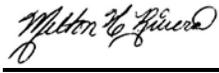


	PALACIOS POLICE DEPARTMENT	
	Policy 4.7 Grievance Procedure	
	Effective Date: 1/04/2021	Replaces: 02/07/2006
	Approved:  Milton Rivera, Chief of Police	
	Reference: 2.08	

I. POLICY

The department's goal is to provide fair, equitable, and clearly defined means for the resolution of grievances, to ensure that employees and their supervisors are accorded reasonable opportunity to present the facts bearing on a grievance, and to guarantee the opportunity to exercise the rights set forth in this order. Every employee has the right to fair treatment in all matters arising from employment and to this end each employee has the right to be heard whenever he or she alleges mistreatment. A grievance process that affords employees the opportunity to air a complaint helps reduce dissatisfaction, identifies organizational problems, and improves morale.

The department retains the right under applicable laws and regulations to direct employees in the performance of their duties; to take the necessary means to achieve the proper ends under emergency situations; and to hire, promote, transfer, and assign employees as well as to suspend, demote, discharge, or take disciplinary action against employees when there is just cause.

II. PURPOSE

The purpose of this order is to establish grievance procedures for departmental employees to resolve disputes or complaints concerning the terms or conditions of employment.

III. APPLICABILITY

A. Included

All permanent full-time employees and part-time employees who work at least 20 hours weekly and have been employed continuously for at least six months.

B. Excluded

1. Probationary employees.
2. An employee who has voluntarily resigned may not have access to the grievance procedure after the effective date of the resignation.

3. An employee who has been removed from employment shall not have access to the grievance procedure except to grieve a removal resulting from a formal discipline, unsatisfactory job performance, or other involuntary separation. NOTE: This grievance must be filed within 10 calendar days of the dismissal date. Any grievance initiated by a permanent employee before voluntary separation from the department may continue to be processed through the grievance procedure.

IV. WHAT IS GRIEVABLE

A grievance is a complaint or dispute of an employee relating to employment, including but not necessarily limited to the following:

- A. Disciplinary actions, including terminations (whether resulting from formal discipline, unsatisfactory job performance, or any other involuntary separation), demotions, and suspensions. (TBP: 2.08)
- B. The improper application of personnel policies, procedures, rules and regulations, and ordinances and statutes.
- C. Acts of reprisal as a result of the use of the grievance procedure or of participation in the grievance of another employee.
- D. Complaints of discrimination on the basis of race, color, creed, political affiliation, age, handicap, national origin, or sex.
- E. Intimidation because of participation or failure to participate in political activities.

V. WHAT IS NOT GRIEVABLE

Management reserves the exclusive right to manage the affairs and operations of the department. Accordingly, the following complaints are not grievable under this order:

- A. Establishment and revision of wages or salaries, position classifications, or general benefits.
- B. Work activity accepted by the employee as a condition of employment, or work activity that may reasonably be expected to be a part of the job content.
- C. The measurement and assessment of work through a performance evaluation except where the employee can show that the evaluation was arbitrary or capricious.
- D. The contents of established personnel policies, orders, and statutes.
- E. Failure to be promoted except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
- F. The methods, means, and personnel by which work activities are to be carried on.

- G. Dismissal, layoff, demotion, or suspension from duties because of lack of work, reduction in the work force, or job abolition.
- H. The non-disciplinary hiring, transfer, assignment, and retention of employees within the agency.
- I. The relief of employees from duties during emergencies.
- J. The city's financial, budgetary, accounting, compensation, and organizational policies and procedures.
- K. Oral reprimands, warnings, or written reprimands.
- L. Management of city employees, including the right to determine the duties to be included in a job classification
- M. The right of management to make personnel appointments in accordance with adopted selection policies and techniques.
- N. The right of management to determine the number of persons to be employed or retained as employees, including the right to lay off employees whenever it is deemed to be in the best interest of efficiency or productivity or when necessitated by lack of funds or reduced workload.
- O. The right of management to establish rules and regulations governing work performance and conduct of performance evaluations
- P. The right of management to transfer and assign employees within the department; to determine the need for shift operation and rotation of the work week; to assign overtime; to determine job training and career development; and to determine duties or actions in emergencies.

VI. PROCEDURES

A. Nature of the grievance

The grievance should include the following:

1. Specifically, factually, and clearly detail the allegation and the harm done.
2. State that the harm arose from an act, commission, or omission that directly affects the employee's working conditions or employment relationship.
3. State the relief sought that is within the department's power to grant.

B. First management step

1. The employee shall identify the grievance orally to his/her immediate supervisor in an informal meeting within five calendar days after the event or action that is the basis for the grievance. A grievance alleging discrimination or retaliation by the immediate supervisor may be initiated with the next-

level supervisor, the Chief of Police, the city manager, or the human resources director.

- a. The supervisor shall give an oral response to the employee within five work days following the meeting.
 - b. If a resolution is not reached at this point, the employee shall submit a memorandum to the supervisor that outlines the information listed under section A above within five work days after receipt of the oral response.
2. The supervisor, in turn, shall give the employee a written response within five work days of receipt of the employee's memorandum.

C. Second management step

1. If the employee is not satisfied with the response to the grievance during the first management step, or the status of the complaint as grievable has not been decided, the next step is for the employee to ask the supervisor to present the employee's memorandum to the Chief of Police.
2. The request to submit the grievance to the Chief must be made within five work days following receipt of the supervisor's reply. If requested within the time period allowed, the supervisor will forward the employee's memorandum and the supervisor's response to the Chief within five work days.
3. Within five days of receipt, the Chief shall decide whether the issue is grievable within sections IV and V of this order.
 - a. If the issue is not grievable, the employee shall be advised that he or she may appeal to the appropriate court.
 - b. If the issue is grievable, the Chief shall, within 10 days, meet with the employee, the supervisor, and appropriate witnesses and attempt to resolve the grievance.
4. The Chief shall give the employee a second-step response in writing within five work days following the date of the meeting. A copy of both the employee's memorandum and the response from the Chief of Police shall be forwarded to the city manager for his/her information.
5. If the employee desires the presence of legal counsel, the Chief may have legal counsel present as well.

D. Third management step

1. If the employee is not satisfied with the response to the grievance during the second management step, or disagrees with the Chief's decision that the issue is not grievable, the employee should then ask the Chief to present the employee's memorandum to the city manager for review. The request to submit the grievance to the manager must be made within five work days following receipt of the Chief's reply. If requested within the time period allowed, the Chief will forward the employee's memorandum and his or her response to the city manager within five days.
2. Within five days of receipt, the city manager shall decide whether the issue is grievable within sections IV and V of this order.

- a. If the issue is not grievable, the employee shall be advised that he or she may appeal to the appropriate court.
 - b. If the issue is grievable, then the city manager shall, within 10 days, take whatever action he or she deems necessary to review the issue.
 - c. If the issue involves an appeal of disciplinary action, the city manager will meet with the employee, any supervisor involved, the Chief of Police, and any other parties who are needed to render a just determination.
3. The city manager shall give the employee a response in writing within five work days following the determination.
4. A copy of both the employee's memorandum and the response from the city manager shall be placed in the employee's personnel file.
5. If the employee is appealing a suspension, demotion, or termination and the disciplinary action has been taken by the Chief of Police, the first appeal or grievance step is to notify the city manager in writing of the desire to appeal. The time limits under the third management step apply.
 - a. In these cases the city manager will schedule a hearing. The employee as well as the city may be represented by counsel. The hearing is informal but both sides are allowed to present witnesses and evidence. The employee or the employee's representative or counsel has the ability to subpoena and call any witnesses and challenge any evidence. The city manager will, after hearing the witnesses and evidence, make a final decision.
 - b. Any appeal after this decision is to the district court.