

MOBILE COUNTY PERSONNEL BOARD

RULE XVI

GRIEVANCE PROCEDURE

Mobile County Merit System employees, who have questions about the grievance process, may contact the Mobile County Personnel Department either in person or by telephone at...

*1809 Government Street
Mobile, Alabama 36606
(251) 470-7727*

RULE XVI

GRIEVANCE PROCEDURE

STATEMENT OF POLICY. 16.1 It is the policy of the Personnel Board to provide equal opportunity for employment to all citizens and to improve the effectiveness of the public service by recruiting, selecting and retraining the most competent personnel. In so doing, the Board meets its responsibilities to the public, the elected officials and department heads charged with the responsibility of providing the necessary governmental services, and to the public employees. In order that local government can meet the needs of its citizens, it is imperative that there exist an orderly and constructive employee-employer relationship. It is, therefore, the further policy of the Board to continue to use its good offices to encourage and promote such relationship.

PURPOSE. 16.2 It is the purpose of this rule to provide a meaningful and orderly procedure for the resolution of employee grievances. Within the limitations imposed upon the governmental processes by the rights of the public and recognizing that harmonious relationships between the employer and its employees are essential in providing the necessary governmental services, the Board has determined that this can best be accomplished by the promulgation of this rule.

DEFINITIONS. 16.3 The words and terms contained herein shall have the following meanings for the purpose of carrying out the provisions of this Rule.

(a) Personnel Board: The Mobile County Personnel Board.

(b) Grievance Committee: The Grievance Committee provided in Step Two of the Grievance Procedure set forth in this Rule.

(c) Supervisor: The individual having the responsibility of supervising the work product of the employee.

(d) Department Head: The individual in charge of any department, bureau, institution, board, division, or commission, whose employees are under the jurisdiction of the Personnel Board Act.

(e) Personnel Board Act: Local Act No. 470, approved September 15, 1939, 1939 Local Acts of Alabama, and all subsequent amendments.

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(f) Grievance:

(1) Grievance – Inclusions: A complaint by an employee or a representative of an organization or association representing a group of employees under Civil Service concerning reprimands, service ratings, attendance regulations, hours of work, working conditions, any dispute concerning the interpretation or application of rules and regulations governing personnel practices or working conditions, as well as any other personnel matters which are germane to the employee's employment, and which are not specifically reserved to the Personnel Board and Personnel Director under the law and rules of the Personnel Board, or are not reserved to the various governmental bodies under any statutory provisions.

(2) Grievance – Exclusions: Matters dealing with classification, pay, compensation, examination and related actions specifically set forth in the Personnel Board rule and regulations shall not be considered under grievance procedures, but shall be adjusted in accordance with the provisions set forth in the rules and regulations. Any question as to what constitutes a grievance or what should be processed as a matter subject to these rules and regulations, shall be determined by the Director, subject to review of the Board.

(g) Grievant: An employee or representative of an organization or association representing a group of employees under Civil Service who files a complaint.

(h) Working Day: For the purpose of this rule the term "working day" shall mean the normal work day of the employee filing a grievance.

(i) Calendar Day: All the days of the calendar year.

(j) Computation of Time: In computing any period of time prescribed or allowed under this rule, the day of the act, event, or grievance after which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday in which event the period runs until the end of the next day, which is not a Saturday, a Sunday or a legal holiday. A half holiday shall be considered as other days and not as a holiday.

(k) Grievance Committee: A three member Committee composed of a representative of the Personnel Department, a representative of the grievant, and a representative of the employer. The grievant and employer representative shall be selected by the Personnel Department from each of three nominees submitted respectively by the grievant and the employer.

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(l) Relative: For the purpose of this rule "relative" shall mean one who is related by blood or marriage within the fourth degree.

GRIEVANCE NOT TO RESULT IN SUSPENSION OF WORK. 16.4 There shall be no suspension of work because of a grievance, but it shall be resolved in an orderly manner by submission to the grievance procedure hereafter provided for in this rule. No employee shall refuse to work, conduct a slowdown, or engage in a strike, or interfere in any way with governmental operations because of any alleged grievance.

GRIEVANCE PROCEDURE. 16.5 Any grievant may initiate a grievance. In the presentation of grievances, grievants are assured of freedom from restraint, interference, discrimination or reprisal. All adjustments of grievances processed under this Rule shall be retroactive to the time the grievance occurred or as modified by the Personnel Board. The grievant may be represented by counsel or other person of grievant's choosing.

PROCEDURE. 16.6 The following is the exclusive procedure for the settlement of any grievance:

STEP ONE

Any grievant who desires to initiate a grievance must file a complaint in writing, within seven (7) calendar days after the complaint arose. The grievance complaint must be filed with the employee's immediate supervisor, and a copy thereof furnished to the department head or representative, (unless the complaint is against the supervisor, in which case the grievant bypasses the supervisor and files the complaint directly with the department head or designated representative). The employee must be able to show proof of the filing of such complaint with the supervisor, department head or designated representative in order to trigger the time sequence for the processing of the grievance. The department head or a designated representative shall within seven (7) calendar days from receipt of such complaint, arrange a conference on the grievance with the grievant, with or without the supervisor, and such other representatives as the department head and the grievant may desire, in order to ascertain all the facts in the case, the total number of those present at such conference not to exceed five (5) persons for each party. Both the department head and the grievant shall make a good faith effort to resolve the complaint. Within seven (7) calendar days after such conference, the department head shall advise the grievant in writing of the disposition of the complaint, a copy of which shall be transmitted promptly to the Personnel Department, and at the same time the department head shall file a written report with the Personnel Director, with a copy

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being served on the grievant on the same date, setting forth the efforts made to resolve the grievance. This report shall show the date the conference took place, the parties present and steps taken to resolve the grievance, including the response of the grievant. If the department head fails to hold the conference or should a conference be held but no report filed with the Director, the grievant shall have the right to appeal the grievance to Step Two within seven (7) calendar days from the date of the department head's deadline for filing its report, or the settlement or remedy requested by the grievant may be implemented and enforced by the Director and/or by the Board, or the Director and/or the Board may order such conference to be held or impose such other or different settlement or remedy which shall be deemed to be appropriate and justifiable under the circumstances, and in the interest of fairness to both parties. Under extenuating circumstances, a reasonable extension of time may be granted either party by the Director. However, where an employee's service rating is the subject matter of the grievance, it is the policy of the Board not to substitute its own judgment for the Appointing Authority.

STEP TWO

(APPEAL TO GRIEVANCE COMMITTEE)

In order for a grievance to be considered in Step Two, it must be presented in writing by the grievant or a designated representative, to the Personnel Director with a copy to the department head within the time prescribed in Step One above and the department head must have filed the report as provide in Section 16.7 of this Rule and as prescribed in Step One above. The grievance as presented to the Personnel Director shall consist of the statement of the grievance, the statement of the supervisor, if any, and the statement of the department head, if any, stating the employer's position on the grievance.

The grievance shall be heard by a Grievance Committee designated to hear the grievance. The members of the Grievance Committee shall be composed of three (3) individuals, one to be a designated representative of the grievant, to be selected by the Personnel Director from a list of three (3) nominees made by the grievant, one to be a designated representative of the department head to be selected by the Personnel Director from a list of three (3) nominees submitted by the department head, and one to be selected by the Personnel Director exclusive of the Personnel Department who shall serve as Chairman of the Committee. The nominees submitted to the Personnel Department may be civil service employees or may be outside of civil service, provided, however, no person who is a relative of grievant or who is under the same direct supervisory chain of command as grievant shall be eligible to sit on such Grievance Committee. Elected public officials shall also be ineligible to serve on the Committee. In the event one or both parties fails to submit nominees to the Personnel

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Director within seven (7) calendar days from the date of the filing of the complaint with the Director, the Director shall be authorized to complete the selection of the members of the Grievance Committee. Members of the Grievance Committee shall, within fourteen (14) calendar days following their appointment, unless an extension of time has been agreed upon, conduct such hearing as it may determine to enable it to render a fair and equitable decision. The Grievance Committee shall not be bound by the technical rules of evidence but shall seek diligently all of the information and evidence bearing on the merits of the case. The total number of fact witnesses is not to exceed five (5) persons for each party. Character witnesses will not be allowed to testify at Step Two. Within seven (7) calendar days after the conclusion of the hearing, the Grievance Committee shall render its decision in writing which shall forthwith be certified to the grievant, and the department head. Copies of the decision shall be delivered to all parties at interest.

STEP THREE

(APPEAL TO PERSONNEL BOARD)

If such disposition by the Grievance Committee is not satisfactory to either party, either party may appeal such decision to the Personnel Board within seven (7) calendar days following the receipt of the decision of the Grievance Committee, which appeal must be in writing and received at the Personnel Department within the time allowed for the appeal.

The hearing before the Personnel Board shall be de novo and shall follow the same procedure and format as used by the Board in conducting disciplinary hearings appealed directly to the Board.

GOOD FAITH EFFORT. 16.7 Before there can be a hearing by the Grievance Committee at Step Two, the department head must have filed a written report within the time prescribed in Step One above setting forth the effort made to resolve the grievance, which report shall contain the information set out in Step One above.

SCHEDULING OF GRIEVANCE. 16.8 Where practicable, all hearings shall be conducted on the grievant's normal work day.

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CONTINUANCE OF PAY. 16.9 The grievant and his representative shall be allowed their regular rate of pay while attending a hearing on his complaint provided the hearing is conducted on their work day. No compensation shall be allowed where the hearing is conducted on their off days. On the hearing of any grievance filed by a representative of an organization or association representing a group of employees under Civil Service, no more than three (3) employees, in addition to the representative, shall be allowed pay at the regular rate for the time spent at such hearings.

ORGANIZATIONAL AND ASSOCIATIONAL GRIEVANCES. 16.10 Grievances filed by a representative on behalf of an organization or association representing a group of employees may be initiated at the second step of the grievance procedure.

PROPER FORM. 16.11 The Personnel Department shall make available the forms on which any complaint or grievance is made at Step One of the grievance procedure.

APPEAL FORMAT. 16.12 No particular form of appeal to Step Two or Step Three is required provided the notice of appeal is in writing, signed by the appellant. The following or similar language shall be deemed sufficient to effect an appeal:

APPEAL TO STEP TWO:

“The undersigned (Grievant) hereby appeals the decision of the Grievance Committee to Step Two and requests a hearing before a Grievance Committee.”

APPEAL TO STEP THREE:

“The undersigned (Grievant or Appointing Authority) hereby appeals the decision of the Grievance Committee to Step Three and requests a hearing before the Personnel Board.”

TIME OF THE ESSENCE. 16.13 Time is of the essence in the filing and processing of a Grievance under Rule XVI.

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GOOD FAITH EFFORT. 16.14 Good faith efforts in the Resolution of Grievances filed under Rule XVI on the part of both parties is essential.

(Rule XVI amended by the Personnel Board on July 6, 1993, to become effective August 1, 1993.)

(Rule 16.6 (Step One and Step Two) amended by the Personnel Board on February 18, 2003, to become effective April 1, 2003.)