

ARTICLE EIGHT

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:
1. Position classification and grade designations;
 2. Items otherwise expressly excluded under this MOU;
 3. Items within the authority of the Civil Service Commission

If an employee alleges that their rights protected by Title VII of the Civil Rights Act or the California Fair Employment and Housing Act are being violated, an employee may pursue alleged discrimination or harassment claims through procedures established by the Department of Human Resources and shall be entitled to pursue California or federal statutory rights and administrative procedures through 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 MOU, 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.

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 their 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/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 the 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 form 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

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.

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

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.

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

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.

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

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.

Within fifteen (15) working days a meeting shall be scheduled.

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

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.

Within fifteen (15) working days a meeting shall be scheduled.

Within ten (10) working days, the City Manager shall review the matter and provide a written response to the employee.

F. Step Six – Binding Arbitration

If the City Manager does not satisfactorily dispose of the complaint, the Association or employee may, within fifteen (15) calendar days, request the matter be submitted to 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 arbitration. If an agreement is reached, such agreement shall be reduced to writing, and submitted to the arbitrator. 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 them in writing by the City and the Association or employee(s) 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 the 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 fifteen (15) calendar days, either party may request a panel of five (5) arbitrators from the American Arbitration Association;
2. Upon receipt of a panel from the American Arbitration Association, the parties shall meet within fifteen (15) calendar 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 finding of the Arbitrator shall be transmitted 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 stenographic record shall be born equally. The arbitrator's fee shall be defrayed wholly by the party whose position was not supported by the arbitrator's findings, except in the case of compromise decisions, the arbitrator shall be empowered to allocate the fee;
8. The arbitrator shall not have the authority to amend, modify, or add to the provisions of this Agreement.
9. 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.
10. Any issue of arbitrability must first be decided by the Arbitrator before proceeding to a hearing on the grievance.

The decision of the arbitrator shall be final and binding.