

City Proposal
5.12.2016

ARTICLE 11 - GRIEVANCE PROCEDURE

Section 1. A grievance for the purpose of this Agreement is defined as a dispute between the parties to this agreement regarding the terms of this Agreement, and shall include such a dispute between an individual COBEA member and the City. Probationary terminations in Article 9 are excluded from the grievance procedure.

Section 2. The employee and COBEA steward shall, subject to work requirements and approval of the department head or designee, be granted release time with pay for investigation of potential grievances. Release time requests shall be submitted in writing to the work area supervisor and shall specify dates and time periods. Permission for release time shall not be unreasonably withheld. The supervisor shall forward a copy of the approved release time request to Human Resources. All City-paid work time authorized by this agreement spent performing COBEA related grievance activities shall be recorded as such on the employee's time record. Regular work time spent performing COBEA related grievance activities but not authorized as City-paid in this agreement shall be charged against the employee's accrued leave.

Section 3. It is the intent of both the City and the COBEA, that whenever possible, grievances between the parties to this Agreement shall be resolved informally and in an amicable manner. When informal discussions have not resulted in a resolution of the grievance, the parties agree to the procedures outlined in this Article.

For grievance process purposes, days shall be counted on a Monday through Friday workweek and shall exclude Saturdays, Sundays, and City recognized holidays.

Any employee, with COBEA representation may pursue a grievance under this Article. The COBEA may pursue a grievance through all steps of the grievance procedure.

Step I. The grievant shall discuss the grievance with the immediate supervisor outside the bargaining unit within fifteen (15) days from the occurrence thereof, or of knowledge thereof. The supervisor shall respond to the grievance as quickly as possible, but no later than ten (10) days after the grievance is first discussed.

Step II. If, after ten (10) days from the date of receipt of the immediate supervisor's reply, the grievance remains unresolved, the grievant shall submit written notice to the supervisor with a copy to the COBEA including: (1) a statement of the grievance and relevant facts upon which it is based;

(2) specific provision(s) of the contract violated; and (3) the remedy sought. The supervisor shall respond to the grievant in writing within ten (10) days of receipt of the written grievance. The supervisor's response shall include a statement of the supervisor's decision and the relevant facts and contract provisions upon which it is based.

Step III. If the grievance is unresolved, it may be submitted within ten (10) days from the date of receipt of the supervisor's reply, to the appropriate Department Head. Within ten (10) days of receipt of the unresolved grievance, the Department Head shall meet with the immediate supervisor and the grievant, who may request a COBEA representative at the hearing. The Department Head shall respond to the grievance in writing within ten (10) days of the meeting.

Step IV. If the grievance remains unresolved by the Department Head, it may be submitted within ten (10) days from the receipt of the Department Head's written reply to the City Manager. Within ten (10) days of receipt of the grievance, the City Manager shall meet with the grievant, COBEA representative, and the Department head. The City Manager shall respond in writing within ten (10) days of the meeting. If the grievance is related to a performance evaluation, the City Manager may designate the Human Resources Manager to act in his behalf.

Step V. Mediation: If the Association is not satisfied with the decision provided by the City Manager at Step IV, the Association will submit the grievance to mediation within fourteen (14) calendar days from either the City Manager's response or fourteen (14) calendar days from the due date of the response. The parties may mutually agree to a local mediator or use a mediator provided by the Employment Relations Board. Parties agree to share the costs of the mediator. Unless otherwise agreed by the parties, the period for mediation will be limited to 120 days, starting from timely notice of mediation by the moving party. The parties must meet at least one time and agree to meet in good faith to resolve the dispute. Termination cases are not subject to the mediation process and may move to the next step. The parties may mutually agree to forego mediation.

Step VI. If the grievance remains unresolved by the City Manager, the grievant with the COBEA's approval, shall have fifteen (15) days from receipt of the City Manager's written response to serve notice to the City Manager, in writing, of its intent to arbitrate. The arbitrator shall be selected by mutual agreement of the parties. If the parties cannot agree on an arbitrator, he shall be chosen in the following manner:

(1) A list of seven (7) members of the Oregon State Conciliation Services with the ERB who reside in Oregon or Washington shall be requested and

the parties shall alternately strike one name from the list, until only one is left. The arbitrator list shall include only those arbitrators who are permanent full time residents of Oregon. The first strike shall be determined by lot. The remaining name shall be the arbitrator selected. Parties will strike names within 10 days of receipt of the list from the ERB.

(2) The arbitrator shall hold a hearing promptly and shall issue a decision within thirty (30) days. The arbitrator's decision shall be in writing and shall set forth finding of fact, reasoning, and conclusions on the issues submitted. The arbitrator's decision may also provide retroactivity to the original date of the Agreement. The powers of the arbitrator shall be limited to interpreting this Agreement and determining if it has been violated; he shall have no authority to alter, modify, vacate, or amend any terms of the agreement, or to decide on any condition which is not specifically treated in this Agreement. Insofar as the decision of the arbitrator is within the scope of his authority, as described above, and is based on substantial evidence, his decision shall be final and binding on both parties.

(3) The costs of the arbitrators shall be borne equally by the parties by the losing party as determined by the Arbitrator. Each party shall be responsible for costs of presenting its own case to arbitration.

~~(4) Any information, material or testimony of witnesses not previously made known by one party to the other party to the conclusion of the City Manager's deliberations in Step IV may not be used in arbitration.~~

Section 4. Any time limits specified in the grievance procedure may be waived in writing by mutual consent of the parties. Failure to submit the grievance in accordance with these time limits without such waiver shall constitute abandonment of the grievance. Failure by the City to submit a reply within the specified time will permit the Association to proceed to the next step. In the event the parties dispute timeline issues for matters submitted to arbitration, the arbiter will be limited to hear the timeliness arguments first, including any closing summation by the parties. The arbiter will then rule from the bench on the timeliness issue.

~~meet time lines set forth in the contract shall enable grievant to receive remedy sought in Section 3 Step II.~~

A grievance may be withdrawn at any time upon receipt of a signed statement from the grievant.

