

Association of Engineering 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:
 - 1. Position classification and grade designations;
 - 2. Items otherwise expressly excluded under this MOU;
 - 3. Nothing in this procedure shall be deemed to supersede the authority of the Civil Service Commission;
 - 4. Loss of skill pay due to a change of assignment, work or duties.
- 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 may only be pursued by the appropriate quasi-judicial agency that is authorized to provide remedial relief. However, any complaint within the definition of a grievance as set forth above (except Article One, Section IV-B) that specifically relates to this Agreement, may be pursued under this Article.

Section II – Grievance Presentation

Employees shall have the right to present their own grievance or do so through their Association representative (Board member, or alternate) or Association staff. Grievances may also be presented by a group of employees or by the Association.

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 and arbitration at Steps I through V, without loss of pay for the time so spent.

Section V – Cost of Witnesses at Grievance/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/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 of parties who request the witnesses.

Section VI – Number of Witnesses at Arbitration

Calling of witnesses by either party shall be done with a reasonable amount of constraint. Approximately three or four witnesses may be called by each party. In the event that more witnesses are desired by either party, the arbitrator shall make the final decision as to the number of witnesses permitted by each party.

Section VII – 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 staff, or Association representative (Association board member or alternate) and the designated management representative.

Section VIII – Informal Procedure

Both the City and the Association agree that grievance resolution at the informal level is preferred and should be encouraged by both parties.

Within 10 working days of the occurrence or knowledge of the matter, which causes the complaint, the employee shall 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.

Section IX – Formal Procedure

The Association has the right to be present if invited by the grievant at any formal grievance meeting concerning a grievance that directly involves the interpretation or application of the specific terms and provisions of this MOU. However, no settlement that interprets the agreement shall be made without the Association's knowledge and input.

Step One – First Level Division/Bureau 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, if this option was exercised, 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 Division/Bureau Head.
- B. Within 10 working days the Division/Bureau 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.

Step Two – Department Head

- A. Within 10 working days of the response from the first level, the grievant, if dissatisfied, may submit to the Department Head a copy of the first step response and a copy of the grievance. A meeting shall be held by the Department Head. An Association representative shall be present if requested by grievant(s).
- B. Within 10 working days, the Department Head 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 Administrative Officer or equivalent for Department Head/designee.

Step Three – Director of Human Resources /Designee

- A. Within 10 working days of the response from the second 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 Director of Human Resources or designee. An Association representative shall be present if requested by grievant(s).

- B. Within 10 working days the Director of Human Resources and 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.

Step Four – City Manager

- A. Within 10 working days of the response from the third level, the grievant(s), if dissatisfied, may submit to the City Manager 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.

Step Five – Arbitration

If the City Manager (Water or Harbor – Department Head) does not satisfactorily dispose of the complaint, the Association may, within ten (10) working days, request that the matter be submitted to arbitration. The person designated by the Human Resources and Affirmative Action Department shall meet with the Association representative to determine what issue(s) the Association or employee desires to submit to arbitration. If agreement is reached as to the specific issue(s) so agreed shall be reduced to writing, and the submission agreement shall be submitted to arbitration. If the parties cannot agree on the specific issue(s), then each may submit its own statement, and the Arbitrator shall consider and decide only the specific issue(s) submitted to him/her in writing by the City and the Association, and shall have no authority to make a decision on any other issue(s) not so submitted.

If the matter is submitted to arbitration, the Arbitrator shall hold a hearing as soon as practicable, and the following shall apply:

1. 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) calendar days, either party may request a panel of five (5) arbitrators from the American Arbitration Association;
2. Upon receipt of the panel from the American Arbitration Association, the parties shall meet within ten (10) working days, at which time the parties shall determine the Arbitrator by the alternate strike method. A coin flip will determine the party to strike first;
3. Employees called as witnesses shall be released from duty as needed;
4. The rules of conduct of proceedings shall be according to those procedures utilized by the American Arbitration Association;
5. The findings of the Arbitrator shall be permitted only to the parties to the dispute or their representatives;
6. Each party shall bear the expenses of presenting its own case;
7. Costs of making a stenographic record shall be borne equally;
8. Seventy-five percent (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;
9. The Arbitrator shall have no authority to modify, amend, revise, add to, or subtract from any of the terms or conditions of this Agreement;

10. 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 Agreement;
11. Following the conclusion of the hearing, the decision of the Arbitrator rendered in accordance with the foregoing shall be final and binding upon the Association, the City and any employees involved in the grievance. Any dispute regarding the legal effect of the Arbitrator's decision may be pursued by either party in the manner legally available.