



PERSONNEL POLICY 18
GRIEVANCE PROCEDURES

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Effective Date: May 3, 2012

SECTION 1. PURPOSE:

The Town of Oro Valley provides employees with an opportunity when appropriate and practical, to present work-related complaints, and to appeal management decisions and other matters materially and substantively affecting his or her employment, through defined grievance procedures, unless specifically excluded from this policy as outlined in Section 3.

SECTION 2. DEFINITIONS:

Grievant – Town of Oro Valley employee filing the grievance.

Grievance – an employee’s formal disagreement concerning any grievable disciplinary actions, interpretation or application of work-related policy by management materially and substantively affecting his or her employment.

Administrative Review Officer – An individual who possesses personnel experience that is selected in accordance with Town procurement policies to review, investigate and provide a decision(s) to a specific grievance.

Working days – Monday thru Friday, 8 a.m. – 5 p.m. Holidays recognized by the Town of Oro Valley are not considered working days.

Investigative File – Town of Oro Valley’s complete report and any attachments detailing the incidents leading to the grievance.

SECTION 3. NON-GRIEVABLE issues:

- A. Any matter on which the Town is without authority to act.
- B. The evaluation of an employee’s performance.
- C. Content or structure of Classification or Pay Plans, or benefit programs. Individual compensation is not a grievable issue.
- D. Extension of an introductory period.
- E. Selection, assignment and/or reassignment to special positions by the Chief of Police or Town Manager.
- F. Matters involving municipal finance or budgetary issues.
- G. Any matters specifically reserved to the discretion of management, including scheduling, assignment of additional duties to a particular position, and other operational policy and procedural matters.
- H. Employment Status (e.g., status such as intermittent, permanent, temporary, seasonal, elected, introductory, grant-funded).

SECTION 4. EXAMPLES of GRIEVABLE issues:

- A. Unfair application of Town guidelines, policies, or procedures to the material and substantial detriment of an employee;
- B. Treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation;



- C. Discrimination because of race, national origin, sex, handicap or veteran status, age, religion, or sexual orientation; and
- D. Improper or unfair administration of employee benefits or conditions of employment, such as vacations, fringe benefits, promotions, retirement, holidays, or seniority.
- E. Suspension without pay, demotion or dismissal, in which event the grievance procedure shall begin with SECTION 7, Step 2, Appeal to the Town Manager or designee, as set forth below.

SECTION 5. GRIEVANCE RULES:

- A. The grievance procedure is the sole internal remedy for employees with appropriate grievances. Employees are not penalized for proper use of the grievance procedure; however, they may not abuse the procedure by raising grievances in bad faith, solely for the purpose of delaying other disciplinary action, for purposes of harassment, or by repeatedly raising grievances that reasonable judgment would deem have no merit.
- B. At all steps in the process, information concerning an employee's grievance is to be held in the strictest confidence as may be allowed by state law. Supervisors, Department Heads and others are cautioned that they must investigate and discuss grievances only with those individuals who have a "need to know", and/or who supply information necessary to the investigation.
- C. The time limits specified in any step of the grievance process may be extended to a definite date by written agreement of the parties involved, or by the Administrative Review Officer, upon written request demonstrating good cause. A decision becomes binding on all parties whenever the Grievant does not file a timely appeal.
- D. Employees may request the assistance of other parties in preparing and presenting an appeal at any level of review, and reasonable amounts of work time (as determined by the appropriate Department Head/Town Manager or designee) may be spent in conferring about and presenting the appeal. If legal counsel is retained by the Grievant, all costs and attorney fees are the sole responsibility of the Grievant and will under no circumstances be paid by the Town.
- E. Appeals which are negated or resolved through the failure of the Grievant to meet deadlines cannot be reinstated. Once grievance procedures are completed, appeals are not subject to further review within the confines of this internal process.
- F. During and following completion of the grievance process, department managers and supervisors shall ensure the Grievant does not experience any retaliation for having pursued the grievance.
- G. During and following completion of the grievance process, department managers and supervisors shall ensure any witnesses do not experience any retaliation for having participated in the grievance review.

SECTION 6. INFORMAL GRIEVANCE PROCEDURE:

An employee who has a work-related problem or complaint should first try to resolve it through discussion with their immediate supervisor. If, after this discussion, the employee does not believe the problem has been satisfactorily resolved, the employee should discuss it with the Department Head and/or the Human Resources Director (or designee). Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If an acceptable solution is not reached through the informal procedure within 30



working days of the initial disclosure to their immediate supervisor, a formal grievance may be pursued in accordance with SECTION 7 of this policy.

SECTION 7. FORMAL GRIEVANCE PROCEDURE:

Employees who feel they have an appropriate formal grievance should proceed as follows:

A. Step One, Written Grievance: Within ten (10) working days of the incident, or being made aware of the incident; or within ten (10) working days of the close of the “Informal Grievance Procedure” as described in Section 6 above, the employee shall bring the grievance to the attention of the Department Head in the form of a written appeal. The appeal shall include a statement of the grievance, any prior (informal) action taken to try to remedy the problem, and any resolution, remedy or outcome sought by the Grievant. The Department Head shall investigate the grievance, attempt to resolve it and provide a written decision to the Grievant within ten (10) working days of receipt. If the grievance involves the Department Head or a disciplinary action taken by the Department Head, proceed immediately to Step Two.

B. Step Two, Appeal to Town Manager: If the Grievant is not satisfied with the Department Head’s decision, he/she may appeal it to the Town Manager. The Town Manager may appoint a designee. Such an appeal must be submitted in writing to the Town Manager within ten (10) working days of the Department Head’s decision. The appeal must include copies of the original written appeal (if applicable) and any documentation the Grievant wishes the Town Manager or designee to consider. The Town Manager or designee shall confer with others as required, investigate the appeal, and communicate a decision in writing to all concerned parties within ten (10) working days in receipt of the appeal. In order to properly track and account for the response, the Town Manager’s or designee’s decision shall be sent by certified mail, with return receipt, to the Grievant’s personal mailing address.

C. Step Three, Appeal to the Administrative Review Officer (ARO): If the Grievant is not satisfied with the decision of the Town Manager or designee, he/she may appeal to an ARO. To do so, within (10) working days from receipt of the Town Manager’s or designee’s decision (as reflected on the return receipt from the post office), the Grievant must submit all previous correspondence and documentation concerning the matter, along with a written request for an ARO review and any additional statements or documentation he/she would like considered in the review to the Human Resources Director. The Town Attorney will receive copies.

SECTION 8. ADMINISTRATIVE REVIEW OFFICER PROVISIONS:

A. Selection: The ARO shall be selected through the Town procurement process. Potential ARO’s shall be Attorneys, Arbitrators or former Judges. The selected ARO must possess personnel experience.

The ARO is not qualified to review a grievance if a conflict of interest exists. In any appeal, the Town of Oro Valley or the Grievant may request a change of ARO. The request must be granted the first time. Any subsequent requests may be granted only on a showing that a fair and impartial review cannot be obtained due to the prejudice of the assigned ARO. The Human Resources Director, with the consultation of the Town Attorney, shall decide whether a showing of prejudice has been made.

B. Scope of ARO Authority: The ARO shall review the facts related to a specific grievance, the facts or issues contested by the Grievant, and the basis for the management action that led to the filing of the grievance.



The Director of Human Resources, or designee, will ensure that the ARO has access to all information necessary to conduct the review. While the ARO will have the authority to interview Town employees, supervisors and managers, the Director of Human Resources shall ensure that the ARO limits its review to the specific grievance.

The ARO may request to review personnel files and related personnel records of the employee(s) involved in the grievance, if appropriate to the specific incident. All requests to review an employee personnel file must be submitted to the Director of Human Resources with justification.

All information obtained by the ARO must be treated in a confidential manner and cannot be shared with any other employee or individual outside of the grievance process. At the conclusion of the ARO review, all documents, notes and files shall immediately be returned to the Director of Human Resources.

- C. *ARO Review Preparation:* The ARO shall order a review to be held not more than thirty (30) working days from the day the request for appeal to the ARO is submitted to the Human Resources Director. Not less than ten (10) working days prior to the review date, the Grievant shall submit to the ARO, and disclose to the Town Attorney, a position statement setting forth the arguments, potential witnesses and evidence they anticipate will be introduced for the review. All documentation that the Grievant intends to present or rely upon for the ARO review shall be attached to the position statement. Not less than ten (10) working days prior to the review, the Town Attorney shall submit to the ARO, and disclose to the Grievant, a responding position statement including potential witnesses and evidence to be introduced or relied upon during the ARO appeal process. The Town shall make Town employees available at the review so long as such requests are made not less than seven (7) working days before the review.
- D. *ARO Review and Hearing Procedures:* The Grievant bears the burden of proof that the Town's actions were contrary to Town policy or law, or were otherwise unfounded or wrongful. Technical rules of evidence do not apply other than privileges recognized by Arizona law. The review shall be recorded and the record may be transcribed upon request. The party requesting transcription shall be responsible for any costs incurred. Unless requested otherwise by the Grievant, reviews and hearings are conducted privately.

The review shall proceed as follows:

1. The ARO will gather evidence and perform an investigation.
2. The grievance review should be conducted in a non-adversarial atmosphere. All testimony will be given under oath or affirmation.

The hearing shall proceed as follows:

1. The ARO will begin the hearing by introducing all parties, summarizing the issues, and identifying relief requested and outline the review sequence.
2. The only people present during the grievance hearing shall be the ARO, the Grievant and their representative (if applicable), The Town of Oro Valley representative and any witnesses the ARO requests be present.
3. The Grievant will present their evidence that the findings should be changed. Then, the Town, through its representative, shall present their evidence and support findings.
4. Each witness for the Town of Oro Valley and the Grievant may only be questioned by the ARO.



5. The Grievant or his/her representative then may make comments or closing remarks.
 6. The Town's representative may make comments or closing remarks.
 7. The ARO is authorized to continue the grievance review for ten (10) working days to allow for additional witnesses or evidence to be presented.
 8. When both sides have been heard, the ARO will assess the testimony of the witnesses and evidence presented during the review and hearing.
- E. *ARO Decision:* At the conclusion of the review and hearing, the ARO shall render a decision within fifteen (15) working days of the hearing. The ARO may order that the action of the Town stand, that a lesser action or consequence be imposed, and/or that some or all of the relief requested by the Grievant be granted. Except when the decision affirms the dismissal of an employee, the Grievant's pension and seniority rights shall not be affected by the decision. If the ARO orders to reinstate an employee who has been suspended or discharged, they shall specify as part of their decision whether the employee shall receive back pay for all or part of any time lost as a result of Town action. Copies of the written recommendation shall be sent to the Town Attorney, Human Resources Director and the Grievant. The ARO's decision is final and there are no additional appeals available through the Town's grievance process. Any ARO direction associated with the grievance resolution is to be implemented as quickly as possible.