

Administrative Order



Administrative Order No.: 7-18

Title: Grievance Procedure

Ordered: 4/21/1998

Effective: 5/1/1998

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter.

SUPERSEDES:

This Administrative Order supersedes previous Administrative Order No. 7-18, ordered and effective April 18, 1978.

POLICY:

It is the policy of Miami-Dade County to provide to all eligible employees a grievance procedure for the resolution of disputes or complaints concerning the terms and conditions of their employment.

ELIGIBLE EMPLOYEE:

All permanent, probationary, and regular part-time employees are eligible to use this grievance procedure. Regular part-time are those employees who have worked more than twenty (20) hours per week continuously for six (6) months or more.

The grievance procedure stated herein shall be available to eligible employees (1) not covered by a collective bargaining agreement; or (2) who elect the grievance procedure established by this administrative order. Where a grievance is processed under a labor agreement, such procedure shall be controlling and the procedure described herein shall not be used. Selection of a grievance procedure under this order or under a labor agreement shall be made on the Employee Standard Grievance Form and shall be binding upon the employee. Under no circumstances shall both grievance procedures be used.

COMPLIANCE WITH LOCAL AND STATE LAW:

All grievances are to be fairly and appropriately resolved in accordance with Statutes, the Miami-Dade County Home Rule Amendment and Charter, the Code of Miami-

Dade County, the Miami-Dade County Personnel Rules, and other applicable County and departmental rules and regulations. In accordance with Section 447.301 (4), Florida Statutes, grievances may be adjusted under this grievance procedure without the intervention of the bargaining agent only if the adjustment is not inconsistent with the terms of any applicable collective bargaining agreement. Section 447.401 provides that career service employees shall have the option of utilizing a Civil Service grievance procedure as opposed to that provided in a labor agreement. It is the purpose of this administrative order to comply with statutory directives while at the same time maintaining the integrity of negotiated grievance procedures.

DEFINITIONS:

1. "Days" means calendar days.
2. A "representative" is any person selected by a grievant to assist the grievant in the course of this grievance procedure.
3. Grievance means a dispute over the interpretation or application of a County order, rule, or regulation pertaining to the terms and conditions of the grievant's employment, which is not excluded from the grievance procedure as provided in the section of this order below entitled EXCEPTIONS, and which is not otherwise reviewable in any other administrative manner.

EXCEPTIONS:

This grievance procedure shall not be applicable to the following matters: Disciplinary actions including reprimands; performance evaluations; classification appeals; job description appeals; disability determinations; formal and informal counseling; and matters for which an appeal is otherwise provided. In all such matters employees shall utilize appellate procedures provided by County rules and regulations. Termination of the probationary period is final and may not be grieved or appealed.

PROCEDURE:

Each grievance when filed shall state with particularity the facts upon which it is based, the rule, regulation or administrative order which is alleged to have been violated, the remedial action requested and the reason for the remedy requested. Names, places and dates which are important should be set forth in order to aid

prompt and proper resolution of the grievance. A grievant shall have the right to the presence of a representative of his/her choosing.

Step 1

The aggrieved employee shall discuss the grievance with his/her immediate supervisor within seven (7) calendar days of the incident or within seven (7) days after the employee could reasonably be expected to have knowledge of the incident which gave rise to the grievance. The immediate supervisor shall respond verbally to the employee within seven (7) calendar days.

Step 2

If the grievance has not been satisfactorily resolved at Step 1, the employee may appeal by reducing the grievance to writing on the standard form provided by the County for this purpose and presenting it to the intermediate level supervisor within seven (7) calendar days from the time the immediate supervisor's response was due in Step 1. The intermediate level supervisor shall respond to the employee in writing within seven (7) calendar days from the date the written grievance was received.

Step 3

If the grievance has not been satisfactorily resolved at Step 2, the employee may appeal to the division director concerned within seven (7) calendar days from the time the intermediate level supervisor's response was due in Step 2. The division director concerned shall respond to the employee in writing within seven (7) calendar days from the date the written grievance was received.

Step 4

If the grievance has not been satisfactorily resolved in Step 3, the employee may appeal to the department director within seven (7) calendar days from the time the division director's response was due in Step 3. The department director shall meet with the employee and respond to the employee in writing within seven (7) calendar days from the date the written grievance was received.

GRIEVANCE APPEAL HEARING:

If the grievance has not been satisfactorily resolved in Step 4, the employee may request an appeal hearing before the Grievance Appeal Panel. The request shall be made to the Director of the Employee Relations Department, in writing, within seven (7) calendar days of receipt of the response in Step 4. (The Director of the Employee Relations Department shall initially determine whether the grievance complies with the provisions of this administrative order, and if in compliance, schedule an appeal

hearing to be conducted as promptly as possible.) The employee shall be provided at least five (5) calendar days' notice of the hearing. A decision by the Director of the Employee Relations Department that the grievance is not in compliance with the provisions of this administrative order or does not concern a term or condition of employment as provided herein is final and binding and not subject to further review. The Director may, however, refer the matter for alternative resolution where appropriate.

The employee must submit copies of any supporting documentation prior to the date of the panel hearing in order to allow panel members time to properly consider the evidence. No additional documentation will be permitted at the hearing unless previously submitted. At the hearing, the employee and/or his/her representative will have the right to explain and argue the grievance. A departmental representative shall attend and respond to the grievance. The hearing will be informal in nature and will not be governed by any formal rules of civil procedure. The hearing will be conducted in an orderly fashion.

The Grievance Appeal Panel will render a decision, in writing, as promptly as possible, after the conclusion of the hearing. Such decision shall be final, and binding, and not subject to further review.

GRIEVANCE APPEAL PANEL:

The Grievance Appeal Panel shall consist of the Director of the Employee Relations Department and the two (2) County department directors. The Director of the Employee Relations Department shall appoint department directors to serve on the Panel from a rotating list as needed. In no case, however, shall either of the appointed department directors be from the aggrieved employee's department. Any member of the Panel who feels his/her partiality is reasonably subject to question may decline to serve, and he/she shall be replaced by a department director selected by the Director of the Employee Relations Department from the rotating list.

GENERAL PROVISIONS:

Either party shall be permitted one (1) extension of time at either Step 2, 3, or 4, as a matter of right, not to exceed seven (7) calendar days. The other party must, however, be notified of the extension in writing prior to the expiration of the time limit for the steps. Additional extensions at Steps 2, 3 or 4, and extensions of the Grievance Appeal hearing may be granted to either party upon a showing of good cause.

If the grievant's immediate supervisor is the person designated in either Step 2, 3 or 4, the employee shall first discuss the grievance with the supervisor as provided in

Step 1; then, if unresolved, shall submit the grievance in writing directly to the next appropriate step.

If a grievance is not processed by the employee within the time limits provided, the grievance shall be considered dropped with prejudice. If the department fails to process a grievance within the time limit provided for that step, the grievance shall automatically proceed to the next step.

Requests for advice regarding this Career Service Grievance Procedure and for interpretations of all collective bargaining agreements should be directed to the Labor Management and Employee Appeals Division of the Employee Relations Department.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Armando Vidal, P.E.

County Manager