

POLICY 18 GRIEVANCE PROCEDURES

The Town of Oro Valley maintains that an employee should have 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 4.

SECTION 1. An appropriate grievance is defined as an employee's disagreement concerning any interpretation or application of work-related policy by management. Examples of actions which may be causes of grievances under this policy are:

- 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. Alleged 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 Step 2, Appeal to the Assistant Town Manager, as set forth below.

Employees must notify the Town within fourteen (14) calendar days, (in accordance with Section 3 of this policy), of any grievance appropriate for handling under this policy. 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.

SECTION 2. Informal Grievance Procedure: An employee who has a 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 calendar days of the initial disclosure to their immediate supervisor, a formal grievance may be pursued in accordance with Section 3 of this policy.

SECTION 3. Formal Grievance Procedure: Although the grievance procedure has three (3) steps, grievances may be resolved at any step in the process. Grievances are to be processed until: (a) the employee is satisfied; (b) the employee does not file a timely appeal (as defined), or (c) until the right of appeal is exhausted. A decision becomes binding on all parties whenever an employee does not file a timely appeal, or when a decision is made in the final step and the right of appeal no longer exists. Employees who feel they have an appropriate grievance should proceed as follows:

A. Step One, Written Complaint: Within fourteen (14) calendar days of the incident, or being made aware of the incident; or within fourteen (14) calendar days of the close of the "Informal Grievance Procedure" as described above the employee shall bring the grievance to the attention of the Department Head in the form of a written complaint. The complaint should 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 employee. The Department Head shall investigate the grievance, attempt to resolve it and give a written decision to the employee within fourteen (14)

calendar days of having received it. If the grievance involves the Department Head or a disciplinary action taken by the Supervisor or Department Head, the employee should proceed immediately to Step Two.

B. Step Two, Appeal to Assistant Town Manager: If the employee is not satisfied with the Department Head's decision, he/she may appeal it to the Assistant Town Manager. Such an appeal must be submitted in writing to the Assistant Town Manager within fourteen (14) calendar days of the supervisor's decision. The appeal must include copies of the original written complaint (if applicable) and any documentation the employee wishes the Assistant Town Manager to consider. The Assistant Town Manager shall confer with others as required, investigate the appeal, and communicate a decision in writing to all concerned parties within fourteen (14) calendar days. In order to properly track and account for the response, the Assistant Town Manager's decision shall be sent by certified mail, with return receipt, to the employee's personal mailing address.

C. Step Three Appeal to the Town Manager via Administrative Review: If the employee is not satisfied with the decision of the Assistant Town Manager, he/she may request an administrative review to an outside Administrative Review Officer. To do so, within 14 calendar days from receipt of the Assistant Town Manager's decision (as reflected on the return receipt from the post office), the employee must submit all previous correspondence and documentation concerning the matter, along with a written request for administrative review and any additional statements or documentation he/she would like considered in the review to the Human Resources Director. The documentation will be forwarded to the Town Attorney.

An independent Administrative Review Officer (ARO) will be chosen from a list of five (5) potential AROs compiled by The Human Resources Director (or designee). Potential AROs shall be attorneys, arbitrators or former judges who are experienced in conducting hearings. If the parties cannot agree on an ARO from the list provided, each shall have the opportunity to exercise two (2) preemptory strikes and the remaining name shall be appointed the ARO for the matter.

The ARO shall order a hearing to be held not more than forty-five (45) days from the day the request for grievance is submitted to the Human Resources Director. Not less than twenty (20) days prior to the hearing date, the employee shall submit to the ARO, and disclose to the Town Attorney, a position statement setting for the arguments, potential witnesses and evidence they anticipate will be introduced at the hearing. All documentation that the employee intends to present or rely upon for the administrative hearing shall be attached to the position statement. Not less than ten (10) days prior to the administrative hearing, the Town Attorney shall submit to the ARO, and disclose to the employee, a responding position statement including potential witnesses and evidence to be introduced or relied upon during the administrative hearing.

Upon written request of either party, the ARO shall have the power to compel the attendance of witnesses or the production of documents pursuant to A.R.S. § 12-2212 (or any successor statute). Requests must be made of the ARO no later than ten (10) days prior to the hearing date. The Town shall make Town employees available at the hearing so long as such requests are made not less than seven (7) days before the hearing.

The employee may have an attorney represent him/her at the hearing. The employee bears the burden of proof that the Town's actions were contrary to Town policy or law, or were otherwise unfounded or wrongful. The hearing shall proceed as follows:

1. Employee's opening statement
2. Town's opening statement
3. Employee's presentation of witnesses, including cross examination by the Town
4. Town's presentation of witnesses, including cross examination by the employee
5. Rebuttal witnesses and/or evidence as may be determined appropriate by the ARO
6. Town's closing statement
7. Employee's closing statement

Technical rules of evidence generally do not apply other than privileges recognized by Arizona law. The ARO has the discretion to make relevancy determinations and apply other rules of evidence as deemed appropriate to facilitate the introduction of credible and relevant information and the timely completion of the hearing process. In addition, the ARO may limit the scope of the hearing to those issues, which in his/her determination are relevant and

resolvable within the confines of the grievance process. The hearing shall be recorded and the record may be transcribed upon request. The party requesting transcription shall be responsible for any costs incurred.

Within twenty (20) days from the completion of the hearing, the ARO shall issue a written recommendation to the Town Manager, including a statement of facts and conclusions based on the evidence presented. Copies of the written recommendation shall be sent to the Town Attorney, Human Resources Director and the Employee. The Town Manager shall, within ten (10) days from receiving the ARO's recommendation, issue a final decision on the grievance. The Town Manager's decision is final and there are no additional appeals available through the Town's grievance process.

Upon request, the ARO may extend the deadlines herein for good cause shown.

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.

Time spent by current employees in grievance discussions with management, or in investigating the grievance, is considered time worked, for pay purposes.

SECTION 4. The following are excluded from grievance consideration:

- 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. In the case of police officers, selection, assignment and/or reassignment to special positions by the Chief of Police.
- 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.

SECTION 5. Grievance Procedure Rules:

- A. 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 Human Resources Director, or in the case of Administrative Review by the ARO, upon written request demonstrating good cause.
- B. 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 employee grievant, all costs and attorney fees are the sole responsibility of the employee and will under no circumstances be paid by the Town.
- C. Appeals which are negated or resolved through the failure of the grievant to pursue further cannot be reinstated. Once grievance procedures are completed appeals are not subject to further review within the confines of this internal process.