

Performance Management System Understanding the External Dispute Resolution Process

- The Division of Human Resources (DHR), through delegation from the State Personnel Director, administers the external dispute resolution process, and has jurisdiction in all disputes related to the performance management system that do not allege discrimination or result in corrective or disciplinary action.
- The performance management system dispute resolution process supports and encourages dialogue and communication to resolve issues. Departments and employees should make all efforts to resolve issues before initiating the dispute resolution process.
- An employee may request an external review from DHR when certain issues cannot be resolved during the department's internal dispute process.
- An external review can only address those original issues an employee raised during the internal dispute process and is limited to those issues involving the application of the department's performance management program to the individual's performance plan or evaluation.
- The affected employee has five (5) working days to file a written request for external review upon receipt of the department's final internal decision.
- For issues disputable at the external stage, departments must provide employees written notice that includes the deadlines, address for filing and requirements for requesting an external review.
- Employees must submit a copy of the original issues(s), any supporting materials submitted in writing during the internal dispute process, a copy of the department's final decision, and a copy or citation of the area of the department's program at issue.
- An employee has the burden to prove that a department's decision was arbitrary, capricious, or contrary to rule or law.
- DHR will assign cases that are subject to the external dispute process to a trained neutral third party for review.
- The neutral third party will base a recommendation on an analysis of the information submitted by the employee and any additional information as requested by the neutral third party.
- The neutral third party can review only the facts within the context and limits of a department's performance management program and CANNOT substitute his/her judgment for that of the rater, reviewer, or the department's dispute resolution decision maker.
- The neutral third party CANNOT issue a recommendation that would alter a department's performance management program.
- The neutral third party can recommend that a rater(s) follow the department's performance management program or correct an error, and/or recommend the rater reconsider an employee's performance plan or final overall rating if either does not follow the department's performance management program.
- The neutral third party will send a written report with the final recommendation and rationale to DHR for a final decision.
- Within 30 days of receipt of the written request for an external review, DHR will send an employee its final decision and that decision is considered final and binding.