

Association of Confidential Employees 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 this MOU, the Personnel Ordinance, the Salary Resolution, written departmental rules and regulations, and policy and procedure manuals governing personnel practices or working conditions between the City and the Association.
- B. Matters excluded from consideration under the grievance procedure:
- C. Position classification and grade designations;
 - a. Items otherwise expressly excluded under this MOU;
 - b. Nothing in this procedure shall be deemed to supersede the authority of the Civil Service Commission.
- D. If an employee alleges that his/her rights protected by Title VII of the Civil Rights Act are being violated, the resolution of such may only be pursued by the appropriate quasi-judicial agency that is authorized to provide remedial relief. An employee may also file a complaint with the City's Equal Employment Opportunity Office.

Section II - Grievance Presentation

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

Section III - Grievance Forms

Grievance forms can be obtained from the City or the Association. Grievances shall be processed on standard forms provided by the Department of Human Resources and Affirmative Action and shall contain information which:

- A. Identifies the aggrieved;
- B. Contains the specific nature of the grievance;
- C. Indicates the time or place of its occurrence, if known;

- D. States the Article(s) of the MOU, including Personnel Ordinance and Salary Resolution, written departmental rules and regulations, and policy and procedure manuals, if applicable, which have been violated, misinterpreted, or misapplied;
- E. Indicates the persons contacted at the informal stage; and
- F. States the corrective action desired.

Section IV - Time Off For Processing Grievances

- A. Informal - The processing of a grievance at the informal stage shall be considered as City business. However, such processing shall be at reasonable times so as not to disrupt the normal working processes of the division, bureau, or department.
- B. Formal - The processing of a grievance at the formal stage, except filling out the form and the initial filing, shall be considered as City business; the employee and his/her representative (limited to one City employee) shall receive time off from regularly-scheduled duty hours to participate in the grievance procedure at each step, without loss of pay.

Section V - Cost of Witnesses at Grievance

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, without loss of pay. City employees called as witnesses, not on duty at the time, may receive compensation by the party or parties who request the witnesses.

Section VI - Extension of Time Limits

Failure by management to reply to the employee's grievance within the time limits specified automatically grants to the employee the right to process the grievance to the next level. If an employee fails to appeal from one level to the next within the time limits established 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. All time periods specified in this procedure may be extended by mutual written consent of the aggrieved employee(s), Association, and the designated management representative.

Section VII - Informal Procedure

Within 10 working days of the occurrence or knowledge of the matter which causes the complaint, the employee may discuss the complaint with his/her immediate supervisor, unless the supervisor is the subject of the grievance. The Association's presence may be requested by either party. Within 10 working days of the discussion with the employee, the supervisor shall verbally reply to the employee's complaint. If the employee is dissatisfied or if the supervisor fails to respond, the employee shall have access to the formal grievance process. For Water and Harbor Departments only, an aggrieved employee shall discuss the matter with his/her immediate supervisor up to the division head.

Section VIII - Formal Procedure

A grievance directly involving the interpretation or application of the specific terms and provisions of this MOU may be presented by the Association if requested by the grievant. However, no settlement that interprets the agreement shall be made without the Association's knowledge and input.

A. Step One - Department Head

- a. Within 10 working days of the occurrence or knowledge of the matter which causes the grievance, or within 10 working days of the supervisor's response (or lack of response) at the informal level, the Association, group of employees, or employee may file a formal written grievance. The grievant(s) shall submit one (1) copy of the grievance to the Department Head.
- b. Within 10 working days, the Department Head shall schedule a meeting and give his/her decision, in writing, to the grievant(s) and to the Association representative, if one was present at the meeting. If the

employee's immediate supervisor is a department head, the grievance may advance to the next level.

B. Step Two - Human Resources Department Head/Designee

- a. Within 10 working days of the response from the first level, the grievant, if dissatisfied, may submit, to the Director of Human Resources or designee a copy of the second step response and a copy of the grievance. A meeting shall be held by the Human Resources Department head/designee. An Association representative shall be present if requested by grievant(s).
- b. Within 10 working days, the Director of Human Resources or designee shall give his/her decision in writing, to the grievant(s) and to the Association representative, if one was present at the meeting. For Water and Harbor Departments only, substitute Department Head for the Director of Human Resources or designee.

C. Step Three - City Manager

- a. Within 10 working days of the response from the second level, the grievant(s), if dissatisfied, may submit to the City Manager a copy of the third-step response and a copy of the grievance. A meeting will be scheduled by the City Manager. An Association representative shall be present if requested by grievant(s).
- b. Within 10 working days, the City Manager shall give his/her decision, in writing, to the grievant(s) and to the Association representative, if one was present at the meeting. For Water and Harbor Departments only, substitute Department Head for City Manager.