

FRESNO COUNTY PUBLIC SAFETY ASSOCIATION – UNIT 2 EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

The Employee Grievance Resolution Form shall be available on the Department of Human Resources website, through the individual departments and the Fresno County Public Safety Association (FCPSA). No changes shall be made to the form without the mutual agreement of FCPSA and the County.

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

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 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.

GENERAL

The parties so involved must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest date and at the lowest step in the process. 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 shall not be excessive, nor shall this privilege be abused. The aggrieved employee(s) shall have the assurance that filing of a grievance will not result in reprisal of any nature. A grievance, other than a grievance filed by and on behalf of the FCPSA as an “association” grievance, shall be signed by the affected employee, and a group grievance shall be signed by a minimum of two (2) employees affected by the grievance. Grievances filed pursuant to another administrative remedy provided by County Charter, Civil Service Commission rules, Personnel Rules, discrimination complaint procedure, or otherwise provided by law, shall not be processed and written notice shall be provided by the Labor Relations Division to the employee or his/her representative.

TIMELINES

Timelines are designed to quickly resolve a grievance. It is realized, however, that on occasions the parties concerned may be unable to comply with the established timelines. In such instances, the timelines may be extended upon the mutual agreement of all parties concerned. Absent such agreement, failure by the aggrieved employee to abide by the prescribed time limits at any step provided herein shall terminate the grievance process and the matter shall be deemed resolved. The grievance shall no longer be processed and written notice shall be provided by the Labor Relations Division to the aggrieved employee. The County shall abide by the prescribed time limits; any failure to do so shall result in the grievance being automatically moved forward to the next step provided herein, unless the next step is Step 5. However, the employee or his/her representative may withdraw the grievance at any time.

STEP 1 – INFORMAL RESOLUTION

Preceding the formal grievance procedure outlined in Step 2, the employee shall discuss the matter informally with the lowest ranking on-duty 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 ten (10) working days after the alleged grievance occurred or was discovered.

The provisions outlined in Steps 2 and 3 shall not restrict the employee or the immediate supervisor from seeking advice and counsel when it appears that settlement can be reached informally. No settlement shall be made in violation of an existing rule, ordinance, or memorandum of understanding. The immediate supervisor shall respond in writing to the employee within ten (10) working days of his/her discussion with the employee.

STEP 2 – DEPARTMENT REVIEW

If a mutually acceptable solution has not been reached during Step 1, and the employee intends to pursue the grievance formally, the employee shall submit the grievance in writing on the Employee Grievance Resolution Form to the Department Head with a copy to the Labor Relations Division not later than ten (10) working days after the supervisor's written response. The Department Head shall consider the grievance and render a written decision within ten (10) working days of receipt of the formal grievance. The written decision shall include a clear and concise statement including the reason(s) for the decision.

The Department Head may hold a meeting with the employee to achieve any of the following purposes: 1) to identify why the employee feels there is a grievance and facilitate communication and resolution; 2) to clearly identify issues and areas of agreement/disagreement; and 3) to have the parties present whatever available information/ documentation necessary to fully attempt to resolve the grievance. The employee may be accompanied by his/her representative during the Department Review.

If the department, in consultation with the Labor Relations Division, determines that the grievance is outside of 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, or grievances involving matters outside the Department Head's authority, or grievances 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.

Association grievances that are not capable of resolution at a lower step may be submitted by the FCPA directly to Step 3 of the grievance process. If the grievance has been referred directly to the Labor Relations Division without having gone through Step 2, Labor Relations will consider the matter, write a response to the grievance, and send the written response to the employee or his/her representative (as indicated on the Employee Grievance Resolution Form). A request for Labor Relations Review must be received by the Labor Relations Division within ten (10) working days of the completion of Step 2, or within ten (10) working days of the completion of Step 1 for grievances involving matters outside the Department Head's authority,

or involving employees working in separate departments. If the grievance is submitted directly at Step 3, the grievance must be submitted within ten (10) working days of the FCPSA obtaining knowledge of the issue giving rise to the grievance. All processing of the grievance at Step 3 shall be completed within ten (10) working days from receipt of the request for Labor Relations Review, unless mutually waived. The employee may be accompanied by his/her representative during Labor Relations Review.

STEP 4 – MEDIATION

Grievances unresolved at Step 3 may be submitted to Mediation upon written request by the employee, or his/her representative, to the Labor Relations Division within ten (10) working 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 grievance resolution before Step 5 may be pursued. The parties shall not divulge in any form the offers made in mediation. The employee may be accompanied by his/her representative during Mediation.

STEP 5 – GRIEVANCE HEARING OFFICER REVIEW

Grievances unresolved at Step 4 may be submitted to Grievance Hearing Officer Review. The employee may be accompanied by his/her representative during the Grievance Hearing Officer Review. The employee or his/her representative shall contact State Mediation and Conciliation Services within ten (10) working days following mediation, to obtain a list of persons willing to serve as a Grievance Hearing Officer, with a copy to the Labor Relations Division. The cost of the Grievance Hearing Officer shall be borne equally by the parties.

A pre-hearing conference with the Grievance 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 remedy(ies); to determine jurisdiction or grievability; 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 Grievance Hearing Officer shall state in writing the factual findings and reasons for his/her decision within thirty (30) calendar days of the hearing, if possible.

STEP 6 – IMPLEMENTATION

If the remedy requested by the employee can be implemented by the Department Head, the decision of the Grievance Hearing Officer is final and subject to Step 7, as set forth herein. If the remedy requested by the employee cannot be implemented by the Department Head but requires action by the Board of Supervisors, the Grievance Hearing Officer shall issue a recommendation to the Board of Supervisors. The recommendation shall be submitted for consideration by the Board of Supervisors at its next regularly scheduled public meeting. The action of the Board of Supervisors shall be final and binding.

STEP 7 – JUDICIAL REVIEW

Final decisions of the Grievance Hearing Officer may be submitted to the Superior Court for judicial review by either the County or the employee. A party desiring to reserve the right to appeal the Grievance Hearing Officer'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 Hearing Officer shall be on the record of the Grievance Hearing Officer's review by administrative mandamus under California Code of Civil Procedure Section 1094.5, which appeal shall be filed within ninety (90) calendar days after the Grievance Hearing Officer's decision.

DEFINITIONS

Grievance Hearing Officer – An individual selected by the employee or his/her representative, and the Labor Relations Division from a panel of five (5) candidates submitted by the State Mediation and Conciliation Service to hear the grievance between the parties.

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.

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, Resolution, written policy, administrative order, management directive, or a clearly established lawful past practice; 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 another administrative remedy provided by County Charter, Civil Service Commission rules, Personnel Rules, discrimination complaint procedure, or otherwise provided by law.

Group Grievance – A common grievance involving two (2) or more employees. The same procedures which are applicable to grievances apply to group grievances, except that if the aggrieved employees work in separate departments, the group grievance shall be referred immediately for Labor Relations Review.

Mediator – An individual selected by the State Mediation and Conciliation Service to serve as a neutral third-party to resolve the grievance between the parties.

Parties – Reference to parties in this procedure include the employee and/or his/her representative (as indicated on the Employee Grievance Resolution Form), department management, and Labor Relations staff, depending on the context of the particular reference.

Representative – The person identified by the employee on the Employee Grievance Resolution Form, line 5, to appear along with the employee in the presentation of a grievance.

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.

Working Day(s) – Any day, other than the weekend or County paid holiday, on which County business is conducted. The timelines for grievance purposes begin on the first day following the day the grievance is filed or submitted to the next step.

EMPLOYEE GRIEVANCE RESOLUTION FORM
FOR FRESNO COUNTY PUBLIC SAFETY ASSOCIATION – UNIT 2

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

Employee Name(s)

Classification(s)

Department(s)

Bargaining Unit

Mailing Address

Work Phone(s)

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

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

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

Memorandum of Understanding (Title and Article): _____

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.)

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

4. List your desired solution(s) to this problem:

STEP 1 – INFORMAL RESOLUTION

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. Use additional paper if necessary.

4. I request to move forward to **STEP 2 – DEPARTMENT REVIEW**

Employee Signature

Print Name

Date

Employee Signature

Print Name

Date

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

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

**Note: A copy of this grievance form must be sent to the Labor Relations Division,
Fresno County Plaza, 2220 Tulare Street, 16th Floor, Fresno, California, 93721
(Stop #188 through County Messenger Service – 600-1840)**