



MANAGEMENT POLICY

POLICY NUMBER:
101.21

SUBJECT:

Complaint/Appeals Procedure

EFFECTIVE DATE:
7/26/2010

REVISED DATE:

I. Purpose

The purpose of this policy is to provide a process for employees to discuss complaints or problems with management and to receive careful consideration and a prompt resolution relative to Administrative Directives, Management Policy, Standard Operating Procedures and disciplinary actions.

II. Scope

This policy applies to all classified non-contract employees.

III. Policy

A. Our District's philosophy is the "open door policy." Defined, this concept means "an open and direct working relationship with all employees, and a team environment with open and honest communication."

1. This procedure directs the employee to discuss concerns with his/her supervisor, who will provide an answer within five (5) days (answer is not required in writing).

2. If the fifth day deadline falls on a weekend or holiday, the next business day will be the deadline. However, if additional time is necessary to resolve the issue, both the employee and supervisor must agree.

3. If this process fails, the employee has the option of submitting a formal Grievance valid under this policy.

B. The open door policy permits an "informal" means to answer most of the concerns that employees may present. During this period, the initial supervisor to whom the Grievance was brought will remain the main contact for all parties involved.

1. The supervisor can, through his/her own chain of command, seek answers and attempt to set up appointments for the employee with a person or persons who may be able to provide an explanation.

2. Furthermore, the supervisor to whom the question was brought is also responsible for communicating that the problem has been resolved to the employee's satisfaction or not, to his/her chain of command.

C. The Grievance process provided by this procedure is available for those questions that are not resolved through the open door policy and pertain to alleged misapplication of District policy, Administrative Directives, or Standard Operating Procedures to an employee; and specifically involve, a decision or action by a supervisor or management representative that is not warranted by the specific facts and circumstances.

1. Requested actions that may be considered under this policy are limited to:

a) Interpretation, application, operation or alleged violation of Administrative Directives, Personnel Policy, or Standard Operating Procedures.

b) Disciplinary action.

2. Grievances that are not valid under this policy include:

- a) Employee performance appraisal.
- b) Promotional test review.
- c) Salary.
- d) Job opportunity qualifications.
- e) Position classification.
- f) Equal Employment Opportunity grievances.
- g) Violence in the workplace
- h) Harassment/sexual harassment
- i) Management rights
- j) Denial of a merit increase.
- k) Policies established by the Fire Board, Policy Manual, Administrative Directives, Standard Operating Procedures, state law and federal law.
- l) Discharge (non-disciplinary)
- m) Fire Board decisions.

D. Management Rights

1. The reserved management rights of the District are not subject to review through a Grievance pursuant to this policy. The reserved management rights of the District include, but are not limited to, the right:

- a) To determine the purpose of each of its divisions, to exercise control and discretion over the organization and efficiency of operations of the District, to set standards for services to be provided to the public.
- b) To direct the work of the District; to hire, examine, classify, promote, transfer, assign work, and evaluate job performance.
- c) To increase, reduce, change, modify, or alter the composition and size of the 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 division.
- d) 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.
- e) To establish, modify, combine, or abolish job classifications.
- f) To change or eliminate existing work procedures, equipment, or facilities.

IV. Definition

A. A complaint is defined as a condition of employment or application of a specific policy which the employee perceives as being unjust or inequitable.

B. Appellant – one that appeals.

C. Supervisors

1. Listed by increasing level of authority

- a) Captain
- b) Deputy Chief
- c) Fire Chief

V. Guidelines

A. The employee shall follow the established Grievance process listed below in presenting any Grievance. When a Grievance involves an employee's immediate supervisor, the Grievance shall be presented in writing to the next level of supervision after attempting an oral resolution with the immediate supervisor.

B. The employee must bring forth his/her Grievance in writing within seven (7) calendar days from the discovery of wrongdoing or realization of misapplication of District policy.

C. Any continuances of the Grievance procedure shall be required within the seven (7) calendar days of notification. If the seventh day falls on a weekend or holiday, the next regular business day is the last day. The complainant and District administration may jointly decide on longer continuance intervals, but both parties must agree in writing and both parties must sign the agreement.

D. Employees are assured of freedom from reprisal using these Grievance procedures. However, if an employee is found to have made a false and pretentious complaint, provided false information, or violated the standards of conduct the employee shall be subject to disciplinary action.

E. The Fire Chief shall be apprised of any Grievances that are not resolved after step (VI,A,1).

F. An employee involved in the complaint process shall be allowed to confer with the Fire Chief regarding the complaint during District time. The supervisor shall grant permission for such, but shall determine the best time for such a conference so as to not cause interference with the employee's assigned work.

G. In the event that any employee has a complaint against the Fire Chief, the employee should direct their concerns to the Board of Directors as the "supervisor" in the following steps of the policy.

H. If a Grievance is not submitted according to the process outlined in this policy, it will not qualify as a formal Grievance

VI. Procedure

A. All Grievances shall be made within seven (7) calendar days as described above

1. **Discuss the Matter With Immediate Supervisor**

a) For the purpose of adjusting Grievances and problems, the employee is encouraged to first seek assistance by contacting his/her immediate supervisor. The Grievance shall also be documented in writing to the supervisor. The supervisor will be responsible for handling the Grievance as an important business matter, making every effort to arrive at a prompt, equitable solution. The supervisor shall document any conclusions, solutions or unsolved problems.

2. **Discuss the Matter With Supervisor's Manager**

a) If the employee does not feel the Grievance has been satisfactorily resolved with his/her supervisor, the employee may notify the supervisor, who will pass the Grievance addressed to his/her manager, to the next level. All documentation from (#1) above shall be provided. The manager will investigate the issue, review the documents and attempt to resolve the problem. Again, any conclusions, solutions, or unsolved problems shall be documented. If the Grievance involves the supervisor and the employee is not comfortable addressing the matter with him/her, the Grievance may be brought to the supervisor's manager. The supervisor's manager will investigate the issue, review the documents and attempt to resolve the problem. Again, any conclusions, solutions, or unsolved problems shall be documented. The District expects supervisors and managers to support this second level of the process in order to resolve issues.

3. **Appeal the Matter to the Fire Chief**

a) If the employee still does not feel that the Grievance has been satisfactorily resolved after Step Two, the employee has the option of asking the manager to forward the problem to the Fire Chief for further consideration. All documentation from the Grievance process must be provided to the Fire Chief for review. The Fire Chief will evaluate the Grievance and the response from #1 and #2 above, and the Fire Chief will render a decision in writing.

B. Review Committee

1. At the point of Step Three, if the Fire Chief so chooses, or at the request of the employee bringing forth the complaint, the Fire Chief may also refer the complaint to a review committee for assistance in reviewing the case.

2. The review committee will be comprised of the following:

a) A management representative appointed by the Fire Chief.

b) A peer selected by the Appellant that has no connection to the issue at hand.

c) Another employee selected jointly by the Fire Chief and the appellant. This employee should not have any close connection to the employee or the issue at hand.

3. The Fire Chief will convene the hearing within seven (7) calendar days of the written request for appeal. However, the Fire Chief and the appellant may request, in writing, to continue the matter.

4. Both the appellant and the supervisor, who made the initial decision that is being reviewed, will present their stance on the issue. Both sides may appear personally, produce evidence, call witnesses and have peer representation. The formal rules of evidence will not be applied.

5. The Review Committee shall be empowered to call witnesses, investigate, ask questions, take testimony, and review any documents it deems relevant and reliable in evaluating the matters at issue.

6. The proceedings will be tape recorded and preserved for a minimum of two (2) years after the decision is rendered.

7. The Review committee will issue a written recommendation to the Fire Chief within 15 calendar days of the hearing. Upon review of the recommendation, the Fire Chief shall render a final decision.

8. All decisions of the Fire Chief will be final and binding, with the exception of "a complaint against the Fire Chief".

C. Appeal Hearings

1. Right of Appeal

a) Only those matters subject to a formal grievance proceeding shall be eligible for an appeal hearing through the State of Arizona, Office of Administrative Hearings (OAH).

b) The District shall utilize the OAH for the purpose of conducting appeal hearings under these rules.

c) The OAH will appoint a competent and experienced Administrative Law Judge (ALJ), according to the expertise of the ALJ to hear the appeal.

d) All appeal hearings will be held at the Phoenix location of the OAH.

e) The ALJ shall determine if the appeal is allowed under District Policy and shall not consider appeals not covered by these rules.

f) The appointed ALJ of the OAH will conduct a fair and impartial hearing for all parties concerned under the general guidance of the Uniform Administrative Hearing Procedures of Title 41 and the rules of the OAH [**TITLE 41, CHAPTER 6, ARTICLE 10 (A.R.S. § 41-1092) UNIFORM ADMINISTRATIVE HEARING PROCEDURES**].

2. Method of Appeal

a) Requests for an appeal hearing shall be in writing and must be filed with the Fire Chief within 15 calendar days of the final decision of the Fire Chief in a matter presented as a formal grievance. The request for an appeal hearing shall clearly explain the matter appealed, and shall set forth a brief summary of the final action taken by the Fire Chief as well as the employee's reasons for disagreeing with that final action.

3. Notice

a) Upon receipt of the request for an appeal hearing, the Fire Chief shall contact the OAH who shall schedule a time for an appeal hearing. The Fire Chief will provide written notification to the respective parties of the scheduled hearing, incorporating the date, time and location of the hearing as schedule by the OAH, including notice that the matter has been transferred to the OAH pursuant to this rule.

b) The Fire Chief shall, by first class mail, notify the appealing employee, the employee's representative, if any, the District's attorney, and the Governing Board of the hearing date.

4. Findings of the ALJ

a) At the conclusion of the hearing, the ALJ shall prepare written findings of fact reflecting the evidence presented, and shall prepare written conclusions of law that affirms, reverses or modifies the final action of the Fire Chief or Board of Directors complained of in the appeal.

b) If the ALJ determines that the appealed action was arbitrary or taken without reasonable cause, the action shall be revoked or modified. Otherwise the action shall be affirmed.

c) The decision of the ALJ shall be final and binding upon both the employee and the District, and therefore, not subject to further administrative appeal to any office or governing body of the District.

d) The findings and fact and conclusions of law shall be transmitted to the District by the OAH.