

19. GRIEVANCES

19.1 Grievance Definition

A grievance is any dispute, which involves the interpretation or application of any provisions of this Memorandum of Understanding excluding, however, those provisions of this Memorandum of Understanding, which specifically provide that the decision of any County official shall be final, or that the interpretation or application of those provisions are not subject to the grievance procedure.

19.2 Grievance Purpose

The purposes of this procedure are:

- A. To resolve grievance disputes informally at the lowest possible level;
- B. To provide an orderly and prompt procedure for resolving disputes which arise regarding the interpretation or application of the Memorandum of Understanding;
- C. To encourage communication between employees, the Union, and County representatives;
- D. To determine and correct, if possible, the causes of grievance disputes.

19.3 Grievance Steps

Step 1. Informal Discussion

Any employee or the Union who believes that ~~he/she~~ the employee or Union has a grievance shall discuss ~~his/her~~ the complaint with ~~his/her~~ the employee's immediate supervisor (or such management official designated by the department head within fifteen (15) calendar days of the incident or occurrence. This meeting shall be held in an effort to resolve the grievance informally. The immediate supervisor/management official shall have ten (10) calendar days from the date of the informal discussion to respond to the employee. If an agreement is reached to resolve the issue, the supervisor will confirm the outcome in writing.

If the management official's response does not resolve the grievance, the employee has ten (10) calendar days from the management official's response date to file the grievance in writing with the department head ~~of his/her~~ or the department head's designee at Step 2. If the management official fails to respond, the employee has ten (10) calendar days from the

date the management official's response was issued to file the grievance in writing with the department head or ~~his/her~~ the department head's designee.

Step 2. Department Head and/or Designated Representative

The department head or ~~his/her~~ the department head's designated representative will meet with the grievant and the Union representative and shall provide a written response to the grievant within twenty-one (21) calendar days of having received it. A grievance shall be initiated in writing on the Solano County Grievance Form.

If the grievance is not resolved ~~within the department~~, ~~only the employee or~~ the Union shall have the right to appeal the grievance to the Human Resources Director, in writing, within fifteen (15) calendar days of the response made at Step 2. Notwithstanding this procedure, all complaints involving or concerning the payment of compensation shall be in writing to the Director of Human Resources or ~~his/her~~ the Director's designee pursuant to Section C below, with a copy to the department head.

Step 3. Director of Human Resources

Any ~~employee of any~~ official of the Union may notify the Director of Human Resources, or ~~his/her~~ the Director's designee, in writing that a grievance exists by filing a Solano County grievance form stating the particulars of the grievance and, if possible, the nature of the remedy desired. The Director of Human Resources, or ~~his/her~~ the Director's designee, shall have twenty-one (21) calendar days in which to investigate the issues, meet with the grievant and attempt to reach a satisfactory resolution of the problem. No grievance may be processed under Step (4) or Step (5) below which has not first been filed and investigated in accordance with Step (3) except by mutual agreement of the Union and the Director of Human Resources.

Step 4. Mediation

If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented pursuant to this Memorandum of Understanding, the grievant shall have twenty-one (21) calendar days to request in writing that the grievance be schedule for a mediator.

The Mediation will be convened within ninety (90) working days of receipt of the timely request for a Mediator.

The mediator shall be selected by mutual agreement from the State Conciliation Service.

The recommendation of the Mediator shall be advisory only.

The Mediator shall not issue any public statement of fact or opinion in the matter in question.

The Mediator's recommendation shall neither be made public nor be introduced into any other grievance level by the other party.

Either party may appeal the recommendation of the Mediator to arbitration.

Step 5. Arbitration

If the grievance is not resolved at Step 4, either the Union or the County may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the Union and the Director of Human Resources ~~of his/her~~ or the Director's designee.

In the event the parties are unable to agree on an arbitrator, the parties shall solicit from the State of California Mediation/Conciliation Service a list of seven (7) arbitrators.

After the receipt of the list, the parties shall alternately strike arbitrator's names from the list until one (1) arbitrator's name remains. The order of striking shall be determined by a coin flip.

The fees and expense of the arbitrator and of a Court Report shall be shared equally by the Union and the County. Each party, however, shall bear the cost of its own presentation, including preparation and post hearing briefs, if any. The request for arbitration shall be made in writing within twenty-one (21) calendar days following recommendation of the Adjustment Board.

19.4 Grievance Timelines

Failure of the grievant to adhere to the timeliness contained in this article shall be considered an abandonment of his/her grievance. Failure of the County to adhere to the timelines contained in this article shall allow the grievant to pursue his/her grievance to the next highest step.

19.5 Scope of Grievance Decisions

- A. Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto.
- B. No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union which has been certified as the recognized employee organization for such unit unless such dispute falls within the definition of a grievance.
- C. Proposals to add to or change this Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitral and no proposal to modify, amend, or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to

arbitration under this Section. No arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

- D. If the Director of Human Resources in pursuance of the grievance procedures resolves a grievance which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time, but in the event the dispute is referred to arbitration and the arbitrator finds that the county had the right to take the action complained of, the arbitrator may not substitute his/her/their judgment for the judgment of management and if ~~he/she~~ the arbitrator finds that the County had such right, ~~he/she~~ the arbitrator may no order reinstatement and may not assess any penalty upon the County.

19.6 Compensation Complaints

- A. All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. Only complaints, which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than sixty (60) days from the date upon which the complaint was filed.
- B. No change in this Memorandum of Understanding or interpretations thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the Director of Human Resources and the Union.

Unit 14 Response:

We accept the language cleanup regarding pronouns, as the suggested changes are grammatically correct and efficient. That said, we are leery about the position this proposal could place the Union in the rare instance where the members fight their own grievance and wish to advance the grievance to step 2 and the Union does not agree with the grievance. If the Union is in a position to effectively block the member's grievance, then the Union could be subjecting itself to a "duty of fair representation" allegation by the member.

Also, due to the Janus decision and others, the grievant may not even be a member of the Union. The proposed language puts the Union into a position of being forced to work for a non-member at Step 2 and beyond. This also puts the non-member into a position of being forced to depend on the Union at Step 2 and beyond.

This can be alleviated by allowing the individual to pursue their own grievance. In the end, no decision can be rendered that would be in violation of the MOU. Frankly, the Union could testify

County Proposal – Unit 14
April 27, 2022

on behalf of the County in a situation where an individual grievance is not supported by the Union.

We are not sure the extent to which the current language is in need of a fix.