

ARTICLE 12 - GRIEVANCE PROCEDURE

(A) GRIEVANCE DEFINED

A grievance shall be defined as a dispute or disagreement raised by an employee or by the Association on the membership's behalf against the City regarding the application or interpretation of a specific provision of this collective bargaining agreement or violation of an established City rule or regulation that has been approved by the City Manager or designee. Disciplinary actions, resulting in a written reprimand or a suspension of forty (40) hours or less, are appealable through the grievance procedure provided herein and shall start at the first step of the grievance procedure within fourteen (14) calendar days of notification of disciplinary action. Alleged contract violations or disciplinary actions resulting in a suspension of over forty (40) hours, or more serious disciplinary actions, are appealable through the grievance procedures provided herein and shall start at the third step of the grievance procedure within fourteen (14) calendar days of notification of the disciplinary action, or employee's knowledge of the occurrence giving rise to the grievance. Oral reprimands or warnings are not appealable through this procedure. Written reprimands may only be appealed through Step 3 of the procedure and are not subject to arbitration.

The parties agree to make a concerted effort to resolve grievance, as defined above within the timelines specified with in the contact. Timelines may be extended when agreed upon by written agreement of both parties. The Association and Human Resources may meet in an attempt to resolve issues

prior to resorting to the formal grievance process defined herein. The Director of Human Resources may answer grievances filed with the Department Director (step two) or Deputy City Manager (step three). The grievance report form will acknowledge that the grievance was answered by the Director of Human Resources with the concurrence of the appropriate Department Director and/or Deputy City Manager.

The enforcement and establishment of Civil Service Rules promulgated by the Civil Service Board are expressly excluded from consideration as a grievance. Whenever Civil Service Rules are contrary to the terms of this Agreement, they shall have no force or effect on the employees covered by this Agreement. Civil Service Rules will apply in circumstances where the agreement is silent. Alleged violations of Civil Service Rules which are not covered by the terms of this Agreement may only be appealable through the Civil Service Rules. Federal and State statutory provisions and the enforcement and propriety thereof are matters of law and/or public policy and are not subject to the grievance procedure hereinafter set forth.

The parties agree that employees must successfully complete an initial probationary period. Prior to the successful completion of an initial probationary period, the City has the right to discipline or discharge any probationary employee as long as the action is consistent with applicable state and federal law. Further, it is expressly agreed that this grievance procedure is not applicable to actions taken for discharge and/or discipline on any employee who has not successfully completed an initial probationary period with the City.

(B) GRIEVANCE PROCEDURE

It shall be the right of any grievant to have the grievance reviewed as outlined in Paragraph A, starting at and then proceeding through the appropriate steps. Step 1 grievance can be discussed orally and shall not be filed in writing. All grievances filed at Step 2 or Step 3 shall be filed, in writing, on the attached LVCEA grievance form; shall be dated as of the date filed; and shall specify the collective bargaining provisions alleged to have been violated. Grievances, as herein defined, shall be processed in the following manner:

Step 1. (Informal) The grievance shall first be discussed with the grievant, the grievant's supervisor and the grievant's Division Manager within 15 working days of when the grievant became aware or should have become aware of the incident giving rise to the grievance. If a resolution can be reached by the parties, no further action will be taken. Any resolution agreed to at this step is subject to review by the City and the LVCEA and cannot be in violation of the provisions of this contract or other City Policies and Procedures.

Step 2. If the matter cannot be resolved at Step 1, the grievant shall reduce the grievance to writing and submit the grievance to Human Resources within 15 working days of when the matter was discussed at Step 1. The grievance shall be submitted to the Department Director for resolution. If the grievant requests that the grievance be presented to the Department Director, a meeting will be held with the grievant and his/her representative, a representative from Human Resources and the Department Director or designee within 15 working days of when the grievance was submitted to Human Resources. The Department

Director will respond to the grievance within 15 working days of the conclusion of the Step 2 meetings.

Step 3. If the matter cannot be resolved at Step 2, the grievant may submit the grievance to Human Resources within 15 working days of receipt of the grievance from the Department Director or within 15 working days of when the grievance was due for submittal to the City Manager or designee or designee for resolution. The City Manager or designee shall answer the grievance in writing within fifteen (15) working days of its receipt. The grievant may meet personally with the City Manager or designee upon request. If a meeting is requested by the employee, the meeting will be scheduled within fifteen (15) days of the receipt of the grievance. The City Manager or designee has fifteen (15) working days from the conclusion of the meeting to answer the grievance.

Step 4. If the grievance is not resolved to the satisfaction of the aggrieved employee in accordance with the procedures set forth in Step 3, the aggrieved employee may request that the matter be submitted to final arbitration. The matter shall be submitted to Arbitration by serving the City's Director of Human Resources a Notice of Arbitration. This must be done within fourteen (14) calendar days of the receipt of the City Manager's answer to the grievance or within fourteen (14) days of when the answer was due. Failure on the part of the aggrieved employee to do so shall be deemed an abandonment of the grievance and shall preclude it from any further consideration.

(C) FINAL BINDING ARBITRATION

1. Decisions of the arbitrators shall be final; however, no decision may be in conflict with the law or the terms of this Agreement.

2. Following Notice of Arbitration, the City and the Association or the employees' representative, if the employee is acting independent of the Association, shall agree upon a source for a list of seven (7) arbitrators. This list shall either be a Federal Mediation and Conciliation Service (FMCS) list or an American Arbitrators Association (AAA) list. If the City and the Association cannot agree upon a source within 24 hours of notice to arbitrate, an FMCS list shall be requested by the City or the Association. The following information shall be furnished to the list service:

- a) Names and positions of the parties responsible.
- b) Identification of grievance being appealed (grievant's name and the grievance number).

The parties shall meet within fourteen (14) days of receipt of the list of arbitrators to select an arbitrator. If the parties cannot agree upon an arbitrator on the list, the selection shall be accomplished by the Association striking first, and the City next, each striking one name from the list in turn until only one name remains. The remaining name shall be the arbitrator. The parties shall then contact the selected arbitrator or the arbitration service to schedule a hearing as soon as possible.

Both parties shall make every effort to mutually set forth the issue(s) to be arbitrated and to jointly prepare a submission agreement for the arbitrator, recognizing that the parties may not be in agreement regarding the issue(s). All

grievances shall be submitted to arbitration in accordance with the voluntary labor arbitration rules of the AAA and/or FMCS.

(D) Time Limits - In computing any period of time described or allowed in this procedure, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or holiday, in which event, the period runs until the end of the next day which is not a Saturday, Sunday, or holiday.

1. Failure on the part of the employee to process the grievance to the next step within the time limits established in the preceding paragraphs presumes that it has been satisfactorily resolved at the last step to which it had been properly processed. However, in the event an employee is unavailable during the response period, the employee may authorize, in writing, the Association to respond on the employee's behalf.

2. Time limits specified in this grievance procedure may only be extended by written agreement of both parties.

3. If a grievance is not filed or processed within the time limits set forth above, it will be deemed withdrawn with prejudice, unless the time limitations established are waived or mutually extended by the parties in writing.

(E) CONTINUANCE AND RESCHEDULING OF HEARINGS

1. A grievance scheduled for hearing shall not be postponed or rescheduled unless both parties agree.

2. If, for any valid reason, the Arbitrator finds it absolutely necessary to request that a hearing be continued and/or rescheduled, the parties involved will then mutually agree upon another acceptable date.

3. If a hearing is not completed on the hearing date scheduled and additional time is required to complete the hearing, the parties must agree upon another mutually acceptable date.

(F) CANCELLATION OF A HEARING

1. If the grievance(s) scheduled for hearings are withdrawn or settled prior to the scheduled hearing, the parties shall notify the Arbitrator. Notification of said settlement must be forwarded no later than twenty-four (24) hours from the time of settlement. If notification is not accomplished in accordance with the foregoing, any costs incurred as a result of failure to notify shall be charged to the delinquent party(ies).

(G) HEARINGS

1. The hearings shall be conducted in accordance with the following:
 - a) The hearing should be informal.
 - b) No transcript will be made of the hearing, unless one side or both sides agree to pay for the costs.
 - c) The formal rules of evidence shall not be followed.
 - d) The Arbitrator shall have the obligation of assuring that all reference facts and considerations are brought before him by the representatives of the parties. In all respects, the Arbitrator shall assure that the hearing is fair.

(H) DECISIONS

1. The Arbitration decision shall contain a statement of facts and the contractual reliance on which the Arbitrator's findings and decision are based.

2. Each decision shall be typed on 8½ x 11 inch size paper and shall contain a heading:

- a) Identifying the parties;
- b) Identifying the grievance;
- c) Giving the date of the hearing.

The Arbitrator's name shall be typed and his/her signature shall be affixed at the end of the decision, along with the date of the decision.

1. Copies of the decision shall be mailed to the parties at the same time.

(I) ARBITRATOR FEE

The arbitrator shall bill each of the local parties for one-half (½) of the total fees and expenses. Prior to the hearing, the Association (or the employee if acting on own behalf) and the City will give the Arbitrator the name, position and address of their designated representatives to whom the Arbitrator shall forward billings and decisions. The Association shall always be entitled to receive a copy of all arbitration decisions. All expenses shall be borne equally by both parties. However, expenses relating to the calling of witnesses, the obtaining of depositions or any other similar expenses associated with such proceedings shall be borne by the party at whose request such witnesses were called or

depositions taken, except that an employee who is paid for lost time by the employer shall not be paid as a witness.

(J) GENERAL INFORMATION

1. An aggrieved employee has the right to be represented by a representative of the City Employees' Association or by counsel of the aggrieved employee's choice at all levels of the Grievance Procedure.

2. All grievances submitted in writing in accordance with this Grievance Procedure shall be submitted on the proper grievance form, a copy of which is attached to this Contract and made a part hereof by reference.

3. Either or both parties may tape record any meeting or hearing referred to in this Article.

(K) DISCOVERY

After Step 1 of this procedure, the Association may request pertinent information to help determine whether or not a formal grievance should be reduced to writing and filed with Human Resources for resolution. The Association shall make the request to Human Resources who shall determine what information can be made available. Any costs associated with the production of materials shall be the responsibility of the Association.