Date of Policy: 2/18/2022	Next Scheduled Review: 2/1/2023
Effective Date of Original Policy: 10/1/2012	Policy Number: OMES-019
Last Reviewed: 1/24/2022	Replaces Policy Number: OMES-019 & OMES-033
Date Policy Last Revised: 1/24/2022	
Approved: Steven Harpe	Approval Date: 2/17/2022

Reference

Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000 et seq.; Civil Service and Human Capital Modernization Rule Oklahoma Administrative Code (OAC)260:130-5-5

Policy

Employees have complaint rights under the Civil Service and Human Modernization Act and rules promulgated thereunder on certain disciplinary actions through the Civil Service Division, unless designated as executive management as determined by the agency director. Employees can also file confidential whistleblower complaints with the Civil Service Division.

For complaints outside of the scope of the Civil Service Division, such as problems, misunderstandings and frustrations that may arise in the workplace, employees may file an internal complaint with human resources after appropriate steps have been taken to attempt to resolve the issue between involved parties. Additionally, all discriminatory and harassing complaints shall be reported as soon as possible to a supervisor, manager, or HR staff member.

It is the policy of OMES to promptly investigate and resolve complaints and reports of discrimination, harassment, or workplace violence. The human resources (HR) department may determine to investigate allegations of harassment, discrimination, workplace violence, or other alleged misconduct brought to its attention even when the individual subject to the

alleged conduct is reluctant to pursue a complaint.

Filing Complaints with the Civil Service Division

State employees have the right to file a complaint with the Civil Service Department for disciplinary actions such as written reprimands, punitive transfers, suspension without pay, involuntary demotion and termination within five (5) business day from the event. OMES employees designated as executive management as determined by the agency director do not have complaint rights. Additionally, OMES employees may be terminated at any time during their trial period without the right of complaint.

Written reprimands and punitive transfers will be settled through mediation. Punitive transfers not settled in mediation shall be assigned to an Administrative Law Judge (ALJ). Employees may request mediation for suspensions without pay, involuntary demotions, and terminations. If these complaints are not resolved in mediation, the complaint will be sent to an ALJ. If no mediation is requested for suspensions without pay, involuntary demotions, and terminations, the complaint will be sent to an ALJ. Hearings and mediation must take place within twenty-five (25) business days of the action.

Employees also have the right to file a confidential whistleblower claim to report issues related to agency or employee mismanagement and misuse of state funds or property. These complaints will be filed through the Civil Services Department

Internal Complaint Procedure

An employee who has a conflict shall promptly bring the dispute to the attention of their supervisor. The employee and the supervisor shall strive to informally resolve the dispute. If the dispute is not resolved informally, the employee may file a formal complaint. Employees may report a complaint to their supervisor, manager, or Human Resources. However, the complaint and investigation procedure are initiated by filing a complaint with HR. The [complaint form](#) can be found on the [OMES Employee Information web page](#).

1. Complaints should be filed within twenty (20) business days of the most recent incident of or within twenty (20) business days of the date the employee becomes aware of the incident.
2. HR will review the complaint to determine if it contains sufficient evidence of prohibited conduct. Complaints may be further investigated at the discretion of human resources.
3. HR shall notify the complaining party within five (5) business days of receipt of the complaint whether it has been accepted for investigation. If the complaint is not accepted for investigation, the complaining party may, within five (5) business days of the notice, ask the HR Director to review the matter. The HR Director may refer the matter to the appropriate decision maker; or determine the complaint to be without merit and deny further consideration of the matter.
4. OMES may take appropriate action during the pendency of the investigation, including administrative suspension with or without pay of the accused or complaining party.

5. During the investigation, the complainant, the respondent, and any witnesses will be interviewed to determine whether the alleged conduct occurred. The accused party or parties will be advised verbally of allegations against them and be provided the opportunity to respond to the allegations. Either party may, at his or her own expense, seek the advice of personal attorneys and advisors throughout the process.
6. At the conclusion of the investigation, the investigator will submit a written report of the findings to the HR Director. If it is determined that a violation of policy has occurred, the HR director will recommend appropriate disciplinary action. Recommended disciplinary actions will be proportional based on severity of the offense. If the investigation is inconclusive or if it is determined that there has been no violation of policy, but potentially problematic conduct may have occurred, the HR director may recommend appropriate preventive action. Senior management will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the HR director and other management staff as appropriate, and decide what action, if any, will be taken.
7. Once a final decision is made by senior management, the HR director will meet with the complainant and the respondent separately and notify them verbally of the conclusion of the investigation.
8. The investigation phase shall be concluded within sixty (60) calendar days from the receipt of the complaint by the Human Resources department.

All complaints and investigations are treated confidentially to the extent possible. Information is disclosed strictly on a need-to-know basis. All individuals who are involved in the complaint reporting or investigation process are encouraged to maintain confidentiality of the proceedings. OMES cannot and does not guarantee that parties and witnesses will maintain confidentiality. Confidentiality does not mean the details of the complaint will be withheld from the accused party or parties, or that OMES is constrained from divulging details of the complaint or investigation in appropriate circumstances.

All OMES employees are required to cooperate during any official complaint investigation.

Failure to cooperate may be grounds for disciplinary action up to and including termination. Any participant to an investigation, who intentionally misdirects the investigation, whether by falsehood or omissions, shall be subject to disciplinary action up to and including termination.

Federal and state law and this policy prohibit any form of retaliation against a person who files a complaint. No hardship, loss, benefit, or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation.

Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination of employment.

HR may take follow-up measures to ensure the action taken was effective in eliminating the misconduct and to ensure there has been no retaliation against the complainant.

Nothing in this policy shall prevent the complainant or the respondent from pursuing formal legal remedies or resolution through state or federal agencies or the courts.