

## MANAGEMENT DIRECTIVE

CHAPTER NO: 200 – Personnel Practices and Procedures

SUBJECT: 220 – Employee Grievance Procedure

### 221 - Purpose

It is a mutual obligation on the part of administrative, supervisory and non-supervisory employees to provide efficient and continuous services to the public. Employee morale is an important factor in maintaining a high level of public service and 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.

### 222 - Procedure

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

- Step 1: 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: 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 Director of Employee Relations no later than the end of the seventh (7th) calendar day. The Department Head 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.
- Step 3: If the employee is dissatisfied with the decision of the Department Head, the employee may, within five (5) calendar days of receipt of that decision, request that the grievance be presented to a grievance committee for review. Such request shall be submitted to the Deputy Employee Relations Director. At this time, if the Deputy Employee Relations Director is unable to resolve the grievance informally within five (5) calendar days, steps shall be initiated to convene a grievance committee which shall meet to hear the matter at the earliest possible date. The committee shall state in writing its factual findings and reasons for its decision.

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.

If the decision of the grievance committee 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 grievance committee 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 grievance committee 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 grievance committee'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 grievance committee shall be on the record of the grievance committee'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 grievance committee's decision.

### 223 – Explanation of Rules

- 223.1 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.
- 223.2 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.
- 223.3 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.
- 223.4 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.

- 223.5 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.
- 223.6 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 be considered an automatic ruling in favor of the grievant in any instance where the Department Head would have had the authority to grant such settlement, as bestowed by County Charter, Ordinance, Board of Supervisor Resolution, or other legal documents. No such ruling shall be considered precedent-setting.
- 223.7 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.
- 223.8 Standard grievance forms will be made available through the individual departments, the Personnel Management Division, and each employee organization.
- 223.9 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. If the employees work in separate departments, the grievance shall be referred immediately for grievance committee decision.

#### 224 - Definitions

- 224.1 County Administrative Officer - The County Administrative Officer or his/her designated representative.
- 224.2 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 of 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.
- 224.3 Department Head - The administrative head or acting head of the department involved, or a designated representative.
- 224.4 Employee - An individual occupying a position permanently allocated by the Board of Supervisors as a part of the regular staffing of the department.

224.5 Grievance - 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 Memorandum of Understanding, 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.

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.

224.6 Grievance Committee - This committee shall be composed of the following three members:

The grievant shall select one member who shall serve voluntarily without compensation, unless that member is a County employee. In that case, the employee shall receive normal compensation when serving during regular working hours. No overtime shall be paid when part or all of the process occurs outside regular working hours. This member shall not be a party of interest to the grievance.

The County Administrative Officer or his/her representative, who shall not be an employee of the same department as the grievant.

A representative selected by the above-mentioned members from a panel of five candidates submitted by the California Department of Industrial Relations Conciliation Service. Said member so selected shall serve as Chairperson, and shall be compensated at a rate of \$50 per grievance hearing. This cost shall be borne equally by both parties.

224.7 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.

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

## 225 - Employee Grievance Form

Please be sure to read the entire attached procedure including the rules and definitions, before completing this form. Send one copy of this form to Deputy Employee Relations Director, 2220 Tulare Street, 14<sup>th</sup> Floor, Fresno, California, 93721.

**COUNTY OF FRESNO**  
**EMPLOYEE GRIEVANCE FORM**

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



<b>DESCRIPTION OF GRIEVANCE</b>
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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: \_\_\_\_\_

**EMPLOYEE: If you have completed the form to this point, you must forward a COPY of it to the Deputy Employee Relations Director, Fresno County Plaza, 2220 Tulare Street, 14<sup>th</sup> Floor, Fresno, CA 93721. You must forward it the same day you send the ORIGINAL to your Department Head**



**STEP 2 – REVIEW BY DEPARTMENT HEAD**

Date hearing noticed: \_\_\_\_\_  Phone  Letter  In Person

1. Date request was received: \_\_\_\_\_

2. Date of hearing: \_\_\_\_\_

3. Decision:

4. Department Head's signature: \_\_\_\_\_

Date delivered to employee: \_\_\_\_\_

5. (GRIEVANT CHECK ONE):

a. The above decision is acceptable

b. I request a legal opinion by the County Counsel

c. I request a review by a grievance committee

) If you have checked one of these boxes, send the form to the ) Director of Employee Relations )

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date forwarded to Employee Relations Director



**STEP 3 – GRIEVANCE COMMITTEE/COUNTY COUNSEL**

Date received by Deputy Employee Relations Director: \_\_\_\_\_

Decision:

Committee/County Counsel Signature(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date