

CITY OF WACO

GRIEVANCE AND COMPLAINT POLICY

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Policy Summary:

Grievances should be solved at the lowest level of supervision. The following procedures should be followed when considering employee grievances:

The employee schedules an appointment with the supervisor to discuss the problem. No disciplinary action or reprisal will be taken against the employee.

If the problem cannot be solved during the initial discussion between employee and supervision, the employee will submit the grievance IN WRITING to the supervisor.

The supervisor has seven calendar days to resolve the problem. If no solution is reached, the employee may appeal to the next higher level of supervision.

All grievances and appeals must be in writing and copies submitted to Personnel Services. Personnel Services will file all documents in the employee's personnel folder located in Personnel Services.

If a grievance cannot be resolved at the supervisory level or Department Director level, the employee will follow the grievance policy DTG-5 and procedures through the EEO Officer and City Manager.

I. INTRODUCTION OF POLICY

- A. **PURPOSE.** The City of Waco believes that sincere, open communication is essential when our full time employees have problems or concerns regarding their jobs. When grievances or complaints arise, several avenues are available to help address specific problems. These are outlined later within the City of Waco Grievance and Complaint Policy ("Grievance Policy" or "policy").

We encourage full time employees to use the various resources provided within the Grievance Policy when confronted with job related issues. The spirit and intent of the Grievance Policy is to resolve all matters at the lowest supervisory level possible in a manner that is acceptable to all individuals involved.

Problems or disagreements occasionally arise when people work together on a daily basis. The City feels that problems can best be solved through mutual cooperation on the part of supervisors and employees. As a result, the City of Waco's Grievance Advisory Committee has developed the following policy to assist in settling conflicts and concerns in a fair, equitable and timely manner.

B. KEY DEFINITIONS

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1. GRIEVANCE – An allegation that the rights or benefits specifically provided by law or City of Waco personnel and administrative policies have been denied or applied improperly.
 2. COMPLAINT – An allegation that a full time employee’s general employment conditions have been affected in an adverse manner. Progress Review Appeals will be handled as complaints.
 3. FULL TIME EMPLOYEE – Only full time employees completing their probationary period, as defined in the Personnel Rules and Regulations, are eligible to use this policy.
 4. DAYS – “Days” referred to in this policy means “calendar days.”
- C. ADDITIONAL RELATED POLICIES – Complaints relative to the following areas should be handled as prescribed by policy. Examples of these complaints/policies include:
1. EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT – An allegation that an employee has been unlawfully discriminated against in matters related to working conditions or conditions of employment because of the employee’s age, sex, race, religion, color, national origin or physical or mental handicap. Complaints of this nature are to be handled according to the procedures outlined in the City of Waco Affirmative Action Policy. Contact Personnel Services for information or assistance regarding the Equal Employment Opportunity Policy.
 2. SEXUAL HARASSMENT COMPLAINT – An allegation that an employee has been unlawfully subjected to unwelcome sexual advances, requests for sexual favors or physical conduct of a sexual nature as a basis for employment decisions or resulting in an intimidating, hostile or offensive work environment for the individual employee. Complaints of this nature are to be handled according to the procedures outlined in the City of Waco Sexual Harassment Policy. Contact Personnel Services for information or assistance regarding the Sexual Harassment Policy.
- D. FIREFIGHTERS’ AND POLICE OFFICERS’ CIVIL SERVICE – Any grievance or complaint over issues that are the responsibility of the City of Waco Firefighters’ and Police Officers’ Civil Service Commission, as outlined in Chapter 143 of the Local Government Code, are excluded from this procedure.

- E. FILING OF WRITTEN GRIEVANCES AND COMPLAINTS – A copy of all written grievances and complaints must be submitted to Personnel Services.

II. GENERAL PROCEDURE

The following procedure is to be followed in the event a full time employee desires to present a grievance or complaint:

- A. PROCEDURAL STEPS – In order for a grievance/complaint to be officially considered, the procedural steps outlined below must be followed after the occurrence of the challenged action.
 - 1. ORAL PRESENTATION/INFORMAL STAGE – All grievances and complaints must initially be presented to the immediate supervisor of the aggrieved full time employee. It is the responsibility of the supervisor to make every effort to resolve employee concerns as they arise to the mutual satisfaction of both the employee and supervisor. The resolution of the problem at the informal level is encouraged through the division head and Department Director levels, unless the employee desires to proceed directly to the formal level.

Most problems should be solved at the informal level. In the event that the problem is not solved at this level, the employee has the right to file a formal, written grievance or complaint on Employee Grievance Form (ADM-1.F01) as established in the following section.
 - 2. WRITTEN PRESENTATION/FORMAL STAGE – If the oral presentation cited above fails to resolve the matter in a satisfactory manner, the full time employee then has the right to file a formal written grievance or complaint with the immediate first line supervisor within twenty-one (21) days after the challenged action occurred. Grievance forms are available in the Personnel Office. The first line supervisor, or his/her designee, then has seven (7) days to formally respond in writing to the grievance or complaint, with an explanation if appropriate.
 - 3. APPEAL TO DIVISION HEAD LEVEL – If the first line supervisor's decision regarding the grievance or complaint is not satisfactory to the employee, he or she may submit the matter in writing to the division head within seven (7) days after receiving notification of the first line supervisor's decision. The division

head, or his/her designee, then has seven (7) days to officially respond in writing to the grievant or complainant, unless an extension of time is mutually agreed upon by both parties.

4. **APPEAL TO DEPARTMENT DIRECTOR LEVEL** – If the division head’s decision concerning the grievance or complaint is not satisfactory to the employee, he or she may submit the matter in writing to the Department Director within seven (7) days after receiving notification of the division head’s decision. The Department Director, or his/her designee, then has seven (7) days to officially respond in writing of the grievant or complainant, unless a written extension of time is mutually agreed upon by both parties.
 - a. **GRIEVANCE MATTERS** – Should the decision of the Department Director be unsatisfactory to the employee filing the grievance, the employee has the right to appeal the decision to the Employee Hearing Committee described below.
 - b. **COMPLAINT MATTERS** – The Department Director is the final appeal level for complaints.

5. **APPEAL TO EMPLOYEE HEARING COMMITTEE** – If the Department Director’s decision regarding the grievance is not satisfactory to the employee, he or she may appeal the matter in writing to the Employee Hearing Committee, through the Hearing Committee Coordinator (Director of Personnel Services, or his/her designee), within seven (7) days after receiving notification of the Department Director’s decision.
 - a. **COMPOSITION** – The committee is to serve on an ad hoc basis and is to include six (6) total members. The only permanent member is to be the Hearing Committee Coordinator, or his/her designee, from Personnel Services. This position is the only non voting member of the committee.
 - b. **SELECTION** – City Management will annually request volunteer employees to serve on the committee by submitting their names to Personnel Services. When a grievance reaches this level, the Information Systems Division of the Fiscal Services Department will randomly generate the names of four panelists to include:

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1. One Department Director level member.
 2. One division head-level member. (NOTE: The Department Director and the division head members shall not be from the same department.)
 3. Two employees from the same pay classification level as the aggrieved employee. (These two employees shall not be members of the same department. Additionally, they shall not be members of the department in which the employee filing the grievance is employed.)
 4. The final member of the panel is to be an employee selected by the aggrieved employee.
- c. **RESPONSIBILITIES OF COMMITTEE MEMBERS –**
The basic responsibilities of the committee members include:
1. To refrain from conducting any kind of independent pre-hearing investigation.
 2. To refrain from discussing the content of any written material prior to the hearing.
 3. To refrain from discussing any part of the hearing with persons other than fellow Committee members before, during, or after the hearing.
 4. To weigh the reliability and credibility of the evidence presented.
 5. To render a fair and impartial decision based on the evidence presented.
 6. To prepare a written decision which may decide for or against the grievant. Upon considering the disciplinary action taken by the supervisor and the remedy or justice sought by the grievant, the committee may recommend a reduced level of disciplinary action. The decision shall also include a statement of the reasons for the committee's

decision, which is to be based on the evidence presented and on matters officially noticed.

- d. **RESPONSIBILITIES OF THE HEARING COMMITTEE COORDINATOR** – The Hearing Committee Coordinator, or his/her designee (unless veruled by the committee), has the authority to:
 - 1. Exclude irrelevant or limit unduly repetitious evidence.
 - 2. Specify and enforce maximum time limitations on all phases of the hearing.
 - 3. To excuse, when appropriate, all witnesses from the hearing except when called to give testimony.
 - 4. To take any other action indicated to maintain decorum and to ensure a fair hearing.
 - 5. To close the hearing after all evidence is heard.
 - 6. To reopen the hearing, if appropriate, after deliberation and to announce the decision.

- e. **FILING OF DOCUMENTS** – The Hearing Committee Coordinator is the individual responsible for receiving all pertinent information from each party regarding grievances appealed at this level and distributing it to the Committee. Both parties to the grievance are responsible for submitting the following information to the Hearing Committee Coordinator, or designee, within seven (7) days after the request for appeal to the committee has been received. It is the responsibility of the Hearing Committee Coordinator to contact the Department Director and inform him/her that a grievance has been filed for consideration by the committee. Information available:
 - 1. Copy of the employee’s written request for a hearing.
 - 2. Copy of any department documents recommending an adverse personnel action which may have led to the grievance.

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3. Summary of information prepared by the appropriate supervisor upon which the adverse personnel action was based.
 4. Any documents or written statements which the employee provides and desires to be made available to the Hearing Committee Coordinator.
 5. Any other information collected by the Hearing Committee Coordinator and deemed pertinent to the appealed grievance.
- f. CONDUCT OF HEARING – The Employee Hearing Committee is required to schedule and conduct a meeting to hear matters pertinent to the grievance within fourteen (14) days after receiving the documents filed by both parties from the Hearing committee Coordinator.

The Committee is responsible for reviewing the facts and preparing a written decision that includes a statement of the reasons for the Committee's decision. The decision is to be based exclusively upon the evidence presented and on matters officially noticed. The Committee has seven (7) days upon the conclusion of hearing all evidence to officially respond in writing to the grievant, unless an extension of time is mutually agreed upon by both the Committee and the grievant. A copy of the Committee's decision is to be forwarded to the City Manager, Director of Personnel Services, the Department Director of the grievant and the grievant.

The hearings are not open to the public. By consent of both parties, however, persons other than those listed below are permitted to attend. Those persons required to attend the hearing include:

1. The grievant and/or legal counsel or employee representative, if these have been designated in advance of the hearing.
2. One department representative (either the employee's supervisor or the person in the chain of supervision who made the decision resulting in the grievance). The departmental representative presents information to the committee on behalf of

the department in cases involving adverse personnel action.

3. Other employees may appear as witnesses at the hearing, but will be present for their own testimony only.
 4. The Hearing Committee Coordinator authorizes witnesses if requested by either party prior to the hearing, or if by the Committee during the hearing.
- g. ORDER OF HEARING – The order of the meeting should flow according to the following schedule:
1. The Hearing Committee Coordinator calls the meeting to order, states the purpose of the hearing, and identifies the employee filing the grievance and the department representative.
 2. Presentation by the employee or his/her legal counsel or employee representative and witnesses. Questions are asked of the employee and witnesses, if offered.
 3. Presentation by a representative of the department and witnesses. Questions are asked of the department representative and witnesses, if offered.
 4. Rebuttal, discussion and/or questioning as considered appropriate by the Committee.
- h. DECISION OF COMMITTEE – The decision of the Committee will be a recommendation submitted to the City Manager or his designee.
1. CITY MANAGER – The decision of the Committee will be reviewed by the City Manager or his/her designee within seven (7) days. The City Manager, or his/her designee, then has to officially respond in writing to the grievant within that time period, unless a written extension of time is mutually agreed upon by both parties. This decision is final. The decision is to be routed to the grievant and his/her Department Director.

II. MISCELLANEOUS

- A. EXTENSION – An extension of the time limitation can only be accomplished by mutual, written agreement on the part of both parties (i.e., additional time required on the part of the supervisor to investigate specific unanswered questions).

- B. LEVEL OF FORMAL APPEAL – It should be stressed that the first full-supervisory level is the initial level for formal, written grievances and complaints to be submitted. Based upon the class concepts of the City of Waco’s Position Classification System, job cases at the first full-supervisory level typically include the term “supervisor” in the job title, have responsibility for the work product and the worker performing the work, provide assistance regarding the development and implementation of goals, objectives and policies within a department or division, and are involved with a variety of departmental/divisional personnel activities including selection, disciplinary action and performance appraisal, among others.

- C. INFORMATION TO BE INCLUDED IN WRITTEN GRIEVANCE OR COMPLAINT – The following information should be included upon submitting a written grievance or complaint:
 - 1. STATEMENT – Written statement of the grievance or complaint and the facts upon which it is based including:
 - a. Acts out of which the dispute arose;
 - b. Exact date of the alleged acts (or, if uncertain, the approximate dates);
 - c. Date of filing of grievance or complaint; and
 - d. Identification of employee submitting the grievance/complaint and identity of party or parties alleged to have caused the problem.

 - 2. HARM CAUSED – Identification of the harm caused to the grievant, complainant because of the alleged problem.

 - 3. WITNESSES – Identify any relevant witnesses that might be helpful in resolving the complaint or grievance.

 - 4. RELIEF – Statement of the remedy or justice sought.

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Approved: JNH:

A handwritten signature in black ink, appearing to be the initials 'JNH' with a stylized flourish.