

## Resolving Grievances

The grievance procedure is nothing more than an in-house mechanism for asking the County to fix a problem. It can be a problem with your pay, your work hours, your job assignment, your equipment, your interaction with your supervisor, etc.

### **Definition:**

"A grievance is defined as an allegation by an employee or a group of employees that the County has failed to provide a condition of employment which is established by the Memorandum of Agreement or by a Departmental Policy or Procedure Manual.

The grievance procedure shall not apply to matters:

1. Over which the Civil Service Commission has jurisdiction;
2. Covered by the Labor Relations Ordinance;
3. Concerning Performance Reports or informal discipline including counseling, oral warnings, or letters of warning;
4. Letters of Reprimand shall not be appealable beyond the Department Head and shall not be subject to the arbitration provisions set forth in the MOA.

Legally-speaking, not all "problems" are grievable matters; but, at the informal stage, the distinction doesn't matter much. A grievance is simply a request that someone in authority give some attention to your legitimate, work-related problem.

Before doing anything, you should read your Grievance Procedure. It is found in the **MOA ARTICLE 11 GRIEVANCE PROCEDURE** on the following below.

Please call your ASDCE Representative to discuss any grievances you may have to resolve. The grievance procedure must be followed as outline in the MOA to be successful. It is not automatic, that ASDCE will file a grievance on a members behalf to the highest level of the respective process which is binding arbitration. The case must be heard before the ASDCE MAC Member Advocacy Committee to determine if it has merit to prevail in arbitration. Please see the MAC Member Advocacy Committee information posted on ASDCE.org for more information or call your ASDCE representative.

<b>Grievance to Employee's Supervisor Review &amp; Answer</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Acts?</b>	<b>Action</b>
45 Calendar Days	Employee	Informal grievance to employees supervisor
7 Working Days	Employee or ASDCE	FORMAL WRITTEN GRIEVANCE SUBMITTED: File a formal written grievance to the employee's supervisor.
7 Working Days	Supervisor	REVIEW & ANSWER: After receipt of the grievance, return a copy of the written grievance to the employee with an answer.
7 Working Days	Employee or ASDCE	FILE APPEAL TO MIDDLE MANAGEMENT: The employee has 7 working days to file an appeal to Middle Management.

<b>Grievance to Middle Management Review &amp; Answer</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Acts?</b>	<b>Action</b>
7 Working Days	Middle Management	MIDDLE MANAGEMENT REVIEW & ANSWER
7 Working Days	Employee or ASDCE	EMPLOYEE REVIEW & APPEAL: The employee has 7 working days to file an appeal to the Department Head.

<b>Grievance to Department Head Review &amp; Answer</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Acts?</b>	<b>Action</b>
30 Calendar Days	Department Head	DEPARTMENT HEAD REVIEW & ANSWER

<b>Binding Arbitration of Grievances</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Takes Action?</b>	<b>Action</b>
30 Calendar Days	ASDCE	ASDCE has 30 calendar days to file arbitration.

<b>Labor Relations Informal Review</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Takes Action?</b>	<b>Action</b>
10 Working Days	DHR Labor Relations	Labor Relations has 10 working days for formal review.

<b>Selection of Arbitrator</b>		
<b>Timelines &amp; Deadlines</b>	<b>Who Takes Action?</b>	<b>Action</b>
	ASDCE	ASDCE

## ARTICLE 11. GRIEVANCE PROCEDURE

This grievance procedure shall be applied in resolving grievances filed by employees covered by this Agreement.

### A. Definition

A grievance is defined as an allegation by an employee or a group of employees that the County has failed to provide a condition of employment which is established by this Agreement or by a departmental Policy or Procedure Manual. This grievance procedure shall not apply to matters:

1. Over which the Civil Service Commission has jurisdiction;
2. Covered by the Labor Relations Ordinance;
3. Concerning Performance Reports or informal discipline including counseling, oral warnings, or letters of warning;
4. Letters of Reprimand shall not be appealable beyond the Department Head and shall not be subject to the arbitration provisions set forth below.

### B. Stale Grievance

A grievance shall be void unless filed in writing within forty-five (45) calendar days from the date upon which the County is alleged to have failed to provide a condition of employment which has been established by this Agreement, or within forty-five (45) calendar days from the time an employee might reasonably have been expected to have learned of the alleged failure. In no event shall a grievance include a claim for money relief for more than the forty-five (45) calendar days period plus such reasonable discovery period.

### C. Informal Discussion with Employee's Supervisor

Before proceeding to the formal grievance procedure, an employee shall discuss his/her grievance with his/her immediate supervisor in private and attempt to work out a satisfactory solution. If the employee and his/her immediate supervisor cannot work out a satisfactory solution, the employee may then choose to represent himself/herself individually, or he/she may request the assistance of a representative, or a steward who has been designated pursuant to Article 2, Section 5, entitled "Stewards" in reducing to writing and formally presenting the grievance.

### D. Formal Written Grievance to Employee's Supervisor

If the employee chooses to formally pursue his/her grievance, he/she shall present the written grievance to his/her immediate supervisor within seven (7) working days after the date upon which the grieving employee informally discussed the grievance with the supervisor. The written grievance shall specify the Article, Section, and/or Subsection of this Agreement which is alleged to have been violated by the County, and shall specify dates, times, places and persons, and other facts necessary to a clear understanding of the matter being grieved. The immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing within seven (7) working days after receipt of the written grievance. If the

ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the supervisor's answer within which to file an appeal to the next level.

E. Grievance to Middle Management

The Middle Manager shall have seven (7) working days in which to review and answer the grievance in writing after receipt. At the employee's option, a grievance meeting shall be held at this level. The employee and his/her representative or steward may be present at and participate in any such meeting. If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the written answer within which to file an appeal to the Department Head.

F. Letters of Reprimand -- Labor Relations Review

If a letter of reprimand is appealed and the grievant is not satisfied with the response of the middle management representative pursuant to Section E above, the grievance may be appealed to Labor Relations for review. The Labor Relations Officer shall have seven (7) working days to review the grievance and make a recommendation to the Department Head. This time line may be waived by mutual agreement, or if a meeting needs to be held with the employee and his/her representative. The recommendation shall be sent to the grievant and a copy shall be sent to the employee's Department Head. The grievant shall have seven (7) working days from the date of the Labor Relations Letter to file a grievance with the Department Head pursuant to Section G below.

G. Grievance to Department Head

The Department Head, or the Department Head's designee, shall have seven (7) working days in which to review, and answer the grievance in writing. Unless waived by mutual agreement of the employee or his/her representative and the Department Head or the Department Head's designee, a meeting is required at this level and the employee and his/her representative shall have the right to be present and participate in such a meeting. The time limit at this level may be extended by mutual agreement between the Department Head, or the Department Head's designee, and the employee or his/her representative.

H. Waiver of Appeal Steps

If the grievance is not resolved after the immediate supervisor has answered it in writing, the grievant and the Department Head, or the Department Head's designee, may by mutual agreement waive review of the grievance at the Middle Management level and proceed to present the grievance to the Department Head.

I. Binding Arbitration of Grievances

ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

In the event that the grievance is not resolved by the Department Head, the Association may, within thirty (30) calendar days after receipt of the decision of the Department Head or the Department Head's designee, made pursuant to paragraph F, request that the grievance be heard by an arbitrator.

J. Informal Review by Labor Relations Office

Prior to the selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Labor Relations Office shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Labor Relations Office shall have ten (10) work days in which to review and seek adjustment of the grievance.

K. Selection of Arbitrator

The arbitrator shall be selected by mutual agreement between the Labor Relations Office and the grievant or his/her representative. If the Labor Relations Office and the grievant or his/her representative are unable to agree on the selection of an arbitrator, they shall jointly request the State Mediation and Conciliation Service to submit a list of five qualified arbitrators. The Labor Relations Office and the grievant or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.

L. Duty of Arbitrator

Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be binding. The decision of the arbitrator shall be based solely on the interpretation of the appropriate provisions of the Memorandum of Agreement applicable to the grievance, and he/she shall not add to, subtract from, modify or disregard any of the terms or provisions of the Agreement.

The provisions for arbitration are not intended and shall not be construed to empower an arbitrator to change any condition of employment, specifically covered by the Memorandum of Agreement, or to revise, modify or alter, in any respect, any provision contained in the Agreement.

M. Payment of Costs

Each party to a hearing before an arbitrator shall bear his own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne one-half (½) by the County and one-half (½) by the grievant.

N. Effect of Failure of Timely Action

Failure of the employee to file an appeal within the required time period at any level shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.

O. The Association of San Diego County Employees (ASDCE) Rights

1. In the event that an employee chooses to represent himself/herself, or arranges for representation independent of the Association, the County shall make no disposition of a grievance which is inconsistent with the terms and conditions of this Agreement.
2. In the event an employee shall elect to go to arbitration independently, the Association shall have the right to be a full and equal party to such proceeding for the purpose of protecting the interests of its members under the terms of this Agreement.

In the event the Association determines that an inconsistent award has been made, the Association on its own behalf, may file a grievance for the purpose of seeking to amend such disposition.