

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Grievance Procedure for Unrepresented Classified Employees

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PURPOSE

The purposes and objectives of the Grievance Procedure of the County of San Diego are:

- (1) To implement a grievance procedure for all classified, unrepresented County employees.
- (2) To encourage the settlement of disagreements informally at the employee-supervisor level and to provide an orderly procedure to address grievances of classified, unrepresented employees.

Background

On 5/13/68 (88) the Board adopted an Employee Relations Policy which provided for the establishment of a grievance procedure. This policy is intended to cover those classified employees of the County who are not represented by a recognized employee organization as defined in the County's Labor Relations Ordinance.

Policy

It is the policy of the Board of Supervisors that:

This grievance procedure shall be applied in resolving grievances filed by unrepresented, classified employees.

For the purpose of this grievance procedure the following definitions shall apply:

A. DEFINITIONS:

1. Grievance - A grievance is defined as an allegation by a classified, unrepresented employee, or a group of such employees, that the County has failed to provide a condition of employment which is established by an officially adopted written rule or regulation which comes under the control of the department head.

This grievance procedure shall not apply to the following:

- a. matters which are reviewable under some other administrative procedure and/or over which the Civil Service Commission has jurisdiction;
- b. letters of warning;
- c. matters concerning transfers or assignments;
- d. matters concerning Performance Reports;

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- e. matters which would require the modification of a policy established by the Board of Supervisors or by law;
- f. matters which are subject to the discretion of the department head or the County;
- g. matters which relate to the County's health insurance program;
- h. matters concerning any other subject, unless the subject is covered by an officially adopted written rule or regulation as defined under (1) above;
- i. matters concerning the Quality First Program; and
- j. matters concerning any alleged rights or privileges of an unclassified employee.

2. Reviewable Grievance

To be reviewable under this procedure, a grievance must:

- a. concern matters, or incidents, that have occurred;
- b. arise out of a specific situation, act or acts complained of which fall within the definition cited above, and which allegedly result in inequity or damage to the employee;
- c. specify the relief sought, which relief must be within the power of the department head to grant in whole or in part.

3. Employee - An unrepresented, classified employee of the County.

4. Immediate Supervisor - The individual who assigns, reviews or directly supervises the work of an employee.

B. STALE GRIEVANCE

A grievance shall be void unless filed in writing within thirty (30) calendar days from the date upon which the County is alleged to have failed to provide a condition of employment which is established by an officially adopted written rule or regulation which comes under the control of a department head. In no event shall a grievance include a claim for money relief retroactive for more than thirty (30) day period prior to the date the grievance was filed.

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C. INFORMAL DISCUSSION WITH EMPLOYEE'S SUPERVISOR

Before proceeding to the formal grievance procedure, an employee shall discuss the grievance with his/her immediate supervisor in private and attempt to find a solution. If the employee and his/her immediate supervisor cannot find a satisfactory solution, the employee may then choose to proceed with a formal written grievance.

D. FORMAL WRITTEN GRIEVANCE TO EMPLOYEE'S SUPERVISOR

If the employee chooses to formally pursue his/her grievance, he/she shall present the written grievance to his/her immediate supervisor within seven (7) working days after the date upon which the grieving employee informally discussed the grievance with the immediate supervisor. The written grievance shall contain a specific statement which specifies the dates, times, places and persons, and any other facts necessary to present a clear understanding of the specific situation, act or omission which allegedly has resulted in an inequity or damage to the grieving employee. The grievance shall specify the relief sought.

The immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing within seven (7) working days after receipt of the written grievance. If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the supervisor's answer within which to file an appeal to the Middle Manager.

E. WAIVER OF APPEAL STEPS

If the grievance is not resolved after the immediate supervisor has answered it in writing, the grievant and the department head or designee may by mutual agreement waive review of the grievance at the Middle Management level and proceed to present the grievance to the department head or the designee.

F. GRIEVANCE TO MIDDLE MANAGEMENT

If presented to this level, the Middle Manager shall have seven (7) working days in which to review and answer the grievance in writing after receipt. A meeting is not required at this level.

If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the written answer within which to file an appeal to the department head.

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G. GRIEVANCE TO DEPARTMENT HEAD

The department head or his/her designee shall have ten (10) working days in which to review and answer the grievance in writing. Unless waived by mutual agreement of the employee and the department head or designee, a meeting is required at this level and the employee and his/her representative shall have the right to be present and participate in such a meeting. The time limit at this level may be extended by mutual agreement between the department head or designee and the employee.

H. APPELLATE OPTIONS

If the grievance is not resolved after the department head or designee has answered it in writing, the grievant shall have thirty (30) calendar days from receipt of the written answer within which to exercise one of the following appellate options. A grievant who exercises one option shall be precluded from also exercising the other.

1. Option 1:

a. Grievance to the Chief Administrative Officer

The grievant may submit the grievance in writing to the Chief Administrative Officer; however, this procedure shall not apply to elected officials unless such elected official authorizes the submission of the grievance to the Chief Administrative Officer.

b. The Chief Administrative Officer or designee shall select a hearing officer to hear the grievance and render an advisory decision. Receipt of the advisory decision shall be the final step of the grievance procedure if this option is exercised.

c. Hearing officer fees, if any, which are associated with the grievance hearing for this option shall be paid by the County.

2. Option 2:

a. Advisory Arbitration of Grievance

The grievant may submit the grievance in writing to the Labor Relations Office, asking that the grievance be heard by an arbitrator.

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b. Informal Review by Labor Relations Office

Prior to selecting an arbitrator and submitting the grievance for hearing by the arbitrator, the Labor Relations Office shall informally review the grievance and determine whether it may be adjusted to the satisfaction of the employee.

c. Selection of the Arbitrator

The arbitrator shall be selected by mutual agreement between the Labor Relations Office and the grievant or his/her representative. If the Labor Relations Office and the grievant or his/her representative are unable to agree on an arbitrator, they shall jointly request the State Mediation and Conciliation Service to submit a list of qualified arbitrators. The Labor Relations Office and the grievant or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.

d. Duty of the Arbitrator

It shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and thereafter to make written findings of fact and a disposition of the grievance which shall be advisory. The decision of the arbitrator shall be based solely on the interpretation of the appropriate provisions of officially adopted written rules or regulations over which the department head has control. The arbitrator shall not add to, subtract from, modify, revise, alter or disregard the terms of any provision contained in these written rules or regulations.

Receipt of the advisory decision shall be the final step of the grievance procedure if this option is exercised.

e. Payment of Costs

Each party to a hearing before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne one-half by the County and one-half by the grievant.

I. GENERAL PROVISIONS

1. The written grievance shall be submitted on the form prescribed for this purpose.
2. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.

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3. If the grievance involves a group of employees or if a number of employees file separate grievances on the same or related matter, the grievances shall be consolidated as a single grievance.
4. Any grievance shall be considered settled at the completion of any step if all parties are satisfied and if neither party presents the matter to a higher authority within the prescribed time period.
5. The grievance procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor or department head.
6. Failure of the employee to file an appeal within the required time period at any level shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in advancement of the grievance to the next step.

Sunset Date

This policy will be reviewed for continuance by 12-31-26.

Previous Board Action

9-16-68 (91)

6-23-69 (98)

12-13-88 (73)

11-29-94 (40)

6-15-04 (25)

12-9-08 (33)

10-30-12 (18)

10-29-19 (26)

CAO Reference

1. Department of Human Resources - Labor Relations