



Resolving Employee Grievances



This is done by filing a written notice with the Occupational Safety and Health Review Commission (OSHRC).

- The OSHRC hears appeals of OSHA citations. They are an independent agency separate from the Department of Labor.
- The OSHA area director evaluates complaints from employees or their representatives according to the procedures defined in the OSHA Field Operations Manual. If the area director decides not to inspect the workplace, he or she will send a letter to the complainant explaining the decision and the reasons for it.
- OSHA will inform complainants that they have the right to request a review of the decision by the OSHA regional administrator. Similarly, in the event that OSHA decides not to issue a citation after an inspection, employees have a right to further clarification from the area director and an informal review by the regional administrator.
- The OSH Act prohibits employers from retaliating against their employees for using their rights under the OSH Act. These rights include filing an OSHA complaint, participating in an inspection or talking to the inspector, seeking access to employer exposure and injury records, raising a safety or health issue with the employer, or any other workers' rights described above. Protection from retaliation means that an employer cannot punish workers by taking "adverse action", such as firing or laying off.
- If an employee has been retaliated against for using their rights, they must file a complaint with OSHA within 30 calendar days from the date the retaliatory decision has been both made and communicated to the employee (the worker). Following a complaint, OSHA will contact the complainant and conduct an interview to determine whether an investigation is necessary.
- If the evidence shows that the employee has been retaliated against for exercising safety and health rights, OSHA will ask the employer to restore that worker's job, earnings, and benefits. If the employer refuses, OSHA may take the employer to court.
- Employees may file a complaint with OSHA concerning a hazardous working condition at any time. However, an employee should not leave the worksite merely because he or she has filed a complaint. If the condition clearly presents a risk of death or serious physical harm, there is not sufficient time for OSHA to inspect, and, where possible, an employee has brought the condition to the attention of his or her employer, an employee may have a legal right to refuse to work in a situation in which you would be exposed to the hazard.

- If a worker, with no reasonable alternative, refuses in good faith to expose himself or herself to a dangerous condition, he or she would be protected from subsequent retaliation. The condition must be of such a nature that a reasonable person would conclude that there is a real danger of death or serious harm and that there is not enough time to contact OSHA and for OSHA to inspect. Where possible, the employee must have also sought from his employer, and been unable to obtain, a correction of the condition.
- Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from retaliation under federal law. These laws protect employees who report violations of various workplace safety, airline, commercial motor carrier, consumer product, environmental, financial reform, health care reform, nuclear, pipeline, public transportation agency, railroad, maritime and securities laws. Complaints must be reported to OSHA within set timeframes following the retaliatory action, as prescribed by each law.
- Administrators should note the following: OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA; the OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional or trade associations, labor organizations, and/or other interested stakeholders; through the Alliance Program, OSHA works with groups to develop compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

The Pregnancy Discrimination Act of 1978

- The Pregnancy Discrimination Act of 1978 Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth, or related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.
- The Pregnancy Discrimination Act of 1978 requires where benefit costs are apportioned between employers and employees, that additional costs required by this Act be made in the same proportion

Americans with Disabilities Act of 1990

- The Americans with Disabilities Act of 1990 prohibits discrimination by a covered entity (any employer, employment agency, labor organization, or joint labor-management committee) against any qualified individual with a disability in job

application procedures, hiring or discharge, compensation, advancement, training, and other terms, conditions, and privileges of employment.

- Allows: actions that are job related and consistent with business necessity, if performance cannot be accomplished by reasonable accommodation; a requirement that an individual not pose a direct threat to the health or safety of other individuals in the workplace; and requirements that an individual be a member of and conform to the tenets of a religious entity employer.
- The Americans with Disabilities Act of 1990 makes the remedies set forth in specified provisions of the Civil Rights Act of 1964 available to the Equal Employment Opportunity Commission, the Attorney General, or any person alleging discrimination in violation of the Americans with Disabilities Act of 1990.

Family and Medical Leave Act of 1993

- Establishes certain requirements for unpaid family and medical leave for permanent employees.
- Makes employees eligible for such leave if they have been employed, by the employer from whom leave is sought, for at least: a total of 12 months; and 1,250 hours of service during the previous 12-month period. (excludes from such coverage: employees at worksites at which the employer employs less than 50 persons, if the total number of employees of that employer within 75 miles of that worksite is less than 50; and Federal officers and employees covered under title II of this Act.)
- Entitles employees to 12 workweeks of leave during any 12-month period because of: the birth of their child; the placement of a child for their adoption or foster care; their care of a child, spouse, or parent who has a serious health condition; or their own serious health condition which makes them unable to perform the functions of their position.
- Conditions such leave for the birth or placement of a child as follows: the entitlement ends 12 months after the birth or placement; and such leave may not be taken intermittently unless employee and employer agree otherwise.
- Allows intermittent leave for necessary medical treatment of an employee or family member. Allows the employer to require a temporary transfer to an equivalent alternative position that better accommodates such intermittent leave.
- Allows all leave under this title: to be taken on a reduced leave schedule, upon agreement with the employer; and to consist of unpaid leave, except under specified conditions when substitution of certain types of paid leave may be elected

resolved in a timely fashion is as follows: Nurse E submits a formal employee grievance; the employee grievance resolution process begins, however, due to some internal circumstances the employee grievance resolution process begins to slow down; the formal employee is not resolved in a timely fashion, i.e., the possible hazards, such as the additional potentially hazardous shelving unit, are not addressed in any way; the additional potentially hazardous shelving unit falls and strikes an employee; the employee is injured by the shelving unit; the employee has to take injury leave from the health care organization; the employee's sudden departure/leave causes staffing issues; additionally, the employee retains the services of an attorney; eventually, attorney intervention is required.

Example 3: Inadequate employee follow-up - once an organization reaches an official decision regarding a grievance, the organization should formally follow up with the employee who submitted the grievance and any employees involved in the grievance, i.e., an organization should provide the employee(s) involved in a grievance with documentation outlining the formal grievance decision and the formal grievance resolution process that transpired to reach the formal grievance decision. In addition, the aforementioned documentation should include supplementary material, when applicable, to further clarify any points that may be of concern to the employee(s) involved in a grievance. Failure to do so could lead to grievance escalation and the formation of additional employee grievances. An example of a possible outcome that may occur if a health care organization does not adequately follow up with the employee(s) involved in the grievance is as follows: Nurse E submits a formal employee grievance; the health care organization begins the grievance resolution process; the health care organization concludes the formal grievance resolution process and reaches a decision; the health care organization provides Nurse E with documentation regarding the formal grievance decision, however the documentation is limited, confusing, and does not include any supplementary material that clarifies the formal grievance decision; as a result Nurse E is not sure if the potential hazards will be addressed; subsequently Nurse E submits an additional formal grievance and files a complaint with OSHA.

In regards to Case Study 3, what other potential outcomes may result from ineffective employee grievance policies and procedures?

If Nurse E chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has effective employee grievance policies and procedures in place?

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner. They also help health care organizations avoid

employee grievance-related scenarios and outcomes like the ones highlighted directly above. With that in mind, many possible grievance resolution outcomes are possible if Nurse E's health care organization has effective employee grievance policies and procedures in place. An example of a possible outcome that may occur if Nurse E's health care organization has effective employee grievance policies and procedures in place may be found below.

Example: Effective employee grievance policies and procedures in place - Nurse E submits a formal employee grievance; receipt of the formal employee grievance, submitted by Nurse E, is acknowledged by the health care organization, i.e., Nurse E is notified by the health care organization that an appropriate health care organization representative has received the submitted formal employee grievance; the formal employee grievance resolution process begins; the health care organization adequately gathers relevant information, e.g., a representative from the health care organization interviews Nurse E; the employee grievance resolution process is documented; a formal decision regarding the employee grievance in question is made and action is taken, i.e., the potentially dangerous shelving units are removed and actions to address other potential hazards begin; representatives from the health care organization follow up with Nurse E to provide notification of the official employee grievance decision, i.e., the health care organization provides adequate formal documentation to Nurse E, which outlines the health care organization's official employee grievance decision and actions; the formal documentation also includes supplementary material which clarifies how the potential hazards are being addressed; Nurse E feels the official employee grievance decision is adequate, i.e., Nurse E feels comfortable with the health care organization's official employee grievance decision; ultimately, the grievance regarding potentially dangerous workplace hazards is resolved; state, federal, attorney, and/or OSHA intervention is not required; patient safety and care is not jeopardized in any way; there is no additional grievance escalation/no additional formal grievances formulate; the formal employee grievance submitted by Nurse E regarding potentially dangerous workplace hazards is concluded.

In regards to Case Study 3, what other potential outcomes may result from effective employee grievance policies and procedures?

Section 3: Summary

Employee grievances may occur for many different reasons including: interpersonal conflicts, possible discrimination, and potentially dangerous workplace hazards. Whatever the cause of an employee grievance, administrators should be sure

effective employee grievance policies and procedures are in place to help resolve employee grievances in a timely manner.

Section 3: Key Concepts

- Employee grievances may occur for many different reasons including: interpersonal conflicts, possible discrimination, and potentially dangerous workplace hazards.
- Interpersonal conflicts can be common in the workplace and may occur for several different reasons including: differences of opinion, beliefs, values, and personality clashes among coworkers. Interpersonal conflict can be detrimental to a workplace environment if they are not resolved in a timely fashion, especially in health care settings due to their potential to negatively impact patient care. Thus, interpersonal conflicts should be resolved quickly; interpersonal conflicts can lead to growth and development among the individuals involved in the interpersonal conflict as well as, ultimately, the workplace environment they take place in.
- Discrimination does occur in the workplace; laws, such as the ones included in the Employment Non-Discrimination Act of 2013 protect employee rights against discrimination in the workplace; violation of the Employment Non-Discrimination Act of 2013 or related laws may lead to state, federal, and/or attorney intervention.
- The OSH Act created OSHA, which sets and enforces protective workplace safety and health standards. If employees identify workplace hazards they may file a complaint with OSHA to seek intervention and, ultimately, improve the safety of the workplace.
- Administrators should be sure effective employee grievance policies and procedures are in place to help resolve employee grievances in a timely manner.

Section 3: Key Terms

Interpersonal conflict - a state of disconnection between two individuals, typically caused by actual or perceived opposition¹⁰

Open communication - a two-way flow of messages and information among individuals, i.e., a process of sharing information, which passes back and forth, among individuals until a shared meaning is achieved^{7,8}

Delayed employee grievance resolution (as it pertains to this course) - the resolution outcome or decision of a formal employee grievance is not delivered in a timely fashion

Subjectivity - the process of forming an opinion and/or judgment based on one's own point of view or perspective⁹

Section 3: Personal Reflection Question

What types of employee grievances may arise in a health care setting; how may formal employee grievances achieve resolution?

Course Review

The following questions are presented below to further review the concepts found in this course. By reviewing the following questions, administrators can obtain practical knowledge, which may be used to ensure effective employee grievance policies and procedures are in place within their health care organization.

Under the OSH ACT what are employers responsibilities regarding employees and working conditions that are free of known dangers?

Under the OSH Act, employers have several responsibilities regarding employees and working conditions that are free of known dangers including the following: the law requires employers to provide their employees with working conditions that are free of known dangers; employers have the responsibility to provide a safe workplace; employers must provide their employees with a workplace that does not have serious hazards and must follow all OSHA safety and health standards; employers must inform workers about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods; employers must train workers in a language and vocabulary they can understand; employers must keep accurate records of work-related injuries and illnesses; employers must perform tests in the workplace, such as air sampling, required by some OSHA standards; employers must post OSHA citations and injury and illness data where workers can see them; employers must notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation or loss of an eye; employers must not retaliate against workers for using their rights under the law, including their right to report a work-related injury or illness; employers must comply with the General Duty Clause of the OSH Act; employers must provide most protective equipment free of charge.¹

What is the Americans with Disabilities Act?

The Americans with Disabilities Act of 1990 is an act which prohibits discrimination by a covered entity (any employer, employment agency, labor organization, or joint

labor-management committee) against any qualified individual with a disability in job application procedures, hiring or discharge, compensation, advancement, training, and other terms, conditions, and privileges of employment.²

How may administrators establish/update effective employee grievance policies and procedures?

Administrators may establish/update effective employee grievance policies and procedures by employing a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

What is miscommunication; how may individuals avoid miscommunication in the workplace?

Miscommunication may refer to the inadequate transmission of information or messages between two or more individuals; when miscommunication occurs between individuals intended meaning may be lost.⁷ Individuals can limit or avoid miscommunication in the workplace by: removing physical barriers when communicating with other individuals; maintaining eye contact; remaining professional; allowing for a free flow of information between individuals; engaging in active listening; clarifying points of confusion; asking questions; maintaining emotional stability allowing others to speak; limiting interruptions and distractions.^{3,7}

What is an interpersonal conflict?

The term interpersonal conflict may refer to a state of disconnection between two individuals, typically caused by actual or perceived opposition.¹⁰ Administrators should note the following regarding interpersonal conflicts: interpersonal conflicts can be common in the workplace and may occur for several different reasons including: differences of opinion, beliefs, values, and personality clashes among coworkers. Interpersonal conflict can be detrimental to a workplace environment if they are not resolved in a timely fashion, especially in health care settings due to their potential to negatively impact patient care; interpersonal conflicts should be resolved quickly; interpersonal conflicts can lead to growth and development among the individuals involved in the interpersonal conflict as well as, ultimately, the workplace environment they take place in; viewing interpersonal conflicts from a more positive perspective can help evoke positive changes in workplace environments.

What outcomes may result from ineffective employee grievance policies and procedures?

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. Many possible outcomes are possible when ineffective employee grievance policies and procedures are present including the following: employee grievance escalation/the formation of additional formal employee grievances as well as state, federal, and/or attorney intervention.

Conclusion

Employees, independent of race, gender, and background, have specific rights which apply to the workplace. Employees' work-related rights are typically protected by law. If an employee feels or believes his or her work-related rights have been violated in any way, he or she may file a formal employee grievance with his or her employer or with a relevant Federal government agency. With that said, it is typically the responsibility of the employer to address and resolve employee grievances.

To help manage and resolve formal employee grievances, health care organizations should have employee grievance policies and procedures in place. To establish employee grievance policies and procedures, or even to update existing employee grievance policies and procedures, health care administrators should employ a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

The first essential element or step to establishing and/or updating employee grievance policies and procedures is planning. When it relates to the establishment of employee grievance policies and procedures, the planning process can take many forms and include a variety of different features such as: gathering information, conducting research, and forming a team of individuals dedicated to achieving a common and shared goal.

The next essential element or step to establishing and/or updating employee grievance policies and procedures is the development of the employee grievance policies and procedures. Much like the planning phase of the process, the developmental phase may include a variety of different parts. However, the bulk of the developmental phase will involve the actual writing, or updating, of the employee grievance policies and procedures.

Once the development of the employee grievance policies and procedures is completed the implementation process can begin. Arguably the two most important components of the implementation process include integration and education. The integration component of the implementation process involves the act of merging or adding the newly developed employee grievance policies and procedures to existing organizational policies and procedures. The education component of the implementation process typically involves the act of providing employees with direct information regarding the newly developed employee grievance policies and procedures.

The last essential elements or steps to establishing and/or updating employee grievance policies and procedures are monitoring and evaluation. The monitoring and evaluation of employee grievance policies and procedures can begin as soon as the implementation process ends. The core of monitoring and evaluating employee grievance policies and procedures lies in determining if the newly developed employee grievance policies and procedures are effective. Effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. If the newly developed employee grievance policies and procedures are deemed effective, through monitoring and evaluation, then administrators should continue to monitor and evaluate the newly developed employee grievance policies and procedures to ensure they resolve grievances in a manner consistent with recommended models for resolving grievances. Moreover, administrators should ensure established employee grievance policies and procedures meet or exceed desired outcomes, while providing optimal grievance resolution results that benefit both the employees and the employers.

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