

**808.21 SUBJECT: GRIEVANCES**

:1 OBJECTIVE:

Establish an impartial policy and an uniform procedure for the resolution of grievance(s) filed by non-Civil Service, non-probationary, non-bargaining unit employees.

:2 AUTHORITY:

This procedure amended by City Council September 15, 2003; amended City Council April 27, 2009.

:3 DIRECTION:

Human Resources Division Manager/Labor Relations Section and all Appointed Officials.

:4 METHOD OF OPERATION:

A. Definitions

1. **Employee** - shall mean a person on the payroll of the City of Orlando, who is non-Civil Service, who is not a member of a bargaining unit and who has completed the initial employment probation.
2. **Grievances** - shall mean an alleged violation or unfair application of a policy(ies) or procedure(s) applicable to the employee(s) who files the grievance. Since management has the right to decide upon the promotion or transfer of employees, a grievance on the subject(s) of promotion or transfer shall be limited to any alleged violations of policy or procedure.
3. **Working Days or Day** - shall mean all days other than Saturdays, Sundays, and holidays recognized by the City.
4. **Department Director/Office Head/Appropriate Management Official** - Appointed Officials who report directly to the Mayor or the Chief Administrative Officer or his designee and are responsible for the operation of a functional office or several divisions.
5. **Non-Appealable Actions** – shall mean that the administrative process established herein shall not be invoked in the following circumstances:
  - a) Voluntary written resignation or retirement.
  - b) Voluntary demotion, reduction in pay, or transfer.
  - c) Abandonment of position for three (3) consecutive working days without notifying and securing approval of the supervisor.
  - d) Pay Adjustments and Employee Performance Evaluation (unless rating is below standards as defined in Policy and Procedures 808.22 (4-C.3)).
  - e) An employee grievance on the subject(s) of promotion, transfer, or position classifications or reclassification (unless downgrading), shall be limited to alleged violation of policy or procedure only.

B. Policy

1. Employees who wish to grieve matters relating to their employment, except for non-appealable actions, shall use the grievance procedure set forth in this policy.
2. Temporary, seasonal, contract employees and employees on their initial (hiring) probation shall not have recourse through this policy on matters of discipline, termination or layoff. The designated supervisor may terminate any employee who has not completed initial employment probationary period.
3. Executive, Senior and Administrative Management personnel provided for in Section 808.6, including Appointed Officials, shall be exempt from this procedure, but shall have the right of appeal to one level higher than their immediate supervisor.

C. Filing a Grievance

A written grievance must be filed on the official grievance form obtained from the Labor Relations Section, 400 S. Orange Avenue. Whenever possible, an employee should attempt to resolve, through discussion, any problems with his/her supervisor or Human Resources Division/Labor Relations Section personnel before resorting to the grievance procedure. A formal grievance must contain the following:

1. The date of the incident or the date the violation of policy or procedure occurred.
2. A clear and concise statement of the grievance by indicating the issue(s) involved.
3. The specific policy, procedure or written rule relied upon or claimed to have been violated.
4. The specific relief sought.
5. The signature of the grievant and date grievance was filed.

D. Grievance Appeal Steps

An employee who has a grievance as defined in 4-A.2 of this procedure must follow the steps and time limits for appeal as set forth in this policy. A grievance not appealed to the next step within the time limits established shall be considered settled on the basis of the last answer provided by management. A grievance not answered to by management in the time period established in this policy, shall entitle the employee to advance the grievance to the next step.

**STEP ONE**

An employee shall file the grievance in writing with his/her immediate supervisor within five (5) working days of the incident or occurrence giving rise to the grievance. Within three (3) working days of having received the grievance the supervisor will schedule and conduct a meeting with the employee to review the grievance. During the meeting the grievant may be self-represented or represented by anyone of his/her choosing, excluding Elected and Appointed Officials, City Attorney's staff, or personnel of the Labor Relations Section. Discussion will be informal for the purpose of settling differences in the simplest and most direct

manner. The supervisor shall make a decision and communicate it to the employee in writing within three (3) working days following the grievance resolution meeting.

If the disciplinary action or alleged Policy & Procedure violation(s) giving rise to the grievance results from a management decision imposed by someone higher than the employee's immediate supervisor, the grievance shall be initiated at the supervisory level that imposed the disciplinary actions or alleged Policy & Procedures violation(s). Discipline imposed by the Department Director/Office Head shall be grieved directly at Step Four.

### **STEP TWO**

If at Step One the grievance is not resolved to the employee's satisfaction by the immediate supervisor, the employee may forward the written grievance and response to the Division Manager/Office Head within three (3) working days of the date of notification from the supervisor. The Division Manager/Office Head shall, within five (5) working days of receipt of the grievance, hold a meeting with the employee's immediate supervisor, the employee, and the employee's representative, if any. The Division Manager/Office Head shall notify the employee in writing of the decision within five (5) working days of the meeting date.

### **STEP THREE**

If, at Step Two, the grievance is not resolved by the Division Manager/Office Head to the employee's satisfaction, the employee may forward the written grievance to the Department Director/Appropriate Management Official within three (3) working days of the receipt of the notification from the Division Manager/Office Head. The Department Director/Appropriate Management Official shall, within five (5) working days, conduct a meeting with the Division Manager/Office Head, the employee, and the employee's representative, if any. The Department Director/Appropriate Management Official shall notify the employee of his/her decision in writing within ten (10) working days of the meeting date.

### **STEP FOUR** (*Grievance Adjustment Board*)

If the grievance is not resolved by the Department Director/Appropriate Management Official to the employee's satisfaction, the employee may, within three (3) working days of receiving the answer, forward the written grievance to the Human Resources Division Manager. The Human Resources Division Manager or his designee shall schedule the grievance for hearing by the Grievance Adjustment Board (The Board). The Board shall consist of the Chief Administrative Officer (CAO) or designee, who shall act as Chair of the Board; the Human Resources Division Manager or designee; and any one (1) non-relative eligible City employee chosen by the employee (for definition of "relative," see Section 808.34).

Should the employee, for whatever reason, within five (5) business days after submission of the Grievance to Step 4 fail to select a Board representative, the Human Resources Division/ Labor Relations Section will appoint the third Board member. Whenever possible, the appointed Board member will be a non-management employee from the grievant's Division/Department.

A grievance appealed to the Fourth Step by a Human Resources employee shall be heard by a Grievance Adjustment Board empanelled by the CAO or –Mayor’s designee, at the request of the Human Resources Division Manager . The Board shall consist of two (2) non- Human Resources employees, City Officials (Directors, Division Managers or Office Heads) and any one (1) non-relative, eligible City employee chosen by the Grievant (for definition of “Relative” see Policy & Procedure 808.34).

The Board in either of the above cases shall attempt to meet within ten (10) working days of the receipt of the employee’s grievance.

E. Hearing Procedure

1. The Division Manager, at the 2<sup>nd</sup> Step and the Department Director/Appropriate Management Official at the 3<sup>rd</sup> Step, is responsible for officiating meeting proceedings and is obligated to maintain an orderly, fair meeting atmosphere.
2. At Steps 2 and 3 the responsible management official presiding over the meeting shall offer both grievant and supervisor a full opportunity to present their cases. The responsible management official however may limit presentation of information to avoid redundancy.
3. The employee may, at Steps 2 and 3, request in writing a reasonable meeting time delay and management will normally grant the delay, not to exceed ten (10) days. Due to a management schedule conflict, management may also delay a scheduled meeting not to exceed ten (10) working days.
4. The Board at Step 4 is charged with the following responsibilities: 1) to interpret City Policy and Procedures; 2) ascertain whether the initiating supervisor had substantial competent evidence to support imposition of discipline or termination for the alleged Policy, Rules or Procedures violation; and 3) to determine whether the imposed discipline is consistent with discipline for like or substantially similar violations and within reasonable parameters.
5. At the 4<sup>th</sup> Step the Board shall review all written documents from previous Steps and all other information relating to the grievance. In hearings involving a grievance contesting the imposition of discipline or termination the supervisor shall proceed first in presenting its case. In all other matters the grievant will proceed first unless the Chair determines a different order of presentation.
6. The employee or representative will be afforded the opportunity to present testimony and/or documentation, present witness(es) and cross-examine the supervisor’s witnesses. The Board may at its discretion consider additional information and may limit the number of witnesses to avoid redundancy.
7. At Step 4, either party may request one hearing delay, in writing, no later than five (5) days before the hearing date, not to exceed twenty (20) calendar days. Failure to comply with procedures established by this policy or failure to appear for a scheduled hearing shall terminate the appeal process on the basis of the last answer provided by Management.

8. The majority decision of the Board shall be final, and the employee will normally be notified in writing of the decision within ten (10) working days of the hearing date.

:5 FORMS:

None.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCE:

City Council minutes of December 14, 1970, Item 37; amended June 2, 1975, Item 40; amended November 29, 1976, Item 37; amended September 12, 1977, Item 15; page 3 amended November 7, 1977, Item 10; amended January 25, 1982, Item 7(T); amended April 6, 1992, Item 2(11); amended June 21, 1993, Item 2-P; amended May 11, 1998, Item 6-A; amended July 17, 2000, Item 3-FF; amended September 15, 2003; re-formatted only April 2004; amended April 27, 2009, Item A-9.

:8 EFFECTIVE DATE:

This procedure effective April 27, 2009.