

MOBILE POLICE DEPARTMENT MOBILE, ALABAMA

GENERAL ORDER #25

06/07/2012

SUBJECT: GRIEVANCE PROCEDURES

INDEX

25.1.1	GRIEVANCE PROCEDURE
25.1.2	COORDINATION OF GRIEVANCE PROCEDURES AND GRIEVANCE RECORDS
25.1.3	ANNUAL ANALYSIS OF GRIEVANCES
25.1.4	INFORMATION TO BE INCLUDED IN GRIEVANCE
25.1.5	RESPONDING TO GRIEVANCES

25.1.1 GRIEVANCE PROCEDURE

LAWS AND RULES OF THE MOBILE COUNTY PERSONNEL BOARD RULE XVI

RULE 16.1 – STATEMENT OF POLICY

It is the policy of the Mobile County Personnel Board to provide equal opportunity 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, the 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 exists an orderly and constructive employee- employer relationship. Therefore, it is the policy of the board to continue to use its offices to encourage and promote such relationship.

RULE 16.2 – PURPOSE

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 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.

RULE 16.3 – DEFINITIONS

The words and terms contained herein shall have the following meaning for the purpose of carrying out the provisions of this rule:

1. Personnel Board: The Mobile County Personnel Board
2. Grievance Committee: The Grievance Committee provided in Step Two of the Grievance Procedure set forth in this Rule.
3. Supervisor: The individual having the responsibility of supervising the work product of the employee.

4. 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.
5. Personnel Board Act: Local Act no. 470, approved September 15, 1939, 1939 Local Acts of Alabama and all subsequent amendments.
6. Grievance:
 - a. 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.
 - b. 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.
7. Grievant: An employee or a representative of an organization or association representing a group of employees under Civil Service who files a complaint.
8. Working Day: For the purpose of this Rule, the term "working day" shall mean the normal work day of the employee filing a grievance.
9. Calendar Year: All the days of the calendar year.
10. Computation of Time: In computing any period of time prescribed or allowed under this Rule, the day of the act, event, or grievance from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a 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.
11. 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 the employer representative shall be selected by the Personnel Department from each of three nominees submitted respectively by the grievant and the employer.
12. Relative: for the purpose of this rule "relative" shall mean one who is related by blood or marriage within the fourth degree.

RULE 16.4 – GRIEVANCE NOT TO RESULT IN SUSPENSION OF WORK

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 hereinafter 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.

RULE 16.5 – GRIEVANCE PROCEDURE

Any grievant may initiate a grievance. In the presentation of grievances, grievants are reassured 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.

RULE 16.6 – PROCEDURE

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, with the supervisor, and furnish a copy thereof to the department head or a designated representative, (unless the complaint is against the supervisor, in which case the grievant by-passes the supervisor and files the complaint directly with the department head or designated representative).

The department head or a designated representative shall within seven (7) calendar days thereafter 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 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 taken to resolve the grievance, including the response of the grievant. If the department head shall fail to file such written report such failure shall constitute an admission by the department head of the validity of such grievance and 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 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.

If the report from the department head has been filed with the Personnel Director and served on the grievant as herein prescribed, and the disposition is not satisfactory to the grievant, the grievant may appeal the grievance to Step II within seven (7) calendar days after such report has been filed. Unless the grievance shall be appealed to Step Two, the grievant shall be barred from any further proceedings with respect to such grievance.

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 provided 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 designated by the Personnel Director exclusive of the Personnel Department. 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. In the event one or both parties fail to submit nominees to the Personnel 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. The 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. 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. The 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.

RULE 16.7 – GOOD FAITH EFFORT

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.

RULE 16.8 – SCHEDULING OF GRIEVANCE

Where practicable, all hearings shall be conducted on the grievant's normal workday.

RULE 16.9 – CONTINUANCE OF PAY

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 workday. 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.

RULE 16.10 – ORGANIZATIONAL AND ASSOCIATIONAL GRIEVANCES

Grievances filed by a representative on behalf of an organization or association representing a group of employees shall be initiated at Step One of the grievance procedure.

RULE 16.11 – PROPER FORM

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

RULE 16.12 – APPEAL FORMAT

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 an existing Grievance 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.”

RULE 16.13 – TIME OF THE ESSENCE

Time is of the essence in the filing and processing of a Grievance under Rule XVI. RULE 16.14 – GOOD FAITH EFFORT

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.)

25.1.2 **COORDINATION OF GRIEVANCE PROCEDURES AND GRIEVANCE RECORDS**

The Mobile County Personnel Board has the responsibility of coordinating all grievance procedures and is responsible for the maintenance and control of grievance records.

25.1.3 ANNUAL ANALYSIS OF GRIEVANCES

The Department Legal Advisor shall be responsible for collecting, compiling, collating, and preparing an annual grievance report to be submitted with an analysis to the Chief of Police by the end of the first quarter each year. The report shall be compiled from grievances filed in the calendar year. The report format shall list the type of complaint, the race and sex of all participants, and outcome or present status of the grievance. By analyzing grievances, the Chief of Police can observe trends and take steps to minimize the causes of such grievances in the future.

25.1.4 INFORMATION TO BE INCLUDED IN GRIEVANCE

An agency member filing a grievance shall include three principal elements in writing:

1. The facts upon which the grievance is based.
2. Allegations of the specific wrongful act and harm done.
3. A statement of the remedy or adjustment sought.

25.1.5 RESPONDING TO GRIEVANCES

In response to grievances, management and supervisory personnel will:

1. Acknowledge receipt by noting time, date, and person receiving grievance.
2. Analyze the facts or allegations.
3. Respond in writing, either affirming or denying the allegations in the grievance.
4. Identify in writing what, if any remedy or adjustments are to be made.

By order of:



Lawrence L. Battiste, IV
Chief of Police