

## Employee Dispute Resolution Process

### **4-1. General**

Personnel Procedures P8-13 through 18 provide for a two-staged review process for Performance Management and Evaluation disputes: internal and external. Employees may not grieve or appeal their performance plan or rating, but they may request a review. Employees may dispute their individual performance plan, including lack of a plan during the planning cycle; their individual performance evaluation; lack of a performance evaluation; the application of DMVA's Achievement Pay Plan to the individual employee's plan and/or evaluation; and, full payment of the award. Employees may not dispute the content of DMVA's Implementation Plan; matters related to the funds appropriated; the performance evaluations and awards of other employees; and, the amount of a performance award, including whether it is base or non-base building, any combination or none, unless the issue involves the application of DMVA's Achievement Pay Plan. Retaliation against any employee involved in the dispute resolution process is prohibited. A description of the internal dispute resolution process, including timelines and name or position of the appointing authority, shall be given to employees annually at the time of evaluation.

### **4-2. Internal Process**

Employees are encouraged to resolve reviewable issues at the lowest level possible and in a timely fashion. Formal internal review procedures are as follows:

- a. All requests for review must be in writing. Only the issue(s) as originally presented in writing shall be considered throughout the process.
- b. The request must be within five (5) working days of the event giving rise to the request for review (e.g. the final evaluation decision), including the day the disputable event occurred.
- c. The request should be sent to the DMVA State Personnel Director, who will immediately give it to the Appointing Authority for determination or delegation. All employees must be notified of the authorized decision-maker for their disputes.
- d. The Appointing Authority, or designee, shall meet with the employee and supervisor within five (5) working days of receipt of the request unless this time frame is waived by both parties due to situations beyond their control (deployment, pre-arranged vacations, etc.) The employee does not have an absolute right to legal representation, but may have an advisor present. A co-worker would not be considered an advisor. The employee is expected to represent and speak for him or herself. Only issues addressed in the original written request may be discussed.
- e. The Appointing Authority or designee will make a final written decision within three (3) working days of the meeting, and are authorized to instruct the supervisor to: follow DMVA's implementation plan; correct an error; or reconsider a performance evaluation or agreement, if appropriate. Mediation may be recommended. Their authority is limited to reviewing the facts within the limits of this implementation plan. They may not substitute their judgment for that of the supervisor. They may not render a decision that would alter the implementation plan. The decision should be sent to the supervisor, with a copy to the employee and the DMVA State Personnel Office.
- f. Based on consideration of the recommendations received, the supervisor should then make a final decision within five (5) working days and advise the employee of that decision.
- g. The completion of the internal stage of the dispute resolution process for issues disputable at the external stage (Personnel Director), the employee will be advised in writing of the deadlines and address for filing with the Director. Such notice will include the requirement that they must attach a copy of the original written dispute and the Department's final decision. This decision is final and binding relative to issues involving an individual agreement or evaluation.

### **4-3. External Process**

- a. Only the original issues involving the application of this implementation plan to the individual agreement and/or evaluation are reviewable outside DMVA. The employee must send a written request for review to the State Personnel Director at Department of Personnel, 1313 Sherman Street, 1<sup>st</sup> Floor, Denver, CO 80203, within five (5) working days of receipt of the final decision by DMVA if they wish to pursue the matter further. The request must include copies of the original issues and the final decision of the Department.
- b. The State Personnel Director or designee shall select a qualified neutral third party to review the issues presented. The neutral third party has 30 days to issue a written decision that is final and binding.
- c. Only issues originally presented in writing shall be considered throughout the dispute resolution process.