

## **ARTICLE 6. GRIEVANCES AND APPEALS**

### **Section**

**HR-6-01. Review**

**HR-6-02. Grievance System**

**HR-6-03. Appeals**

**Purpose:** To provide an informal method to clarify or correct major management decisions that directly affect an employee's job, and wages.

**HR-6-01. Review.**

- A. Purpose. A review is an informal method for an employee to ask management to review the basis for a decision that directly affects the employee's job or wages.
- B. Limitations. A review is limited to the review of an alleged error or fact that would be material in the decision affecting the employee. An employee may not request review for a management decision or action or for the lack of action but may request review of alleged errors in the facts or issues that lead to management's decision or action.
- C. Procedure. An employee may request review by addressing the employee's supervisor verbally or in writing within 5 working days. The review process may go up the chain of command ending with the City Administrator. The decision of the City Administrator is final, and there are no appeal rights.

**Purpose: To provide an amicable and internal method to resolve employee's objections, concerns or complaints about the manner in which management carries some employment decisions by a grievance procedure.**

**HR-6-02. Grievance System.**

- A. General. Human Resources shall adopt a grievance procedure, which will afford each employee a systematic means of resolving complaints concerning discrimination, noncompliance with these rules, or other work-related matters which directly and personally affect the employee.
- B. Non-applicable matters. The adopted grievance procedure shall not apply to any matter for which another method of review is provided, including but not limited to:
  - 1. Retirement, Life Insurance, or Health Insurance;
  - 2. Suspension for more than 40 working hours, demotion, or dismissal resulting from disciplinary action;
  - 3. Any examination, certification, or appointment;
  - 4. Any classification action;
  - 5. Any reduction in force action.
- C. Restrictions. An employee may not submit a grievance challenging the following management rights but may submit a grievance concerning the manner of their administration, insofar as these personally affect the employee:
  - 6. The city's right to direct its employees.
  - 7. The city's right to hire, promote, transfer, assign, and retain employees.
  - 8. The salary plan and assignment of pay grades.
  - 9. The city's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.
  - 10. The adoption, amendment or cancellation of a policy.
  - 11. A disciplinary action.
- D. Performance increases and decreases. An employee may submit a grievance concerning an overall performance evaluation or a specific rating but may not submit a grievance concerning the receipt of a performance decrease, the non-receipt of a performance increase, special performance award, or skills pay, the amount of any increase or decrease, or the use of any job-related supplemental rating factors to determine the receipt or amount of an increase, decrease, skills pay or special performance award.
- E. City control. An employee may not submit a grievance concerning any matter not subject to the control of the City, except for complaints alleging a violation of these rules.
- F. City Council. City Council shall comply with grievance and appeal procedures in employee-related issues, and shall encourage employees to follow the chain of command and to resolve employee issues through the proper channels. If a City

Council member receives or is approached by an individual or employee regarding a classified employee's concern, objection, or complaint about any personnel or management action, including but not limited to hiring, promotion, demotion, termination, salary or incentive pay implementation, reclassification of a particular employee or class, shall refer the issue and the employee to the employee's immediate Supervisor and notify the City Administrator.

- G. Amendments. Once a grievance is referred to any step beyond the immediate supervisor, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration.
- D. Review of grievances alleging discrimination or noncompliance with laws. The City Administrator may appoint an individual not in city service or a professional consultant, lawyer, or firm that manages employee relations to investigate the alleged discrimination or noncompliance. The investigator submits findings within 20 working days to City administrator along with the decision. The 20 working days may be extended by the investigator with the concurrence of the City.
- E. Procedures. The grievance procedure is as follows:
  - 12. The grievant must have an oral discussion with the immediate supervisor in an attempt to resolve the problem prior to initiating the written grievance procedure.
  - 13. The grievant must file the grievance in writing with the immediate supervisor within 5 calendar days after the occurrence of the action being grieved.
  - 14. The grievance shall contain a complete statement of all the facts and circumstances involved in the alleged violation and the specific redress sought.
  - 15. A grievance alleging noncompliance with these rules shall specify the precise rule alleged to have been violated.
  - 16. All employees presenting a grievance in which the issues and redress sought are identical will sign the grievance and designate a contact person from the group.
  - 17. A grievant must be allowed a reasonable amount of work time to prepare and process a grievance and that the use of such time shall be approved in advance by management.
  - 18. The grievant must have a minimum of 5 calendar days after receipt of a response to forward the grievance at any step, must sign the grievance at each step, and must state the reasons why the response at the previous step was unsatisfactory.
  - 19. The immediate supervisor shall respond to the grievant in writing addressing the decision, which may be affirmed, reversed or modified within 5 working days of the receipt of the written grievance. Copy sent to Human Resources.

9. Grievant reviews decision and may continue with grievance process by submitting grievance complaint in writing within 5 days of receipt of supervisor's decision to Department Head or next supervisor in the chain of command stating reasons for disagreement with decision.
  1. Department Head or next supervisor in the chain of command answers grievant in writing within 5 working days notifying of decision which may be affirmed, reversed, or modified and submits copy to Human Resources.
  2. Grievant reviews decision and may continue with grievance process by submitting grievance complaint in writing within 5 days to Human Resources.
  3. City Administrator recommends solution to grievant and supervisor. This is the final step in a grievance procedure and employees have no appeal rights.

**Purpose: To define and limit personnel actions eligible for appeal to the Hearing Officer and to establish procedure.**

**HR-6-03. Appeals.**

- A. Eligibility.
  - 20. In general, classified, permanent status employees have appeal rights.
  - 21. Unclassified employees, employees in original probation, seasonal, temporary, part-time, and in emergency appointments have no appeal rights.
- B. Appeals issues. An employee with appeal rights may file an appeal with Human Resources to appeal the following personnel actions:
  - 22. Demotion due as a result of disciplinary action.
  - 23. Suspension without pay or administrative leave without pay for more than 5 days.
  - 24. Dismissal due as a result of disciplinary action.
- C. Restrictions. An employee may not submit an appeal challenging any other City or employment action not mentioned in B (1)(2)(3).
- D. Method of Appeal.
  - 25. Appeals will be in writing, signed by the appellant, and filed with Human Resources.
  - 26. Appeals must be filed within ten (10) calendar days of the date of the action to be appealed, listed in Section B above. Failure to file a timely appeal will constitute a waiver, and the decision becomes final.
  - 27. Human Resources will then schedule the hearing within a reasonable time after receipt of the appeal.
  - 28. The appeal must contain a written statement, addressing the matter appealed and setting forth the action desired, and his/her reason for it.
- E. Hearing Officer.
  - 29. The City Administrator appoints an independent Hearing Officer.
  - 30. The independent Hearing Officer shall be an attorney at law specializing in labor law or with professional experience in labor law.
  - 31. The City shall pay for the fees of the Hearing Officer.
- F. Hearing.
  - 32. An employee may produce evidence and be represented by legal counsel at the hearing. The appellant will appear personally, unless physically unable to do so, at the time and place set for the hearing.
  - 33. The Hearing Officer will review documentation and testimony provided by appellant, immediate supervisor, Human Resources and any other representative or witnesses of the appellant or the City.
  - 34. All testimony at the appeals hearing shall be under oath and recorded in some form, whether by court reporter or recording device.

4. The hearing shall not be bound by formal rules of evidence, and it is not a hearing open to the public, unless the appellant, in writing, requests an open public hearing.
35. The City will present its case first, with whatever witnesses and evidence it desires to put forth. At the conclusion of the City's case, the appellant shall present his/her case, with whatever witnesses and evidence he/she desires to put forth. The City will then be permitted to present rebuttal evidence, if any, prior to the parties closing arguments.
36. Cross-examination of witnesses will be permitted. Each side, appellant and City shall be limited as to time, and shall be limited to not more than ten hours of testimony. The ten hour limitation shall include rebuttal testimony and the cross-examination of any witnesses that may be presented by that side.
37. The City Administrator may grant a continuance of the hearing for good cause.

G. Findings and Recommendation

38. The Hearing Officer will, within fifteen (15) calendar days after the conclusion of hearings, certify his/her findings and recommendations that will be advisory to the City Administrator. The Hearing Officer may recommend affirming, reversing, or modifying the disciplinary action.
39. The City Administrator will review the findings and recommendations of the Hearing Officer. He/she may then affirm, revoke, or modify the action recommended as in his/her judgment seems warranted.
40. The City Administrator will inform the appellant within twenty (20) calendar days of his/her decision. The action of the City Administrator will be final.