NEW YORK STATE Department of Corrections and Community Supervision **DIRECTIVE**	TITLE **Grievances – Managerial/Confidential Employees**		NO. 2113 DATE 05/28/2026
SUPERSEDES DIR. #2113 Dtd. 02/14/23	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Education Law; Civil Service Law; Executive Orders #42, #187; 9 NYCRR 560; ACA Expected Practices 2-CO-1C-02, 4-APPFS-3E-15, 2-CI-6D-1	APPROVING AUTHORITY		

I. PURPOSE: To promulgate grievance resolution procedures for the Department's Managerial/Confidential employees pursuant to Executive Order #42, issued October 14, 1970 (reviewed and continued by the Governor's Office), as clarified by Part 560 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York (9 NYCRR 560).

II. APPLICATION: This procedure may be used to resolve claims or charges of injustice to an employee in matters related to working conditions, except matters for which other administrative procedures have been provided by law or rule, or which are related to:

A. Interpretation of Civil Service Law or rules and regulations promulgated thereunder;

B. Alleged acts of discrimination involving age, race, creed, color, national origin, sex, pregnancy, disability, marital status, sexual orientation, gender identity, military status, arrest and conviction record, veteran status, domestic violence victim status, or predisposing genetic characteristics.

If a grievance is received with such allegations, it will be reported to the Office of Employee Relations (OER), Anti-Discrimination Investigations Division, for investigation consistent with Executive Order #187. The employee will be notified as part of the grievance response that the allegation(s) have been advanced for investigation;

C. Classification matters;

D. Matters beyond the control of individual agencies, such as interpretation and application of rules or regulations promulgated by the Director of Budget or the Comptroller;

E. Performance evaluations; or

F. Termination of services of probationary employees upon a showing that the termination was arbitrary and capricious.

III. DEFINITIONS

A. Work Day: Monday through Friday, exclusive of holidays.

B. Representative: The agent selected by the Managerial/Confidential employee to act on the employee's behalf in the processing of a grievance.

NOTE: Managerial/Confidential employees may not be represented by an employee organization.

C. Immediate Supervisor: The individual who normally assigns work to the grievant, reviews the grievant's time record, and evaluates the grievant's job performance.

IV. PROCEDURES

A. Step 1, Filing: The employee or the employee's representative shall present the grievance orally, or in writing, to the employee's immediate Supervisor no later than 45 calendar days after the act or omission giving rise to the grievance.

If the grievance is presented in writing, Form #2113A, "Managerial/Confidential Grievance Form," shall be used. This form is linked to this directive and also available at each facility Personnel Unit.

If for any reason forms are not available, the grievant may instead submit a written statement of facts, naming the individuals involved, providing dates of essential incidents, and describing the remedy sought. This statement should be clearly identified as a grievance by the grievant.

The immediate Supervisor shall meet with the grievant and reply to the grievance in writing within five working days of receipt of the grievance.

B. Step 2, Appeal to the Superintendent or Bureau/Division Head: In the event the employee wishes to appeal the decision at Step 1, the employee or the employee's representative shall present the appeal in writing on the appropriate form within 15 working days of the Step 1 decision to the facility Superintendent or, in the case of Central Office employees, to the head of the Bureau or Division in which the grievant works. The management representative at Step 2, or their designee, will meet with the grievant and their representative within 20 working days of receipt of the appeal and render a response to the grievant within 15 days of the meeting. If the employee reports directly to the Superintendent or Bureau/Division Head, Step 2 should be waived and appeals submitted in accordance with Step 3.

C. Step 3, Appeal to the Agency-Level Through the Bureau of Labor Relations: If not satisfied with the Step 2 decision, the grievant or their representative may submit an appeal on Form #2113A to the Department's Bureau of Labor Relations within 15 working days following receipt of the Step 2 decision. A Labor Relations representative will meet with the grievant or their representative within 20 working days of receipt of the appeal and will render a response to the grievance within 12 working days of the meeting.

D. Step 4, Appeal to the Grievance Appeals Board: If not satisfied with the Step 3 decision, the grievant or their representative may submit a final appeal on Form #2113B, "Appeal to the Grievance Appeals Board," to the Grievance Appeals Board, Agency Building 2, Empire State Plaza, Albany, New York 12223. This appeal must be submitted within 15 working days of receipt of the Step 3 decision and should contain copies of the decisions at Steps 1, 2, and 3, as well as all papers and documents on which the grievant bases the appeal. The grievant should also forward a copy of the entire appeal package to the Director of the Bureau of Labor Relations.

Within 20 working days of receipt of the grievance, the Grievance Appeals Board will schedule a hearing and will issue a decision within 20 working days of the close of the hearing.

V. GENERAL CONSIDERATIONS

A. Time limits may be extended by mutual agreement of the grievant and the Agency.

B. Failure of an Agency representative to answer a grievance within the time limits shall permit the employee to process the grievance to the next step.

C. Any grievance not appealed to the next step within the time limits is considered resolved on the basis of the last decision rendered and is not subject to further appeal or consideration.

D. When appealing a lower step decision, the grievant shall provide a copy of the appeal to the individual who issued the lower step decision.

VI. TIME OFF FOR PROCESSING GRIEVANCES

A. An employee and the employee's representative, if an employee, shall be allowed such time off from their regular duties as may be necessary and reasonable for the processing of a grievance under these procedures without loss of pay or vacation or other time credits.

B. Time shall be granted for the presentation of the grievance at any step. It shall not include time for preparation of the presentation of a grievance but shall include reasonable time for discussion between the employee and their representative immediately prior to the designated presentation and such reasonable travel time as may be necessary. An employee shall be permitted to discuss with their representative, prior to the initiation of a Step 1 proceeding, any complaint or matter concerning conditions set forth in Section 6(b) of Executive Order #42 (see Section VII) for the purpose of aiding them in deciding whether they wish to process the grievance through the Agency procedure. If such discussion is to take place during the regular work hours of an employee, whether the grievant or their representative, the employee shall first obtain from their Supervisor permission to absent themselves from their work and shall advise their Supervisor of the name of the grievant or their representative, as the case may be.

C. If any step must be scheduled outside regular working hours or continue beyond regular working hours, the additional time shall not be considered in computing earned overtime nor shall compensatory time off be granted.

VII. SECTION 6(B) - EXECUTIVE ORDER #42

: "The provisions of this order and the procedures established hereunder shall be applicable to grievances in any department or agency claiming an act or omission resulting in an injustice to an employee and arising out of conditions which are in whole or in part subject to the control of the head of such department or agency and which involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory and disciplinary practice, unjust treatment by fellow workers, unreasonable assignment of working hours or personal time allowances, unfair or unreasonable work quotas, and all other grievances relating to conditions of employment; provided, however, that this order shall not apply to matters which are reviewable under administrative procedures established by law or under the rules of the State Civil Service Commission, or the rules of other departments or agencies having the force and effect of law or rules governing grievances of employees in the professional service of the State University of New York as defined in Section 355-a of the Education Law, or concerning the interpretation, application of claimed violation of a specific term or provision of a collective agreement between the State and an employee organization."

VIII. MANAGERIAL/CONFIDENTIAL GRIEVANCE FORMS

: Each facility should reproduce a supply of the linked forms and make them available to employees in the facility Personnel Office.