

# **Lifeguard Association**

## **GRIEVANCE PROCEDURE**

### **Section I Definition**

- A. A grievance is a complaint by the Association or one or more employees concerning the application or interpretation of the specific provisions of this MOU, the Personnel Ordinance, Salary Resolution, written departmental rules and regulations, and policies and procedures manual(s).
- B. Matters excluded from consideration under the grievance procedure include the following:
  - a. Position classification and grade designations
  - b. Items otherwise expressly excluded under this MOU;
  - c. Items within the authority of the Civil Service Commission \
- C. If an employee alleges that his/her rights protected by Title VII of the Civil Rights Act are being violated, the resolution of such complaint may only be pursued through the Equal Employment Opportunity Office, the Civil Service Commission, or appropriate quasi-judicial agency.

### **Section II – Grievance Presentation**

Employees shall have the right to present their own grievance or do so through their Association representative.

### **Section III – Time Off for Processing Grievances**

The attendance at grievance meetings at the informal and formal stages shall be considered as City business. However, such meetings shall be at reasonable times so as not to disrupt the normal working processes. The employee and his/her representative (limited to one City employee) shall receive time off from regularly scheduled duty hours to participate in grievance and arbitration meetings.

### **Section IV – Cost of Witnesses at Grievance/Advisory Arbitration**

The cost of witnesses called by either party shall be borne by the party who requests

the witnesses. The cost of witnesses called by both parties shall be shared equally by both parties. City employees called as witnesses, on duty at the time, shall receive time off from duty to participate in the grievance/advisory arbitration, without loss of pay for the time so spent. City employees called as witnesses, not on duty at the time, may receive compensation by the party or parties who request the witnesses. The Association will be reasonable in the number of employees it chooses to call as witnesses during on-duty time.

### **Section V – Time Limits**

If the grievance is not resolved to the satisfaction of the employee at any level, or if the City fails to respond at any of these levels within the time limits specified in this grievance procedure, the employee and/or the Association representative may submit the total documentation of the grievance to the next level in the process. The parties may extend the time limits specified in this grievance procedure only by mutual written consent. A working day shall consist of every day except weekends and City holidays. If an employee fails to appeal from one level to the next within the time limits specified in this grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.

### **Section VI – Informal Procedure**

Within seven (7) working days of the occurrence or knowledge of the matter which causes the complaint, the employee shall first directly discuss the complaint with the employee's immediate superior. Within ten (10) working days of the discussion with the employee, the supervisor shall orally respond to the employee's complaint.

### **Section VII – Formal Grievance Form**

All formal grievances shall be processed on standard forms provided by the Department of Human Resources. The following information shall be provided on every formal grievance from submitted by an employee and/or Association Representative:

- A. Name(s) of grievant;

- B. Brief explanation of the specific nature of the grievance;
- C. Time and place of its occurrence, if known;
- D. State of the Article(s) of the MOU, provision in the Personnel Ordinance, Salary Resolution, or specific citation of any written departmental rules and regulations, or policies and procedures manuals, if applicable, which have been violated, misinterpreted or misapplied;
- E. Person(s) contacted at the informal stage;
- F. Statement of the corrective action.

### **Section VIII – Formal Procedure**

#### A. Step One – Division Head

- a. Within ten (10) working days of the supervisor's response or lack of response, the employee, if dissatisfied, may submit a formal written grievance to the division head.
- b. Within ten (10) working days, the division head shall schedule a meeting and provide a written response to the employee.

#### B. Step Two – Bureau Head

- a. Within ten (10) working days of the response from step one, the employee, if dissatisfied, may submit to the bureau head a copy of the formal written grievance, including the step one response.
- b. Within ten (10) working days, the bureau head shall schedule a meeting and provide a written response to the employee.

#### C. Step Three – Department Head or Designee

- a. Within ten (10) working days of the response from step two, the employee, if dissatisfied, may submit to the department head or designee a copy of the formal written grievance including the step two response.
- b. Within ten (10) working days, the department head or designee shall schedule a meeting and provide a written response to the employee.

#### D. Step Four – Director of Human Resources Designee

- a. Within ten (10) working days of the response from step three, the employee, if dissatisfied, may submit to the Director of Human Resources

or designee a copy of the formal written grievance, including the step three response.

- b. Within fifteen (15) working days a meeting shall be scheduled.
- c. Within ten (10) working days after completion of the meeting, the Director of Human Resources shall provide a written response to the employee.

E. Step Five – City Manager

- a. Within ten (10) working days of the response from step four the employee, if dissatisfied, may submit to the City Manager a copy of the formal written grievance including the step four response.
- b. Within ten (10) working days, the City Manager shall review the matter and provide a written response to the employee.

F. Step Six – Advisory Arbitration

- a. Within five (5) working days of the response from step five, the Association, if dissatisfied, may request to submit the grievance to advisory arbitration. The person designated by the Department of Human Resources shall meet with the Association representative to determine what issue(s) the Association or employee desires to submit to advisory arbitration. If agreement is reached as to the specific issue(s), these will be reduced to writing , and presented to the arbitrator as the submission agreement. If the parties cannot agree on the specific issue(s), then each may submit its own statement, and the Arbitrator shall decide the issue in accordance to American Arbitration Association rules. The arbitrator shall attempt to fashion an issue at the outset of the hearing and if not, then at the completion of the hearing.
- b. The parties shall meet and attempt to jointly select an arbitrator. If they are unable to make a joint selection in a period of time not to exceed ten (10) working days, either party may request a panel of five (5) arbitrators from the American Arbitration Association.
- c. Upon receipt of a panel from the American Arbitration Association, the parties shall meet to determine the arbitrator by the alternate strike method. A coin flip will determine the party to strike first.

- d. The rules of conduct of proceedings shall be according to those procedures utilized by the American Arbitration Association.
- e. Each party shall bear the expenses of presenting its own case.
- f. Costs of making stenographic record shall be born equally.
- g. Seventy-five per cent (75%) of the arbitrator's fee shall be paid by the party whose position was not supported by the arbitrator's findings. The arbitrator shall be empowered to allocate or apportion the fee if questions exist as to whose position was supported.
- h. The arbitrator shall have no authority to modify, amend, revise, add to, or subtract from any of the terms or conditions of this Agreement.
- i. The arbitrator shall be without power to make decisions contrary to or inconsistent with Federal or State law, the City Charter, City Ordinances and Resolutions. The City shall take no action to resolve the dispute in its favor by amending its Ordinances or Resolutions related to the issue(s) in dispute during the duration of this MOU.
- j. Following the conclusion of the hearing, the decision of the arbitrator shall be advisory.