

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-30 (rev. 8), “EMPLOYEE GRIEVANCE PROCEDURES”
JULY 1, 2018

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Attachment A: PERS 155, Employee Grievance Form (07/18)

Attachment B: PERS 586, Grievance Tracking Log (07/18)

Attachment C: PERS 329, Grievance Referral Form (07/18)

Attachment D: PERS 491, Notification of Employee Grievance Meeting (07/18)

Attachment E: PERS 328, Time Limit Extension (07/18)



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-30 (rev. 7)
November 1, 2009

EXECUTIVE DIRECTIVE

SUBJECT: EMPLOYEE GRIEVANCE PROCEDURES

AUTHORITY: Tex. Gov't Code §§ 493.001, 493.006(b), 493.007, 617.005; BP-02.08, "Statement of Internal Controls"

APPLICABILITY: All non-contract employees of the Texas Department of Criminal Justice (TDCJ). However, except for dismissal, a warden, director, or manager with a salary group B22 or C7 and above may not submit a grievance on any employment-related matter occurring while in such a position.

EMPLOYMENT AT WILL CLAUSE:

This directive **does not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director's authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and **does not** create a legally enforceable interest for employees or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The TDCJ promotes equal employment opportunity by responding to employee grievances without regard to race, color, religion, sex (gender), national origin, age (40 or above), disability, or genetic information (collectively "protected class"). The TDCJ has zero tolerance for all forms of employment discrimination in the employee grievance process. No employee will be subjected to retaliation for opposing or reporting employment discrimination in the employee grievance process.

Employees of the TDCJ will be treated fairly and equitably. Employees who believe they have not been treated fairly and equitably in regard to employment-related matters may submit a grievance to the appropriate TDCJ officials for prompt consideration and an equitable decision in accordance with this directive. TDCJ officials shall liberally construe this directive for fundamental fairness and equity when making decisions affecting employees.

Employees and employees' representatives or witnesses will not be subjected to harassment, retaliation, intimidation, or coercion for pursuing a grievance or acting as a representative or witness in the grievance process.

DEFINITIONS:

“Adverse Effect” is unreasonable interference with an employee’s ability to perform the employee’s job or with other employment-related matters.

“Common-Use Area” is an area in a unit or department accessible to all employees assigned to the unit or department during each shift, such as the break room or lobby area.

“Employment-Related Matter,” for the purpose of this directive, includes, but is not limited to, issues regarding promotions, leave requests, performance evaluations, disciplinary actions, transfers, benefits, working environment, shift or duty assignment, harassment, and retaliation that is not based on a protected class. Whether a matter is employment-related, other than the examples given, shall be determined on a case-by-case basis by an intake officer.

“Equal Employment Opportunity Designated Agency Official” (EEO-DAO) is a TDCJ employee designated by the executive director to: (1) conduct disciplinary hearings for EEO rule violations; (2) represent the TDCJ during dismissal mediation for an EEO dismissal recommendation; (3) respond to grievances regarding EEO disciplinaries; or (4) approve a dismissal resulting from an EEO dismissal recommendation.

“Equal Employment Opportunity (EEO) Rule Violation” is a violation of one of the following TDCJ Employee General Rules of Conduct, as published and described in PD-22, Attachment A, Listing of Employee General Rules of Conduct and Disciplinary Violations: (a) Rule Number 14b, Use of Offensive Words or Actions - Protected Class; (b) Rule Number 21, Discrimination or Harassment Against Persons of a Protected Class or Retaliation; (c) Rule Number 32, Destroying Evidence or Giving False Testimony or Information, when related to an EEO issue; (d) Rule Number 44, Tampering with a Witness, when related to an EEO issue; (e) Rule Number 50, Discourteous Conduct of a Sexual Nature; and (f) Rule Number 53, Failure to Report Alleged Acts of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; or is an EEO violation in accordance with PD-33, “Trainee Management.”

“Grievance,” for the purpose of this directive, is a formal written complaint filed by an employee in accordance with this directive and submitted on a PERS 155, Employee Grievance Form, regarding an employment-related matter.

“Grievance Meeting,” for the purpose of this directive, is a meeting between a grievant, the grievant’s designated representative, if identified, and a TDCJ official to discuss the grievance.

“Grievant” is an employee who pursues a grievance under the procedures set forth in this directive.

“Intake Officer” is a specialist located within Employee Relations, Human Resources Division, who receives, evaluates, and processes complaints; advises employees and managers of the available options to resolve employment-related complaints, grievances, or any other employment-related dispute; and informs employees of filing rights with state and federal enforcement agencies, such as the Texas Workforce Commission - Civil Rights Division (TWC-CRD) and the Equal Employment Opportunity Commission (EEOC).

“Offender” is an individual under the supervision or custody of the TDCJ, including a TDCJ offender housed in privately-operated, federal, county, or other states’ facilities. These individuals include, but are not limited to, parolees, individuals under mandatory supervision, incarcerated individuals, and individuals housed in county jails that have been sentenced to the TDCJ but are not yet in TDCJ custody.

“Protected Class” is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. In the general context of equal employment opportunity, the protected classes are race, color, religion, sex (gender), national origin, age, disability, and genetic information.

“Representative,” for the purpose of this directive, is a person who represents a grievant in a grievance meeting.

“Reprimanding Authority,” for the purpose of this directive, is a TDCJ official designated to perform certain duties relating to the employee disciplinary process.

“Responding Authority,” for the purpose of this directive, is the TDCJ official who responds to a grievance.

“State Resources,” for the purpose of this directive, include postage or overnight delivery service paid or supplied by the state, TDCJ hand-delivery courier and truck mail, state equipment, state premises, state supplies, and working hours on state time.

“Strike” is a work stoppage by a body of workers to enforce compliance with demands made by the body of workers or the workers’ representatives.

“Support Documentation,” for the purpose of this directive, includes all written material and evidence submitted to and used by a responding authority in arriving at the findings in an employee grievance case.

“Unit or Department Grievance Contact” is the employee designated by the warden or department head to coordinate the grievance process at the unit or department level.

“Witness,” for the purpose of this directive, is a person who has first-hand knowledge of facts pertinent to the issue being grieved.

DISCUSSION:

- I. Normal day-to-day discussions between an employee and a supervisor regarding working conditions and employment-related matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships. The TDCJ encourages employees and supervisors to attempt to resolve matters by using informal problem-solving techniques before filing a formal grievance. However, when a matter is not resolved to the satisfaction of the employee, the employee may seek resolution by submitting a grievance in accordance with this directive.
- II. Submission of a grievance by an employee shall not be construed as reflecting unfavorably on an employee's good standing, performance, or loyalty to the TDCJ. Similarly, grievances shall not be construed as reflecting unfavorably on the quality of supervision or on the general management of the TDCJ.
- III. If an employee's grievance pertains to another employee, both employees may be required to participate in dispute resolution in accordance with PD-35, "Independent Dismissal Mediation and Dispute Resolution."

PROCEDURES:

I. Dissemination

All newly-hired employees shall receive a copy of this directive without attachments in the Direct-Hire Packet, which is provided to employees during the Direct-Hire Session. In addition, this directive shall be published in the *Personnel Manual*, which is available on the TDCJ website at www.tdcj.texas.gov.

Human resources representatives shall ensure a complete copy of this directive with attachments and several copies of the current PERS 155, Employee Grievance Form (Attachment A), are available in employee common-use areas. The title and address of the unit or department grievance contact shall be identified on a prominent notice posted on the common use area bulletin board.

II. Submission of a Grievance

A. General Provisions

1. Compliance with Procedures

It is a grievant's responsibility to be knowledgeable of and seek clarification of procedures for submitting a grievance and rejecting a grievance response. Being unaware of the existence of or not having a clear understanding of these procedures is not a defense for failure to comply with these procedures. A grievance shall not be accepted if it does not comply with this directive.

2. Employee Grievance Form

All grievances shall be submitted on the current PERS 155. An employee may obtain a copy of the current form from the unit or department common-use area, request a copy from the human resources representative, or print the form from the Internet version of this directive. The grievant shall submit an original completed PERS 155 (pages 1, 2, 3, and 4) with support documentation at each step of the grievance process.

3. Grievant Requirements

- a. A grievance may be submitted by only one employee. A grievance submitted by a group of employees shall not be accepted.
- b. An employee adversely affected by an employment-related matter may submit a grievance. A grievance submitted on behalf of another employee shall not be accepted.

4. Use of State Resources

A grievant shall not use state resources to prepare or submit a grievance. This does not exclude an employee from being on state property when submitting a grievance.

B. Grievable and Non-Grievable Issues

1. An employee may submit a grievance related to an employment-related matter.
2. Non-grievable issues include, but are not limited to:
 - a. Voluntary resignation;
 - b. Administrative separation;
 - c. Reduction-in-force (RIF);
 - d. Reclassification;
 - e. An agreement reached through mediation;
 - f. A final decision regarding sick leave pool or sick leave donations;
 - g. Issues mandated by law or court order or otherwise outside the TDCJ's control;

- h. An action that has not yet occurred, such as a pending disciplinary or recommendation for dismissal;
 - i. Being required to work during an emergency situation or to provide adequate security coverage, not including a complaint of an unfair rotation requirement; or
 - j. Being selected for drug testing.
3. Complaints alleging discrimination in the workplace because of a protected class or retaliation shall be submitted in accordance with PD-31, "Discrimination in the Workplace." Complaints alleging sexual misconduct shall be submitted in accordance with PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature."

An employee may contact Employee Relations Intake, Human Resources Division, during normal business hours, Monday through Friday, 8 a.m. to 5 p.m., to confidentially discuss any questions regarding whether a complaint is a grievable issue or a discrimination complaint. The Employee Relations Intake phone number may be obtained through the unit or department human resources office, the warden or department head's office, or the TDCJ website at www.tdcj.texas.gov.

C. Representation

A grievant may have a representative assist in the preparation of a written grievance and attend a grievance meeting along with the grievant.

1. Limitations

A grievant's representative shall not:

- a. Claim the right to strike; or
- b. Be an offender.

2. Designating a Representative

- a. A grievant may designate a representative by writing the representative's name in the space indicated on page one of the PERS 155. The grievant may designate a representative when initially submitting the grievance or when submitting a rejection to a Step One or Step Two response. Once the grievant has identified a representative on the PERS 155, the grievant shall not identify a different representative at a later step in the grievance process.

- b. A representative may attend a grievance meeting only if the representative was identified on the PERS 155 when the grievance or rejection to the response was submitted.

3. General Provisions

- a. Any meetings between a grievant and the grievant's representative relating to the preparation of a grievance shall not occur on state time.
- b. A representative, whether a TDCJ employee or other individual, shall not use state resources at any time during the grievance process.
- c. The grievant is required to sign and submit the grievance. The TDCJ shall not accept a grievance signed or submitted by a representative on behalf of an employee. All communications by the TDCJ in regard to the grievance shall be with the grievant and not the representative.

D. Witnesses Presented by the Grievant

A grievant may present witnesses who have first-hand knowledge of the events being grieved.

A grievant who anticipates relying on the testimony of one or more witnesses to support the grievance shall write the name of each witness in the space indicated on page one of the PERS 155 and may attach a written statement from each witness to the PERS 155 when the grievance is initially submitted.

The grievant may ask a witness for a statement on state time, and the TDCJ encourages witnesses with first-hand knowledge of the events being grieved to provide a witness statement for the grievant. However, a witness shall not use state resources to prepare the statement.

E. Essential Elements of a Grievance

The essential elements of a grievance include the specific complaint, the adverse effect, and the requested relief, which shall be clearly summarized by typing or legibly writing on page one of the PERS 155 or a separate attachment. If the essential elements are not included in the specific space indicated for each essential element, the grievance shall not be accepted. If the essential elements are on a separate attachment, the grievant shall write "see attachment" in the appropriate space on page one of the PERS 155.

1. Complaint

Each grievance shall include one specific complaint regarding one incident or one employment-related matter affecting the employee.

- a. The complaint shall involve a grievable issue.
- b. The complaint shall not relate to an incident that has not yet occurred; for example, a write-up that could result in disciplinary action.
- c. The complaint shall refer to only one individual. If an employee is complaining about more than one individual, the employee shall submit a separate grievance for each individual and provide the full name of each individual.
- d. Only one employment-related matter may be identified in the complaint. A grievance identifying multiple employment-related matters, or employment-related matters already addressed in a grievance previously submitted by the same grievant, shall not be accepted.
- e. The grievance process shall be the appropriate formal avenue by which to address the work-related issue.

2. Adverse Effect

The grievance shall explain how the action or issue complained about adversely affected an employment-related matter.

3. Requested Action or Relief

The requested corrective action or relief shall:

- a. Be within the authority of the TDCJ to grant;
- b. Not include a sanction request against another employee, such as to be disciplined. An inclusion of such a request shall be grounds for rejection of the grievance; and
- c. Not include requests to resolve situations already provided for through TDCJ policy or procedures, such as requests for records under the *Public Information Act*, requests for religious or disability accommodation, or an attempt to circumvent policy or procedures, such as a request for transfer if there is an established transfer list or a request for a reclassification or desk audit.

F. Initial Submission of Grievance

1. Relating to Dismissal

The grievant shall complete, sign, and submit the original PERS 155 in accordance with the written instructions the grievant received when provided a copy of the approved PERS 186, Dismissal Recommendation and Action form, via certified mail, return receipt requested, or in person per the grievant's request.

If, within 60 days of the postmark on the initial notification, the certified mail is not accepted by signature, or the grievant fails to request the information in person, the grievant forfeits the right to grieve the dismissal.

2. All Other Grievances

A grievant shall complete, sign, and submit the original PERS 155 to the unit or department grievance contact, designated by the warden or department head.

If a grievance is submitted directly to Employee Relations Intake, Human Resources Division, without being submitted through the unit or department grievance contact, the grievance shall be returned to the grievant without action. The grievant should consult with the intake officer if there are concerns related to a conflict of interest regarding the unit or department grievance contact.

G. Submission Time Limits

The PERS 155 and any support documentation for the grievance shall be considered submitted on the date the documents are sent to the unit or department grievance contact.

1. Grievances Relating to a One-Time Incident

A grievance relating to a one-time incident shall be submitted within 21 calendar days after the date the incident occurred or the grievant first became aware of the incident, unless the executive director, deputy executive director, or the appropriate division director grants an exception to this time limit, and specifies the exception(s) allowed.

The first day of the 21-calendar day period shall be the day after the incident occurred or the grievant first became aware of the incident. For example, if the incident occurs on Monday, or the grievant becomes aware of the incident on Monday, Tuesday shall be the first day of the 21-calendar day period.

If the last day of the 21-calendar day period falls on a day the unit or department administrative offices are closed or on a day the U.S. Post Office is closed, the 21-calendar day period shall be extended by the number of calendar days the administrative offices or the U.S. Post Office are closed.

2. Grievances Relating to a Dismissal Recommendation

A grievance regarding any issue relating to a grievant's dismissal shall not be accepted until the executive director, deputy executive director, or appropriate division director has made a final decision regarding the dismissal in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." The grievance shall be submitted within 21 calendar days after the date the employee receives a copy of the approved PERS 186.

If, within 60 days of the postmark on the initial notification, the certified mail is not accepted by signature, or the grievant fails to request the information in person, the grievant forfeits the right to grieve the dismissal.

3. Grievances Relating to Continuing Conditions

A grievance relating to continuing conditions shall be submitted 21 calendar days after the date of the last incident.

H. Grievance Review Process

1. Unit or Department Grievance Contact Responsibilities

The unit or department grievance contact shall:

- a. Date-stamp the original PERS 155 immediately upon receipt;
- b. Fax, hand deliver, or send a copy of the PERS 155 and any attachments via overnight mail to Employee Relations Intake, Human Resources Division, within 24 hours;
- c. Maintain the original PERS 155 and any attachments at the unit or department pending receipt of a response from an intake officer of the grievance status; and
- d. Use the PERS 586, Grievance Tracking Log (Attachment B), which is applicable at Step One, and available to other steps.

2. Review by an Intake Officer

Upon receipt of a grievance from the unit or department grievance contact, an intake officer shall assign a number to the grievance and review the grievance to determine whether the grievance includes an EEO-related complaint.

- a. If a grievance includes an EEO-related complaint, the intake officer shall reject the complaint as a grievance and advise the grievant in writing:
 - (1) The reason the complaint was not accepted as a grievance;
 - (2) The complaint shall be processed in accordance with procedures in PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature," or PD-31, "Discrimination in the Workplace"; and
 - (3) The grievance may be resubmitted without the EEO claim in accordance with this directive.
- b. If the grievance does not include an EEO-related complaint, the intake officer shall audit the grievance documentation to verify the grievance meets the requirements of this directive.
- c. To expedite the grievance process, only one grievance from the same grievant regarding a single issue or related issues shall be processed. If multiple grievances are received from the same grievant with similar issues, the intake officer shall combine the grievances into one grievance and administratively close the other grievances. The intake officer shall advise the responding authority of the issues identified in the other grievances and instruct the responding authority to address all of these issues in the response to the remaining grievance.

I. Grievance Not Accepted

1. Intake Officer Responsibilities

- a. If the intake officer does not accept a grievance due to an error such as an oversight that may be corrected by the grievant or the grievant failed to identify the requested relief, and there is sufficient time remaining within the initial 21-calendar day submission period or the grievance relates to a continuing condition, the intake officer shall notify the unit or department grievance contact to return the original grievance to the grievant with the option to correct and resubmit.

- b. If the intake officer does not accept the grievance for any other reason, the intake officer shall close the grievance with no further action taken and notify the unit or department grievance contact by email that the grievance was not accepted.

2. Unit or Department Grievance Contact Responsibilities

Upon receipt of notification, the unit or department grievance contact shall return the original PERS 155 to the grievant, with a copy of the notification, and enter the non-acceptance information on the PERS 586.

- J. Grievance Resubmission

If the grievance is returned to the grievant with the option to correct and resubmit, the grievant may resubmit the grievance in accordance with the instructions from the intake officer. When the intake officer receives the resubmitted grievance, the grievance shall receive a new number and be processed as a new grievance.

- K. Grievance Accepted

1. If the intake officer determines the grievance meets the requirements as set forth in this directive, the intake officer shall submit an email to the grievant's unit or department grievance contact. The email shall include notification that the grievance has been accepted for processing and identify the grievance number. The unit or department grievance contact shall enter the acceptance information on the PERS 586.
2. If a grievance is accepted in error, the grievance shall not be processed beyond the point the error is discovered. The intake officer and human resources representative shall follow the procedures in Section II.I of this directive relating to notifying the grievant.

- III. Grievance Steps

- A. General Provisions

There are generally three steps in the grievance process. The unit or department grievance contact shall use the PERS 586 for Step One and Step Two, if applicable, of each grievance received.

1. Responding Authority

The positions authorized to act as a responding authority for each of the three steps are identified as follows.

a. Step One

The responding authority for a Step One grievance shall be the lowest level of management with the authority to grant the requested relief up to and including the appropriate warden or department head.

b. Step Two

The responding authority for a Step Two grievance shall be the appropriate deputy director, regional director, manager in a salary group B22 or C7 and above.

c. Step Three

(1) If the grievance relates to a disciplinary action for an EEO rule violation, the responding authority shall be a TDCJ official designated by the executive director to impose discipline for EEO rule violations and designated as the EEO-DAO. The responding authority shall not be the EEO reprimanding authority who recommended the disciplinary action.

(2) For all other Step Three grievances, the responding authority shall be the executive director, deputy executive director, or the appropriate division director.

2. Availability of Three Steps

Although there are three steps outlined in the grievance process, a grievance shall only be responded to by a responding authority with authority to grant the requested relief. Therefore, in some instances not all three steps are available because a Step One or Step Two responding authority may not have the authority to grant the requested relief.

The decision that a Step One or Step Two responding authority does not have the authority to grant the requested relief may be determined by the intake officer or by a Step One or Step Two responding authority. When this occurs, the grievance shall be forwarded for response at the next step and shall only be responded to at the step at which the responding authority has the authority to grant the requested relief.

a. A grievance relating to a TDCJ-wide or division-wide policy shall only be responded to by the executive director, deputy executive director, or appropriate division director, generally the proponent of the policy, at Step Three.

- b. A grievance relating to disciplinary action imposed for an EEO rule violation shall only be responded to by an appropriate responding authority at Step Three.
- c. A grievance relating to dismissal shall only be responded to by the executive director, deputy executive director, or appropriate division director or designee at Step Three.
- d. The responding authority shall complete a PERS 329, Grievance Referral Form (Attachment C) in accordance with Section III.B.3, if:
 - (1) The issues raised in the grievance are outside the authority and responsibility of the recipient and require a response from a responding authority at a higher step;
 - (2) The recipient is referring the grievance to a designee for a response; or
 - (3) The issue or request is a conflict of interest.

3. Circumventing the Three-Step Process

A grievant shall not circumvent the procedures of this directive by forwarding a PERS 155 to the next step until it has been addressed at the previous step. If a grievant forwards a grievance to the next step before it has been addressed at the previous step, the grievance shall be returned to the grievant.

4. Grievant's Election to Have Grievance Returned

- a. If at any step the grievant elects to have the grievance returned before a response from that step, the grievant shall submit a written request to the level of management responding to the grievance.
- b. The grievance contact shall notify the intake officer, return the original grievance to the grievant, and close the grievance with no further action taken.

5. Witnesses Presented to the Responding Authority

Witnesses shall be limited to individuals with first-hand knowledge of the events being grieved. Employees with first-hand knowledge of the events being grieved may serve as witnesses and provide statements to the grievant for submission with their grievance, or when requested to do so by any manager or supervisor.

When a witness is requested by a manager or supervisor to provide a statement, the employee may use state resources to prepare and provide the statement.

B. Processing Accepted Grievances

1. Step One

Upon notification by email from an intake officer that a grievance has been accepted for processing, the unit or department grievance contact shall provide the grievant with a copy of the email, attach a copy of the email to the grievance, and forward the original grievance to the appropriate Step One responding authority. The email shall remain attached throughout the process.

2. Step Two or Step Three

A Step Two or Step Three responding authority shall notify the appropriate intake officer by email when:

- a. A grievance has been received from the grievant; or
- b. A grievance and a PERS 329 have been received from the responding authority referring the grievance.

3. Grievance Referral

- a. The recipient responding authority shall complete a PERS 329 if:
 - (1) The issues raised in the grievance are outside the authority and responsibility of the recipient responding authority and require a response from a responding authority at a higher step;
 - (2) The recipient responding authority is referring the grievance to a designee for a response; or
 - (3) The issue or request is a conflict of interest.
- b. If the responding authority refers the grievance to a designee, the unit or department grievance contact shall:
 - (1) Attach a copy of the PERS 329 to the copy of the grievance being retained in the unit or department grievance file;
 - (2) Forward the original grievance and the PERS 329 to the responding authority identified on the PERS 329;

- (3) Fax one copy of the completed PERS 329 to the appropriate intake officer; and
- (4) Provide a copy of the completed PERS 329 to the grievant in person or mail a copy of the form to the grievant via certified mail, return receipt requested, at the address listed on the PERS 155. Documentation of the grievant's receipt of the PERS 329 shall include either the grievant's signature and date or certified mail receipt.

C. Requirement to Hold a Grievance Meeting

1. Step One

A grievance meeting is not required at Step One; however, after reviewing the grievance, the Step One responding authority may conclude that a Step One grievance meeting may expedite resolution of the grievance. To schedule a meeting, the responding authority shall follow the applicable actions in Procedures, Sections III.D and F.

2. Step Two

The Step Two responding authority shall schedule a grievance meeting regardless of whether a meeting was held at Step One. To schedule a meeting, the responding authority shall follow the applicable actions in Procedures, Sections III.D and F.

3. Step Three

a. If the grievance was responded to by a Step Two responding authority, the Step Three responding authority may choose to:

- (1) Review the grievance and respond in writing to the grievant's appeal based upon the available information without holding a meeting; or
- (2) Schedule a grievance meeting.

b. If the grievance is only being responded to by the Step Three responding authority, such as a grievance for dismissal that shall be initially responded to at Step Three, the Step Three responding authority shall schedule a Step Three grievance meeting.

D. Scheduling a Grievance Meeting and Notifying Employee

1. General Provisions

- a. A grievance meeting shall be scheduled in accordance with the guidelines within this section on a date and time that provides all parties a reasonable opportunity to be present.
- b. The responding authority or designee shall determine the method of conducting the grievance meeting.
- c. If it is anticipated that an employee out on sick leave or workers' compensation will not return to work during the period the grievance meeting should be held, the employee shall not be asked to travel to the unit or department for a grievance meeting. The grievance meeting shall be delayed until the employee returns to work. The employee shall contact the responding authority immediately upon returning to work. Failure to do so could result in the grievance being administratively closed.

Responding authorities are encouraged to contact the intake officer for guidance when this situation occurs.

2. Scheduling Time Frames and Notification

When a responding authority schedules a grievance meeting, a PERS 491, Notification of Employee Grievance Meeting (Attachment D) shall be completed. Scheduling of the grievance meeting shall be completed within 14 calendar days after the responding authority receives the grievance. The meeting shall be scheduled to take place no earlier than 24 hours and no later than 14 calendar days after the grievant receives the notification in person or via certified mail, return receipt requested that allows three calendar days for delivery.

E. Notifying the Grievant's Representative of a Grievance Meeting

The grievant shall notify the grievant's representative regarding the date and time of any grievance meeting.

F. Conducting a Grievance Meeting

A grievance meeting shall be conducted in accordance with the guidelines on page two of the PERS 491.

G. Grievant's Failure to Appear at a Grievance Meeting

1. Step One

If a grievant fails to appear at a scheduled Step One grievance meeting, the responding authority may respond to the grievance without conducting a grievance meeting or reschedule the grievance meeting. When making this determination, the responding authority should consider whether there were mitigating circumstances that prevented the grievant's appearance, such as illness or death in the family.

If the responding authority reschedules the grievance meeting, the responding authority shall notify the grievant in writing of the rescheduled meeting in accordance with Section III.D.2. If the grievant fails to appear at the rescheduled meeting, the responding authority shall respond to the grievance without conducting a Step One grievance meeting.

2. Step Two or Step Three

If a grievant fails to appear at a scheduled Step Two or Step Three grievance meeting, the responding authority shall determine if the failure to appear was due to mitigating circumstances, such as illness or death in the family.

a. If the failure to appear was due to mitigating circumstances, a second meeting shall be scheduled. The responding authority shall notify the grievant in writing of the rescheduled meeting in accordance with Section III.D.2. If the grievant fails to appear at the rescheduled meeting, the responding authority shall administratively close the grievance.

b. If the failure to appear was not due to mitigating circumstances, the responding authority may:

(1) Provide a response based on information submitted; or

(2) Consult with the intake officer to determine whether to administratively close the grievance.

H. Grievance Response

1. Response Time Limits

If a responding authority fails to respond within the following established time limits or within an extended time limit, the responding authority may be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

The failure shall not be grounds for granting the grievant's requested relief.

- a. If a grievance meeting was not scheduled, the responding authority shall submit a written response to the grievance as follows:
 - (1) Within seven calendar days of receipt for Step One; or
 - (2) Within 14 calendar days of receipt for Step Three.
- b. If a grievance meeting was scheduled or rescheduled, the responding authority shall submit a written response to the grievant within 14 calendar days after the date of the scheduled or rescheduled meeting unless the grievance was administratively closed.

2. Response Time Limit Extensions

If the responding authority is unable to respond to the grievance within the required time limits, the responding authority or unit or department grievance contact shall complete a PERS 328, Time Limit Extension (Attachment E). The PERS 328 shall be provided to the grievant in person or via certified mail, return receipt requested, at the address listed on the PERS 155. Documentation of the grievant's receipt of the PERS 328 shall include either the grievant's signature and date or certified mail receipt.

After providing the grievant with a time limit extension, the responding authority shall provide in the grievance response an explanation of why the response was late.

3. Identification of Next Step Responding Authority

The responding authority at Step One or Step Two shall list on the PERS 155 the name and address of the TDCJ official to whom the grievance shall be submitted at the next step if the grievant is not satisfied with the response.

4. Distribution of Grievance Response

When the responding authority has responded to a grievance, the complete original PERS 155, along with the original support documentation, shall be returned to the grievant in person or via certified mail, return receipt requested, to the address listed on the PERS 155. Documentation of the grievant's receipt of the response shall include either the grievant's signature and date or certified mail receipt.

A copy of the complete original PERS 155, along with support documentation, shall be provided to the appropriate intake officer via fax or hand carried within a seven-calendar day period of the response date. If the response is a Step One response, a copy of the fax cover page shall be attached to the unit or department copy of the grievance and retained in the unit or department grievance file.

IV. Grievant's Acceptance or Rejection of Response

A. Step One or Step Two Response

Upon receipt of a Step One or Step Two grievance response, the grievant may accept or reject the response.

1. Response Accepted

If the grievant accepts the response, the grievant is not required to take any further action. However, the grievant may provide written notification to the grievant's unit or department grievance contact or appropriate intake officer that the response has been accepted.

Providing such written notification of acceptance allows the intake officer to expedite closing the grievance.

2. Response Rejected

a. If the grievant rejects the response and proceeds to the next step, the grievant shall:

- (1) Indicate the reason for the rejection on the original PERS 155 but shall not include new issues; and
- (2) Submit the original PERS 155, with support documentation, to the appropriate next step responding authority.

b. The time limit for submitting a rejection to a Step One or Step Two response is a 21-calendar day period after the grievant receives the response. The grievant may submit a written request via email or IOC for a time limit extension to the appropriate responding authority identified in the grievance response for the next step. The request shall be submitted before the end of the 21-calendar day rejection period. The grievant's representative may not request a time limit extension on behalf of the grievant.

c. If the grievant does not reject the Step One or Step Two response within the 21-calendar day response period or within a requested time limit extension mutually agreed upon, the grievance response

shall be considered to have been accepted by the grievant. In addition, the grievance shall be closed.

B. Step Three Response

The decision of the Step Three responding authority is final, and the grievance process is complete once the grievant receives a Step Three response.

V. Separation from Employment when Grievance is in Process

When a grievant is voluntarily or involuntarily separated from employment, the separated employee's grievance shall continue to be processed in accordance with this directive if the requested relief can be granted. If the requested relief can not be granted because of the grievant's separation from employment, the appropriate responding authority shall immediately:

- A. Close the grievance with no action taken;
- B. Return the grievance to the grievant via certified mail, return receipt requested, at the address listed on the PERS 155; and
- C. Notify the appropriate intake officer via email that the grievance has been closed with no action taken.

Bryan Collier
Executive Director

Texas Department of Criminal Justice EMPLOYEE GRIEVANCE FORM

Do not use state resources to prepare or submit a grievance. State resources may only be used to prepare for a grievance meeting after you have been notified that a meeting has been scheduled.

FOR OFFICIAL USE ONLY	
Date Received by Unit or Department Grievance Contact: _____	Grievance Number Assigned by Intake Officer: _____
	Intake Officer Name: _____
	Date Grievance Number Assigned: _____

GRIEVANT INFORMATION: Date: _____ Payee ID: _____

Name: _____ Payroll Job Title: _____

Unit or Department: _____ Work Shift: _____ Schedule Card: _____

Home Mailing Address: _____
City
State
Zip

Home Phone: _____ Work Phone: _____
(Area Code)
(Area Code)

Name of Representative (You may elect to identify a representative when the grievance is initially submitted or when submitting a rejection to a Step One or Step Two response. If you fail to identify a representative when this form is submitted, a representative shall not be allowed to attend a grievance meeting. Once you have identified a representative, you shall not be allowed to identify a different representative.) _____

Names of Witnesses who have first-hand knowledge of the events being grieved, if employee elects to present a witness or testimony from such a witness or witnesses: _____

The complete original document (pages 1, 2, 3, and 4) shall be submitted at each step. The complaint, adverse effect, and requested relief shall be summarized, clearly stated, and legibly written or typed in the appropriate spaces below or on an attached separate page(s). If you describe the complaint, adverse effect or requested relief on a separate attachment, write "see attachment" in each appropriate space below. Use reverse side if needed.

The complaint, adverse effect, and requested relief shall be consistent with PD-30, "Employee Grievance Procedures," to avoid rejection. See Procedures Section II.A-G.

Complaint: Be specific; include full name, date, place, rules, and regulations.
Adverse Effect: Explain how the action or issue adversely affected an employment-related matter.
Requested Relief: State the specific corrective action or relief you are requesting.

Instructions: Submit complete grievance form along with any support documentation to the unit or department grievance contact.

Grievant's Signature _____
Date

<p>Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.</p>

Employee Name: _____ Payee ID: _____	FOR OFFICIAL USE ONLY: Grievance Number: _____ Intake Officer: _____
---	---

STEP ONE:

STEP ONE RESPONSE:

Reminder: If you believe a grievant's request for restoration of time should be granted, the response should advise the grievant that the restoration of the grievant's time is being requested subject to the division director's recommendation and executive director's approval.

Responding Authority's Name

Title

Date Grievance Received: _____

Step One Grievance Meeting Date: _____
(if applicable; meeting is not required)

Step One Responding Authority's Signature

Date

If you reject this response, the Step Two responding authority shall be:

Verification of Grievant's Receipt of Response:

Name and Title

Certified Mail Receipt No. or
Grievant's Signature and Date

Mailing Address City State Zip

STEP TWO:

A. GRIEVANT'S ANSWER: If you elect to reject the Step One response and proceed to Step Two, you shall submit the complete original PERS 155, Employee Grievance Form, pages 1, 2, 3, and 4, with any support documentation, to the appropriate Step Two responding authority identified in the Step One Response. Your rejection shall be submitted within 21 calendar days after receiving the Step One response, unless a time limit extension is approved in accordance with the procedures in PD-30, "Employee Grievance Procedures." Your rejection shall not include the addition of new issues that are not directly related to the initial complaint. If you have not already designated a representative on page 1 of this form, you may do so now.

I am rejecting the Step One response. My reasons are listed below.

Grievant's Signature

Date

Employee Name: _____ Payee ID: _____	FOR OFFICIAL USE ONLY: Grievance Number: _____ Intake Officer: _____
---	---

B. STEP TWO RESPONSE:

Reminder: If you believe a grievant's request for restoration of time should be granted, the response should advise the grievant that the restoration of the grievant's time is being requested subject to the division director's recommendation and executive director's approval.

_____ Responding Authority's Name	_____ Title
Date Grievance Received: _____	Step Two Grievance Meeting Date: _____ (mandatory)

_____ Step Two Responding Authority's Signature	_____ Date
If you reject this response, the Step Three responding authority shall be:	Verification of Grievant's Receipt of Response:
_____ Name and Title	_____ Certified Mail Receipt No. or Grievant's Signature and Date
_____ Mailing Address	_____ City State Zip

STEP THREE:

A. GRIEVANT'S ANSWER: If you elect to reject the Step Two response and proceed to Step Three, you shall submit the complete original PERS 155, Employee Grievance Form (pages 1, 2, 3, and 4), with support documentation, to the appropriate Step Three responding authority identified in the Step Two response. Your rejection shall be submitted within 21 calendar days after receiving the Step Two response, unless a time limit extension is approved in accordance with the procedures in PD-30, "Employee Grievance Procedures." Your rejection shall not include the addition of new issues that are not directly related to the initial complaint. If you have not already designated a representative on page 1 of this form, you may do so now.

I am rejecting the Step Two response. My reasons are listed below.

_____ Grievant's Signature	_____ Date
-------------------------------	---------------

Employee Name: _____ Payee ID: _____	FOR OFFICIAL USE ONLY: Grievance Number: _____ Intake Officer: _____
---	---

B. STEP THREE RESPONSE:

Reminder: When the deputy executive director or a division director believes a grievant's request for restoration of time should be granted, the response should advise the grievant that restoration of the grievant's time is being recommended subject to the executive director's approval.

Responding Authority's Name

Title

Date Grievance Received: _____

Step Three Grievance Meeting Date: _____
(if applicable)

Step Three Responding Authority's Signature

Date

The decision of the Step Three responding authority is final, and the grievance process is complete once the grievant has received a Step Three response.

Verification of Grievant's Receipt of Response:

Certified Mail Receipt No. or
Grievant's Signature and Date

**Texas Department of Criminal Justice
GRIEVANCE REFERRAL FORM**

TO: _____
Appropriate Responding Authority Date _____

_____ _____
Title Unit or Department

RE: _____
Grievance Number

The attached grievance has been received in my office and is being forwarded to you for a response for the following reason(s):

- Grievance concerns or issues not within my authority.
- To respond as my designee.
- Conflict of interest.

FROM:

_____ _____
Referring Official Job Title

_____ _____
Signature Unit or Department

Attachment

c: Intake Officer
Grievant, if applicable, Certified Mail Receipt No. or Grievant's Signature and Date: _____

Texas Department of Criminal Justice
NOTIFICATION OF EMPLOYEE GRIEVANCE MEETING

EMPLOYEE (GRIEVANT) INFORMATION			
Name:	_____	Grievance	Number: _____
	Last First MI		
Mailing Address:	_____		
City, State, and Zip Code:	_____		

This notification serves as a written confirmation that you are scheduled for a Step One Step Two or Step Three grievance meeting. The meeting shall be held: Telephonically in Person by Video at _____ (a.m./p.m.) on _____ (mm/dd/yyyy) at _____ (Location) with _____ (Name/Title)

The following representative whom you designated on the PERS 155, Employee Grievance Form, may attend this meeting.

Name: _____
Last First MI

The following witnesses whom you designated on the PERS 155, Employee Grievance Form, may attend this meeting.

Name: _____
Last First MI

Name: _____
Last First MI

Guidelines relating to the preparation for and participation in this meeting are listed on page 2 of this form. If you have any questions, please contact me at the phone number listed below.

Name (Please Print)

Job Title

Phone Number

Signature

Date

DISTRIBUTION:

Original: Grievant, if applicable, Certified Mail Receipt No. or Grievant's Signature and Date: _____

Copy: Responding Authority

Copy: Intake Officer

Copy: Grievant's Human Resources Representative

Texas Department of Criminal Justice
NOTIFICATION OF EMPLOYEE GRIEVANCE MEETING

1. Preparation and Participation by Grievant:
 - a. Grievant on Texas Department of Criminal Justice (TDCJ) Payroll: If you have not been separated from employment, you may use state resources to prepare for the scheduled grievance meeting. However, if you have restricted access to your unit or department because you are in a suspension without pay status, you may not access your unit or department for the purpose of using state resources to prepare for the grievance meeting.

Your appearance at the grievance meeting shall be considered official business if you are on the TDCJ payroll at the time of the meeting. If you require the use of state time to attend the scheduled grievance meeting, you shall give your supervisor sufficient advance notice to allow management to ensure adequate staffing. Any reasonable and necessary expenses in connection with your attendance at the grievance meeting shall be reimbursed in accordance with state travel regulations and TDCJ travel guidelines.
 - b. Grievant not on TDCJ Payroll: If you have separated from employment prior to the time of the grievance meeting, you shall not be paid for your time or expenses in connection with preparation for or participation in the grievance meeting.
2. Participation by a Representative: The representative you identified on the PERS 155, Employee Grievance Form, when you submitted your grievance may assist in the presentation of the grievance at the grievance meeting. The representative, whether a TDCJ employee or other individual, may not use state resources during any point of the grievance process. An employee who is acting as a representative shall not spend paid time preparing for a grievance meeting. It is your responsibility to notify your representative regarding the date and time of any grievance meeting.

The TDCJ will not pay compensation or reimburse the expenses of a representative, whether a state employee or someone from outside state service. Appearance as a representative at a grievance meeting is not official business. If an employee acting as a representative attends a grievance meeting held during working hours, the employee shall obtain prior approval to take accrued leave or, if accrued leave is not available, leave without pay to attend the grievance meeting.
3. Participation by Witnesses: The witness(es) you identified on the PERS 155 when you initially submitted the grievance may appear at the grievance meeting to provide testimony. No act of reprisal shall be taken against any employee who testifies in a grievance meeting.

Service as a witness shall not be considered official business unless the responding authority requests the presence of the witness. An employee who participates as a witness in a grievance meeting shall give the employee's supervisor sufficient advance notice to provide adequate staffing. Any reasonable and necessary expenses in connection with attendance at the grievance meeting as requested by the responding authority shall be reimbursed in accordance with state travel regulations and TDCJ travel guidelines. The TDCJ shall not pay for the time or travel of a witness who is not a TDCJ employee at the time of the grievance proceeding.

You may obtain a statement from the witness prior to the meeting for presentation on your behalf. However, the TDCJ is under no obligation to interview character witnesses or witnesses with "hearsay" information.
4. Conduct by Participants: All participants in a grievance meeting shall conduct themselves in a professional manner. The failure to do so shall be grounds to terminate the grievance meeting, in which case the grievance shall be decided on the basis of the written grievance and the information obtained prior to the termination of the grievance meeting. Misconduct by yourself, your representative, or a witness shall also be grounds to disqualify the offending individual from participating in future grievance meetings.
5. Recording of a Grievance Meeting: The steps of the grievance procedure are intended to be a problem-solving process for addressing grievances. The use of recording devices at a grievance meeting held at any step creates an adversarial atmosphere that is in direct conflict with the purpose of the problem-solving approach. Therefore, audio taping, videotaping, or written recording of a grievance meeting shall not be permitted; however, informal note taking is allowed. *Americans with Disabilities Act* (ADA) accommodation: You shall notify the TDCJ accommodation coordinator, Employee Relations, Human Resources Division, if you require an accommodation.

**Texas Department of Criminal Justice
TIME LIMIT EXTENSION**

Date

Grievance Number

TO:

Grievant's Name

Job Title

Unit or/ Department

An extension of _____ calendar days from _____, the date your grievance response was originally due, is required to further investigate your grievance.

The new response due date is _____. Please sign below and return this form to my office by _____.

FROM:

Responding Authority's Name

Job Title

Signature

Unit or Department

c: Intake Officer

If applicable, Certified Mail Receipt Number: _____

Grievant's Signature

Date

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.