



ADMINISTRATIVE DIRECTIVE

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I. PURPOSE

This directive establishes the City's grievance procedure for City employees and defines City policy and practice for the review of certain employee complaints.

This directive:

- A. Encourages the settlement of disagreements informally at the employee-supervisor level;
- B. Provides an orderly procedure to handle grievances through the various supervisory levels when necessary;
- C. Resolves grievances as quickly as possible; and
- D. Discourages the filing of unfounded grievances.

II. DEFINITIONS

- A. **Employee** - Includes all city employees in the classified service (civil service). Elected officials, persons appointed to an elected official's personal staff (e.g., Council Administrative Assistant, Legislative Assistant to the Mayor), individuals appointed to positions in the city government by either the City Manager or a majority of the governing body, probationary employees and non-permanent employees are not eligible to file a grievance under this directive.
- B. **Grievance** - A formal complaint regarding the administration of minor disciplinary actions, the application of city or departmental rules and regulations, and other matters concerning working conditions.
- C. **Grievance Committee** - A committee composed of city employees appointed in accordance with provisions of this policy and the labor agreements, to review a specific grievance and recommend resolution.
- D. **Grievant** - The employee who files a grievance.
- E. **Representative** - Any individual duly authorized by an employee to act on the employee's behalf.
- F. **Working Day** - For purposes of this directive, any of the days of a normal work week, (Monday through Friday).



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III. APPLICATION

This directive applies to all city employees in the classified service. Employees covered by labor agreements such as the Tucson Police Officers Association (TPOA), the Tucson Firefighters Association (TFFA), the Association of Federal, State, County, and Municipal employees (AFSCME) or the Communication Workers of America (CWA) may elect to file a grievance pursuant to this directive or the process authorized by their labor agreement, but not both. Actions or incidents which have been reviewed pursuant to any other investigative or review procedure, such as Administrative Directive (AD) 2.02-4, Reporting Wrongful Conduct, are not grievable.

IV. DISCRIMINATION BASED COMPLAINTS

Conditions in the workplace believed to be discriminatory in nature should be reported to the Equal Opportunity Programs Division (EOPD) at 791-4593. Discrimination includes, but is not limited to, conduct that is based on race/color, national origin, sex, sexual harassment, age, sexual orientation, gender identity, disability, marital status, familial status, religion and ancestry and impacts the workplace environment.

Employees should also refer to AD 2.05-2, Reasonable Accommodation of Applicants and Employees with Disabilities and AD 2.05-8, Discrimination/Harassment Policy and Mediation/Complaint Procedures.

V. GRIEVANCE PROCEDURE

A. **Management Rights**

The rights of the city, through its management officials are not subject to grievance. The reserved management rights of the city include, but are not limited to, the right:

1. To determine the purpose of each of its departments, to exercise control and discretion over the organization and efficiency of operations of the city; to set standards for services to be provided to the public;
2. To direct the employees of the city; to hire, examine, classify, promote, transfer, assign work and overtime and evaluate job performance;
3. To suspend, demote, discharge or take other disciplinary actions against employees for just cause;
4. To increase, reduce, change, modify or alter the composition and size of the city work force, including the right to relieve employees from duties because of lack of work, funds, or a material change in the duties or organization of a department;



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5. To determine the location, methods, means and personnel by which operations are to be conducted, including the right to determine whether goods or services are to be made or purchased;
6. To establish, modify, combine or abolish job classifications; and,
7. To change or eliminate existing work procedures, equipment, or facilities.

B. Grievable Issues

1. Grievable issues must:

- a. Concern matters or specific incidents that have occurred, and
- b. Result from an act or omission by management regarding working conditions or other aspects of employee-employer relations over which the department director has control, and
- c. Arise out of a specific situation or act, which has resulted in perceived inequity or damage to the employee.

2. Examples of grievable issues are:

- a. Written Reprimands and suspensions of ten (10) working days (80 hours) or less.
- b. Working conditions.
- c. Employee/employer relations over which a department director has control.
- d. The application, operation, or alleged violation of an AD, Human Resources (personnel) policy, or department policy.

3. Examples of non-grievable issues:

- a. An incident or issue subject to management rights (Section V. A.).
- b. An incident or issue relating to a policy of the Mayor and Council, or state or federal law.
- c. An incident or issue that was reviewed via another grievance procedure (as authorized in a labor agreement).
- d. Employee Performance Evaluations.



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- e. Probation failure of an original appointment or promotional appointment.
 - f. Board of Inquiry at Fault Findings (resulting discipline may be grievable).
 - g. An incident or issue appealable to or under the jurisdiction of the Civil Service Commission.
 - h. Equal Employment Opportunity Complaints.
 - i. Employment status (e.g., status such as intermittent, permanent, temporary, seasonal, elected, probationary).
 - j. Employee Salary Charter Dispute Process.
 - k. Suspensions without pay in excess of ten (10) working days (80 hours) or for periods totaling more than ten (10) days (80 hours) in any 12-month period from the time the first suspension goes into effect, demotion, reduction in pay (e.g. step reduction), or discharge of a permanent employee. (See Civil Service Rules and Regulations.)
4. Actions or incidents reviewed pursuant to any other investigative or review procedure, such as AD 2.02-4, Reporting Wrongful Conduct.

C. General Rules

- 1. Grievances may only be initiated by the employee concerned and may not be pursued without the affected employee's consent.
- 2. Grievances must be initiated within twenty (20) working days from the date of the act or from the point that the employee became aware of the occurrence. If the 20th day falls on a weekend or holiday, the following day of business becomes the "20th working day." Grievance must be submitted on the form prescribed by the Director of Human Resources for this purpose (Attachment A, Grievance Procedure Form).
- 3. The employee must comply with the time limits set forth in this procedure. The employee's failure to comply with the time limits constitutes an abandonment of the grievance unless both parties have mutually agreed, in writing, to extend the time limits set forth in this policy.
- 4. Any grievance shall be considered resolved at the completion of any step if all parties are satisfied or if the employee concerned chooses not to present the matter to the next step of the procedure within the prescribed period of time.
- 5. Once a grievance has been investigated and denied, repeated filing of grievances on the same issue will not be permitted.



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6. While the grievant may designate a representative at any step of the grievance procedure, labor unions do not have representation rights for non-union employees. A Grievance Committee is not required to recognize more than one (1) representative for any grievance.
7. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled as a single grievance.
8. Following completion of the grievance process, department managers and supervisors shall ensure the grievant does not experience any retaliation for having pursued the grievance. Any City Manager direction associated with the grievance resolution is to be implemented as quickly as possible.

D. Steps in the Grievance Process

An employee submitting a grievance pursuant to this policy must follow the steps below. If at any step the grievant fails to take action within the allotted time, the grievance will be concluded. If at any step a respondent fails to take action within the allotted time, the grievance shall proceed to the next step.

1. Step One

- a. Within twenty (20) working days from the date an employee becomes aware of an incident, event, working condition, or disciplinary action that is grievable pursuant to this policy, the employee initiates the grievance by verbally informing the immediate supervisor of the complaint and gives the supervisor the grievance form. The supervisor shall document on the grievance form the date the complaint is initiated.
- b. Within five (5) working days the supervisor shall provide a verbal response to the employee and shall document the date provided on the grievance form.

2. Step Two

- a. If the grievant disagrees with the supervisor's response, the grievant, shall within five (5) working days, indicate on the grievance form the grievant's proposed solution to the grievance and shall present it to the immediate supervisor.
- b. Within five (5) working days from receipt, the immediate supervisor shall respond in writing and return the form to the grievant.



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- c. Within five (5) working days of the receipt of the supervisor's written response, if the grievant disagrees with the immediate supervisor's written response, the grievant must present the form to the Division Administrator. The grievant must also submit a written response to the supervisor's comments, indicating the areas of disagreement with the supervisor's comments and proposed solution.
- d. The Division Administrator shall respond in writing to the employee within five (5) working days.

3. Step Three

- a. A grievant disagreeing with the Division Administrator's written response and proposed solution shall, within five (5) working days of the receipt of the Division Administrator's response, present the grievance form to the Department Director along with a written response to the Division Administrator's comments and proposed solution, indicating the areas of disagreement with the Division Administrator's comments and proposed solution.

Although either party may request a meeting, it is the Department Director's option to respond only in writing.

- b. Within five (5) working days from receipt of the grievance or of a meeting (if held), the Department Director will submit a written response to the grievant.

4. Step Four

- a. Within five (5) working days of receiving the Department Director's response, if the Department Director's decision is not satisfactory to the grievant, the grievant must indicate on the appropriate section of the Grievance Procedure Form that a review is requested by the City Manager within five (5) working days. The grievant must clearly indicate the areas of disagreement with the Department Director's comments and proposed solution. Additionally, the grievant must forward to the City Manager all documents associated with the Grievance Committee.
- b. The City Manger will provide a final decision to the grievant within ten (10) working days of receiving the grievance; or alternatively, the City Manager will call for a Grievance Committee.



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E. Grievance Committee Review Process for Non-represented Employees, Employees Represented by TPOA, Employees Represented by TFFA and Employees Represented by CWA

1. If the City Manager calls for a Grievance Committee, the grievance will be forwarded to the Human Resources Director to initiate the process by convening a Grievance Committee. For a non-represented employee, a TPOA member, a TFFA member or a CWA member, a neutral administrative hearing board composed of two (2) city employees and one (1) neutral third-party shall be appointed to review and recommend a solution to the grievance. One committee member will be selected by the Department and one committee member will be selected by either the employee, TPOA, TFFA or CWA (depending on the grievant's union membership). To maintain the neutrality of the Committee, none of the members can have had involvement with the specific case.

A new committee will be designated for each grievance. If a group of employees present the same grievance, one committee will be selected for the group of employees.

The grievance committee will meet within 15 calendar days of their appointment. The Committee will have 15 calendar days from the date of its first meeting to prepare and submit a written memorandum of its recommended solution to the City Manager.

2. The Human Resources Department will act as a neutral facilitator of the Grievance Committee process to ensure that the Committee has access to all information necessary to make an informed decision and to ensure that the Committee limits its review to the specific grievance. Both the City and the employee or the employee's union representative will have the opportunity to present the grievance to the Committee. The Committee has the authority to call witnesses and review all necessary records and reports. During presentation and deliberation of the grievance, the Grievance Committee members shall not testify on behalf of either the grievant or the City.

3. The Committee's written memorandum will be forwarded to the City Manager's Office. The City Manager or designee will review the recommendation of the Grievance Committee and will provide a final written solution to the department, grievant, grievant's representative and Committee members within 15 calendar days of receipt of the Grievance Committee memorandum.



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F. Grievance Committee Review Process for Employees Represented by AFSCME

1. Pursuant to the AFSCME Labor Agreement, if Grievance is forwarded to the City Manager, the City Manager must convene a Grievance Committee within fifteen (15) days to investigate and recommend a solution to the grievance of an AFSCME member, the committee will be comprised of four (4) City employees. The Grievance Committee is an Administrative Hearing Board; two (2) of the committee members will be appointed by the City Manager or designee and two (2) members will be appointed by the Union. The committee will have fifteen working days from the date of its first meeting to investigate the problem and forward a written report of its recommended solution to the City Manager. In the event of a split decision, the Grievance Committee shall call upon the Federal Mediation and Conciliation Service (FMCS) for mediation in an attempt to resolve the matter.

Written reprimands will not go to the Grievance Committee for resolution but will be forwarded to a Federal Mediations and Conciliation Service (FMCS) mediator for review and recommendation.

2. The City Manager will, within 10 working days of receipt of the Grievance Committee's written report, review the findings of the Grievance Committee and will provide a final written solution to the grievance and return the grievance to the Director of Human Resources. The Director of Human Resources shall, within 5 working days, return the findings to the member, Department Director and the Union.

Appendices Grievance Procedure Form

References AD 2.02-4 Reporting Wrongful Conduct
AD 2.05-2 Reasonable Accommodation of Applicants and Employees with Disabilities
AD 2.05-8 Discrimination/Harassment Policy and Mediation/Complaint Procedures

Review Responsibility and Frequency The Director of Human Resources will review this directive annually, based on date of publication. Last review date: January 17, 2007.

Authorized



City Manager
Michael Ortega



Date



GRIEVANCE PROCEDURE FORM

See Administrative Directive 2.02-2 For Instructions
(ATTACH ADDITIONAL SHEETS AS NECESSARY)

NAME: _____ DEPARTMENT/DIVISION: _____
CLASSIFICATION _____ EMPLOYEE WORK PHONE #: _____
DATE OF ALLEGED INCIDENT _____ NAME OF SUPERVISOR _____

STEP 1 TO BE SUBMITTED WITHIN TWENTY (20) WORKING DAYS FROM THE DATE OF THE INCIDENT.
EMPLOYEE INITIATES GRIEVANCE BY DISCUSSING PROBLEM WITH SUPERVISOR IN AN ATTEMPT
TO RESOLVE THE ISSUE INFORMALLY. DATE OF INITIATION _____
DATE OF SUPERVISOR'S RESPONSE: _____

WITHIN FIVE (5) WORKING DAYS FROM DATE OF SUPERVISOR'S VERBAL RESPONSE TO
DISCUSSION, EMPLOYEE SUBMITS GRIEVANCE IN WRITING.

STEP 2 A. EMPLOYEE'S STATEMENT OF PROBLEM

STATEMENT OF PROBLEM: _____

EMPLOYEE'S PROPOSED SOLUTION: _____

(Optional) I DESIRE TO BE REPRESENTED BY: _____

EMPLOYEE'S SIGNATURE

DATE SUBMITTED TO SUPERVISOR

B. SUPERVISOR'S WRITTEN REPLY

(TO BE RETURNED TO THE EMPLOYEE WITHIN FIVE (5) WORKING DAYS FROM DATE WRITTEN
GRIEVANCE WAS SUBMITTED).

SUPERVISOR'S SIGNATURE

DATE SUBMITTED TO EMPLOYEE

C. DIVISION ADMINISTRATOR'S WRITTEN REPLY

IF THE GRIEVANT DISAGREES WITH THE IMMEDIATE SUPERVISOR'S WRITTEN RESPONSE, THE
GRIEVANT MUST SUBMIT TO THE DIVISION ADMINISTRATOR, WITHIN FIVE (5) WORKING DAYS, A
WRITTEN RESPONSE (TO BE ATTACHED) TO THE SUPERVISOR'S COMMENTS, INDICATING THE
AREAS OF DISAGREEMENT AND PROPOSED SOLUTION.

DIVISION ADMINISTRATOR'S SIGNATURE

DATE RETURNED TO EMPLOYEE

(USE REVERSE SIDE IF YOU WISH REVIEW BY DEPARTMENT HEAD OR CITY MANAGER)

STEP 3 A. REVIEW BY DEPARTMENT HEAD

IF THE GRIEVANT DISAGREES WITH THE DIVISION ADMINISTRATOR'S WRITTEN RESPONSE AND PROPOSED SOLUTION, THE GRIEVANT MUST WITHIN FIVE (5) WORKING DAYS PRESENT THIS FORM TO THE DEPARTMENT DIRECTOR WITH A WRITTEN RESPONSE (TO BE ATTACHED) TO THE DIVISION ADMINISTRATOR'S COMMENTS INDICATING AREAS OF DISAGREEMENT AND PROPOSED SOLUTION.

I HEREBY REQUEST THAT THIS ISSUE BE REVIEWED BY MY DEPARTMENT HEAD.

CHECK ONE I HEREBY REQUEST A MEETING WITH MY DEPARTMENT HEAD.
 I DO NOT REQUEST A MEETING WITH MY DEPARTMENT HEAD.

B. DEPARTMENT HEAD'S REPLY

TO BE RETURNED TO THE EMPLOYEE WITHIN FIVE (5) WORKING DAYS FROM DATE GRIEVANCE WAS SUBMITTED

DEPARTMENT HEAD'S SIGNATURE

DATE RETURNED TO EMPLOYEE

STEP 4 A. REVIEW BY CITY MANAGER

IF THE DEPARTMENT DIRECTOR'S DECISION IS NOT SATISFACTORY, THE GRIEVANT MUST WITHIN FIVE (5) WORKING DAYS INDICATE ON THIS FORM THAT REVIEW IS REQUESTED BY THE CITY MANAGER. THE GRIEVANT MUST CLEARLY INDICATE THE AREAS OF DISAGREEMENT WITH THE DEPARTMENT DIRECTOR'S COMMENTS AND PROPOSED SOLUTION. **THE GRIEVANT MUST FORWARD TO THE CITY MANAGER ALL DOCUMENTS ASSOCIATED WITH THE GRIEVANCE.**

I HEREBY REQUEST THAT THIS ISSUE BE REVIEWED BY THE CITY MANAGER

EMPLOYEE'S SIGNATURE

DATE PRESENTED TO CITY MANAGER

B. CITY MANAGER ACTION:

THE CITY MANAGER WILL PROVIDE A FINAL DECISION WITHIN TEN (10) WORKING DAYS OF RECEIVING THE GRIEVANCE; OR CALL FOR A GRIEVANCE COMMITTEE.

CHECK ONE

1. **FINAL DECISION:** _____

CITY MANAGER'S SIGNATURE

DATE

2. REFER ISSUE TO GRIEVANCE COMMITTEE (FORWARD ALL MATERIALS TO THE HUMAN RESOURCES DEPARTMENT):

AFTER REVIEW OF THE RECOMMENDATION MADE BY THE GRIEVANCE COMMITTEE, I HEREBY RESOLVE THAT:

CITY MANAGER'S SIGNATURE

DATE