

EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

The Employee Grievance Resolution Procedure and Form shall be available on the Human Resources website. No changes shall be made to the procedure and/or form without mutual agreement of the Association and County.

All Unit employees are covered by the Fresno County Employee Grievance Resolution Procedure as described below. Refer to the attachment for a copy of the Employee Grievance Resolution Form.

PURPOSE

It is a mutual obligation on the part of administrative, supervisory and non-supervisory employees of the County of Fresno to provide efficient and continuous services to the public. Employee morale is an important factor in maintaining a high level of public service and the administration has a responsibility to provide an orderly and expeditious method for resolving grievances, which may arise from working relationships and conditions. This procedure is intended to provide an orderly method for processing grievances in the interest of obtaining a fair and equitable solution.

GRIEVANCE PROCEDURE

Before filing a grievance, be certain to read this entire procedure, including the rules and definitions.

Step 1: Informal Resolution

When an employee becomes aware that a problem exists, the employee shall discuss the matter informally with the lowest ranking immediate supervisor whose job classification is not included in the same certified representation unit. This discussion shall be sought by the employee(s) not later than fourteen (14) calendar days after the alleged grievance occurred or was discovered. The provisions outlined in Steps 2 and 3 do not act to restrict the employee or the immediate supervisor from seeking advice and counsel when it appears that settlement can be reached informally. The supervisor will respond in writing to the employee within seven (7) calendar days of their discussion with the employee.

Step 2: Department Review

If a mutually acceptable solution has not been reached during Step 1, and the employee wishes to pursue the grievance formally, the employee shall submit it in writing on the attached Employee Grievance Resolution Form to the Department Head with a copy to the Labor Relations Division no later than seven (7) calendar days after the supervisor's written response. The Department Heads will consider the grievance, and render a written decision on the grievance form, or by attached copy, within seven (7) calendar days of

receipt of the formal grievance from the employee. The written decision shall include a clear and concise statement including the reason(s) for the decision.

If the Department, in consultation with the Labor Relations Division, determines that the grievance is outside the Department Head's authority, or the grievance involves employees working in separate departments, then such grievance shall be submitted to Step 3.

Step 3: Labor Relations Review

Grievances unresolved at Step 2, involving matters outside the Department Head's authority, or involving employees working in separate departments may be submitted to the Labor Relations Division for resolution. If the grievance has been reviewed at Step 2, the Labor Relations Division will attempt to mediate the grievance between the parties concerned. If the grievance has been referred directly to the Labor Relations Division, without having gone through Step 2, the Labor Relations Division will consider the grievance, and shall provide a written response to the employee or their representative. A request for Labor Relations Review must be received by the Labor Relations Division within seven (7) calendar days of the completion of Step 2, or within seven (7) calendar days of the completion of Step 1 for grievances involving matters outside the Department Head's authority, or involving employees working in separate departments. Labor Relations Review must occur within fourteen (14) calendar days of receipt of the request for such review, unless mutually waived.

Step 4: Mediation

Grievances unresolved at Step 3 may be submitted to Mediation upon written request by the employee, or their representative, to the Labor Relations Division within seven (7) calendar days of the completion of Step 3. Should mediation be requested, the parties shall obtain the services of a Mediator from the State Mediation and Conciliation Services in an effort to mediate a grievance resolution before Step 5 is pursued. The parties shall not divulge in any form the offers made in mediation.

Step 5: Grievance Hearing

Grievances unresolved at Step 4 may be submitted to a Grievance Hearing. If the grievance is resolved through Mediation, the employee or their representative shall contact State Mediation and Conciliation Services within seven (7) calendar days of completion of Mediation, to obtain a list of persons willing to serve as Arbitrator, with a copy to the Labor Relations Division. The cost of the Hearing Officer shall be borne equally by the employee, or their representative, and the County.

A pre-hearing conference with the Hearing Officer and the parties shall be set on the day of the hearing immediately preceding the hearing. The purpose of the conference is to identify issues to be resolved and any available remedies; to determine jurisdiction and/or grievability; to stipulate to uncontested facts and documents; to identify whether or not the potential decision can be implemented or is appealable; to review the process and conduct of the hearing; and to identify any potential problems. The Hearing Officer shall state in writing their factual findings and reasons for their decision within thirty (30) calendar days of the hearing, if possible.

Implementation

If the remedy requested by the employee can be implemented by the Department Head the decision of the Hearing Officer is final and subject to judicial review as set forth below. If the remedy requested by the employee cannot be implemented by the Department Head but requires action by the Board of Supervisors, the Hearing Officer shall issue a recommendation to the Board of Supervisors. The recommendation will be submitted for consideration by the Board of Supervisors at their next regularly scheduled public meeting. The action of the Board of Supervisors shall be final and binding.

Judicial Review

The Hearing Officer's decision may be submitted to the Superior Court for judicial review by either the County or the employee. A court reporter will be required to preserve the record of the hearing for appeal, if any, of the Hearing Officer's decision in a court of law pursuant to these rules. The cost of the court reporter shall be borne equally by the employee, or their representative, and the County. Appeal from decisions by the Hearing Officer shall be on the record of the Hearing Officer hearing by administrative mandamus under California Code of Civil Procedure Section 1094.5, which appeal shall be filed within ninety (90) calendar days after the Hearing Officer's decision.

GRIEVANCE PROCEDURE RULES

1. Except where a remedy is otherwise provided for by County Charter, Civil Service Commission rules, or law, any employee shall have the right to present a grievance arising from their employment in accordance with the rules and regulations of this procedure. Grievances filed that are pursuant to another administrative remedy, e.g. discrimination complaint procedure, shall be returned unprocessed with an explanation for the decision.

2. All parties so involved must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest possible step of the procedure. The aggrieved employee shall have the assurance that filing of a grievance will not result in reprisal of any nature.
3. A grievance shall be filed using the attached Employee Grievance Resolution Form. The Employee Grievance Resolution Form will be made available through the individual departments, the Labor Relations Division, the Department of Personnel Services' website, and Stationary Engineers – Local 39.
4. The aggrieved employees shall have the right to present their own grievance or do so through a representative of their choice. This representation may commence when the grievance is presented formally in writing as provided in Step 2.
5. The processing of a grievance shall be considered as County business, and the employee and their representative, if any, shall have reasonable time and facilities allocated. The use of County time for this purpose shall not be excessive, nor shall this privilege be abused. The Department Head consider the "impact" on departmental operations when granting time and facilities involving the processing of a grievance.
6. Time limits in the grievance procedure are designed to quickly settle a grievance. It is realized, however, that on occasions, the parties concerned may be unable to comply with the established limitations. In such instances, the limitations may be extended upon the mutual agreement of all parties concerned.
7. Failure of the employee or their representative to abide by the prescribed time limits at any phase shall terminate the grievance process and the matter shall be deemed resolved. The County shall abide by the prescribed time limits; failure to do so will result in the grievance being automatically moved to the next phase of the grievance procedure, unless the next step is the Grievance Hearing.
8. When two (2) or more employees experience a common grievance, they may initiate a single group grievance. A minimum of two (2) employees must sign the grievance form. If the employees work in separate departments, the grievance shall be referred immediately for a Labor Relations Review.

DEFINITIONS

Hearing Officer – An individual selected by the employee or their representative and the Labor Relations Division from a panel of five (5) candidates submitted by the State Mediation and Conciliation Services. The cost of the Hearing Officer shall be borne equally by the employee or their representative and the County.

Day/Calendar Day – A calendar day. The time period for grievance purposes begins on the first day following the day the grievance is sought, filed, or submitted to the next step. When the time period for a given step in the grievance procedure ends on either a weekend or a holiday, it shall be automatically extended to the next regular County workday.

Department Head – The administrative head or acting head of the Department involved, or a designated representative.

Employee – An individual occupying a position permanently allocated by the Board of Supervisors as a part of the regular staffing of the department. Extra-help employees are not considered to occupy permanently allocated positions.

Grievance – A grievance is a complaint relating to any phase of an employee's employment or working conditions which the employee believes has been adversely affected due to misapplication of:

A ,memorandum of understanding, an ordinance or resolution of the Board of Supervisors, or the written policies, administrative orders, or clearly established lawful past practice of a department, relating to the employment of the individual; provided, however, that such complaint shall not include matters within the scope of representation which are subject to the meet and confer process, any action subject to the jurisdiction of the Civil Service Commission, including disciplinary actions taken under County Personnel Rules, or any other matters which are otherwise subject to the jurisdiction of another administrative remedy.

If a grievance is alleged relating to a past practice as specified above, the grievant must first establish that practice has existed, and if sustained, any decision relating to the grievance shall only apply to the specific grievance and shall not be considered as a precedent.

Representative – The person selected by the employee to appear along with the employee in the presentation of a grievance, beginning at Step 2.

Settlement – An agreement between the parties intended to resolve the grievance. Such agreement may be reached between the parties at any step in the Employee Grievance Resolution Procedure. No settlement may be made in violation of an existing rule, ordinance, or memorandum of understanding.

ATTACHMENT
COUNTY OF FRESNO
EMPLOYEE GRIEVANCE RESOLUTION FORM
BARGAINING UNITS 13, 39 & 43

Please be sure to read the entire attached Employee Grievance Resolution Procedure, including the rules and definitions, before completing this form.

Employee Name(s)

Job Classification(s)

Department(s)

Division(s)

Mailing Address

Work Phone(s)

Check box if this is a group grievance (two signatures required on page 2)

DESCRIPTION OF GRIEVANCE

1. List the date the alleged grievance occurred or was discovered: _____

2. State as clearly as possible the nature of the alleged grievance, including names and titles of all individuals involved. Use additional paper if necessary.

3. I feel I have been adversely affected by the misapplication of:

Memorandum of Understanding (Title and Section): _____

Ordinance (Section): _____

Resolution (Number and Date): _____

- Written Policy (Attach a Copy)
- Management Directive (Attach a Copy)
- Administrative Order (Attach a Copy)
- Clearly established lawful past practice. (Documentation that this is a past practice must be attached.)

4. List the specific solution(s) to this problem that you desire:

□ □ □ □ □ □ □ □ □ □

STEP 1 – INFORMAL DISCUSSION

1. Date discussion occurred: _____
2. Name/job classification of immediate supervisor with whom you discussed this problem: _____
3. What was the result of the informal discussion? Please explain fully.

4. I request a Department Review

Employee Signature

Print Name

Date

Employee Signature

Print Name

Date

