

The following sets forth the entire Employee Grievance Resolution Procedure:

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 problems 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 not later than fourteen (14) calendar days after the alleged problem 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.

Step 2: Department Review

If within seven (7) calendar days a mutually acceptable solution has not been reached during Step 1, and the employee wishes to pursue the grievance, the employee shall submit it in writing on the standard grievance form to the Department Head with a copy to the Labor Relations Manager no later than the end of the seventh (7th) calendar day. The Department Head, or designee, will give notice and hear the grievance and render a written decision within seven (7) calendar days of receipt of the formal grievance from the employee.

Notwithstanding the foregoing, if the grievance relates to the interpretation or application of a statute, ordinance or written policy of the Board of Supervisors, and the employee is dissatisfied with the decision of the Department Head, upon request of the employee within the time above-stated, the Department Head shall request the opinion of the County Counsel thereon, whose opinion shall be final.

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 shall be submitted to the Labor Relations Division for resolution. If the grievance has been reviewed at Step 2, Labor Relations will attempt to mediate the grievance. If it has been referred directly to the Labor Relations Division without having gone through Step 2, Labor Relations will hear the matter, and provide a written response. In the latter instance, the intent, consistent with Step 2, is to identify issue and areas of agreement/disagreement and to have the parties present whatever available information/documentation necessary to fully attempt to resolve the grievance. Therefore, further clarification of the problem may be necessary and a clear statement of the issue shall be developed.

All processing of the grievance at Step 3 shall be completed within fifteen (15) working days of the department liaison's written decision, unless mutually waived.

Step 4: Mediation

Grievances unresolved at Step 3 may be submitted to Mediation upon written request by the employee or the employee's representative to the Labor Relations Manager within five (5) days of the completion of the Labor Relations Review. 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 grievance resolution before Arbitration is pursued. The parties shall not divulge in any form the offers made in mediation.

Step 5: Arbitration

Grievances unresolved at Step 4 may be submitted to arbitration. If the employee is dissatisfied with the results of mediation, the employee may, within five (5) calendar days of completion of mediation, request that the grievance be presented to arbitration. Such request for arbitration shall be submitted to the Labor Relations Manager. The committee Arbitrator shall state in writing their factual findings and reasons for their decision.

If the decision of the Arbitrator can be implemented by the Department Head without Board of Supervisors' action, the recommendation shall be implemented by the Department Head. If the decision of the Arbitrator cannot be implemented by the Department Head but requires Board of Supervisors' action, 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.

If the decision of the Arbitrator can be implemented by the Department Head and without Board of Supervisors' action, the County or the employee may seek relief in a court of law. A party desiring to reserve the right to appeal the Arbitrator's decision in a court of law pursuant to these rules has the burden of preserving the record of the hearing. A party who plans to use a court reporter shall inform the other party within three (3) calendar days of the hearing to avoid duplication of costs. Appeal from decisions by the Arbitrator shall be on the record of the Arbitrator's hearing by administrative mandamus under California Code of Civil Procedure Section 1094.5, which appeal shall be filed within thirty (30) calendar days after the Arbitrator's decision.

EXPLANATION OF 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 his/her employment in accordance with the rules and regulations of this procedure.
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. The aggrieved employee shall have the right to be represented or accompanied by a person of the employee's choice if the complaint is not resolved at the informal level as provided for in Step 1 of the grievance procedure. This representation may commence when the grievance is presented in writing to the Department Head, as provided in Step 2 of the grievance procedure.
4. The processing of a grievance shall be considered as County business, and the employee and his/her representative 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.
5. Certain 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.

6. Failure of the aggrieved employee to file an appeal within the prescribed time limit without good cause for any step of the procedure shall constitute abandonment of the grievance. County management personnel involved shall abide by prescribed time limits. Failure to do so without good cause shall result in the grievance being automatically moved to the next step of the process.
7. Any person responsible for conducting any conference, meeting, or hearing under the formal grievance procedure shall give due and timely notice to all persons concerned.
8. Standard grievance forms will be made available on the Personnel Services website, as well as through the Association.
9. When two or more employees experience a common grievance, they may initiate a single grievance proceeding. The initial hearing of the grievance shall be by the Department Head or designee. If the employees work in separate departments, the grievance shall be referred immediately for Labor Relations Review.

DEFINITIONS

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

County Administrative Officer - The County Administrative Officer or his/her designated representative.

Day/Calendar Day - A calendar day. The time period for grievance purposes begins on the first day following the day the grievance is 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.

Immediate Supervisor - The individual who assigns, reviews, or directs the work of an employee, and who is not in a job classification in the same certified representation Unit as the grievant.

Representative - The person selected by the employee to appear along with the employee in the presentation of a grievance.

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 because of:

A misapplication of a MOU, Ordinance or Resolution of the Board of Supervisors, or of the written policies, administrative orders, or a clearly established lawful past practice of a department, relating to the employment of the individual; provided, however, that such complaint shall not include an action subject to the jurisdiction of the Civil Service Commission or any other matters which are otherwise reviewable pursuant to another administrative remedy.

NOTE: 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.

COUNTY OF FRESNO

EMPLOYEE GRIEVANCE RESOLUTION FORM – UNIT 10

Please be sure to read the entire attached procedure, including the rules and definitions, before completing this form.

Name

Job Classification

Department

Division

Mailing Address

Work Phone

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 extra 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)
 - Clearly established lawful past practice. (Detailed documentation that this is a past practice must be attached.)
 - Administrative Order. Specify: _____

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. The results of this discussion are unacceptable.
I request review at Step 2 by my Department Head.

Date forwarded to Department Head

Employee's Signature

5. Name/phone number of representative, if any: _____

6. Should all communication be directed to your representative? Yes No

EMPLOYEE: If you have completed the form to this point, you must forward a COPY of it to the Labor Relations Division, Fresno County Plaza, 2220 Tulare Street, 16th Floor, Fresno, CA 93721. You must forward it the same day you send the ORIGINAL to your Department Head.

STEP 2 – DEPARTMENT REVIEW

- 1. Date grievance submitted to department: _____
- 2. Date of department conference (if applicable): _____
- 3. Date of department response: _____
- 4. Decision:

5. Department Head's signature: _____

Date delivered to employee: _____

6 GRIEVANT CHECK ONE:

- a. The above decision is acceptable
- b. I request a Labor Relations review

Employee's Signature

Date Forwarded to
Labor Relations Division

STEP 3 – LABOR RELATIONS REVIEW

- 1. Date grievance form received by Labor Relations: _____
- 2. Labor Relations staff assigned to this grievance: _____
- 3. Date of Labor Relations Division conference (if necessary): _____
- 4. Labor Relations response: _____

Labor Relations Staff Signature

Date

NOTE: Labor Relations staff must return a copy of the grievance form to the employee or their representative (if identified on this form) and send a copy to department liaison.

STEP 4 – MEDIATION

- 1. Name of State Mediator: _____
- 2. Date of Mediation Conference: _____
- 3. Outcome: _____

STEP 5 – ARBITRATION

1. Date of request for Arbitration: _____

2. Date list requested: _____

3. Date list received: _____

4. Name of Arbitrator selected: _____

5. Date of Arbitration: _____

6. Outcome: