

Policy No. 2.18 **Grievance Procedure**
Date of Issuance: **May 17, 2012**
Revision Date:

Definitions:

1. A grievance shall mean a dispute regarding the application of Town Board policies regarding an employee's discipline or termination of employment, or a dispute concerning workplace safety. No grievance shall be processed under this policy unless it is in writing and contains all of the following:
 - A. the name and position of the grievant;
 - B. a clear and concise statement of the grievance;
 - C. the issue involved;
 - D. the relief sought;
 - E. the date the incident or alleged violation took place;
 - F. the specific section of the Policy Manual or workplace safety rule alleged to have been violated; and
 - G. the signature of the grievant and the date.

1. The term "days" means regular business days, Monday through Friday, other than weekends and holidays regardless of whether the employee or his or her classification is scheduled to work. The time within which an act is to be done under this policy shall be computed by excluding the first day and including the last day.

2. A "grievant" is an employee as defined by state statutes governing this grievance procedure. At the grievant's cost and request they may be represented by a person of their choice.

3. "Workplace safety" means those conditions related to physical health and safety of employees enforceable under federal or state law, or Town rule related to: safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risk.

4. "Discipline" means oral reprimands (where a written record of the reprimand is placed in the employee's file), written reprimands, suspension and demotion. Discipline does not include performance reviews, work plans or corrective actions that do not include a reprimand or other adverse employment action.

5. "Termination" means discharge from employment. Layoffs (reduction in force) are not considered terminations and are not subject to this procedure.

Procedures:

First Step

Within ten (10) days after the facts upon which the grievance is based or should have reasonably become known the employee shall present the written grievance to his/her immediate supervisor. The immediate supervisor shall give a written answer within ten (10) days of receipt of the grievance, with a copy to the Town Administrator.

An employee who has been notified of termination may process the grievance commencing at Step 3.

Second Step

If the grievance is not satisfactorily resolved at Step 1, it may be submitted by the grievant to the Town Administrator within five (5) days after having received the answer in the First Step. After receipt of the written grievance by the Town Administrator, he/she or the designated representative of the Town Administrator will meet with the grievant in an effort to resolve the issue(s) raised by the grievance. Within ten (10) days after the meeting, the Town Administrator shall respond to the grievance in writing. The Town Administrator shall also determine if the grievance is timely, if the subject matter of the grievance is within the scope of this policy and otherwise properly processed as required by this policy. If the Town Administrator is aware of other similar pending grievances, the Town Administrator may consolidate those matters and process them as one grievance.

Third Step

Upon the written request of the grievant in response to an adverse decision, the decision at the second step may be appealed by a written statement forwarded to the Town Administrator particularly describing the reason for appeal. If the decision at Step 2 is based in whole or in part on the basis of timeliness, scope of the grievance process or other failure of the grievant to properly follow the process the matter shall be referred to the Town Board who shall determine whether the matter should be processed further. If the Second Step decision is on the merits of the grievance only the grievance will be referred to an Impartial Hearing Officer (IHO). The IHO will be designated by the Town Administrator. Any costs incurred by the (IHO) will be paid by the Town. The IHO will convene a hearing in the manner the IHO determines necessary. The IHO shall have the authority to administer oaths, issue subpoenas at the request of the parties, and decide if a transcript is necessary. The IHO may require the parties to submit grievance documents and witness lists in advance of the hearing to expedite the hearing. The burden of proof shall be "a preponderance of the evidence". In termination and discipline cases, the Town shall have the burden. In workplace safety cases, the employee shall have the burden. The IHO may apply relaxed standards for the admission of evidence, including allowing the admission of hearsay. The IHO may request oral or written arguments and replies. The IHO shall provide the parties a written decision.

The IHO may only consider the matter presented in the initial grievance filed by the employee. The IHO shall have no power to add to subtract from or modify the terms of the Town policy or rule that forms the basis for the grievance.

Fourth Step

Either party may appeal an adverse determination at step three to the Town Board, by filing written notice appealing the decision of the IHO in the Town Administrator's Office within ten (10) days of the decision of the IHO. The Town Board shall within thirty (30) days after submission of the appeal schedule the review of the IHO's decision. The review will be conducted by the Board during a closed session meeting unless an open session is requested by the employee. The Board may make its decision based on the written decision of the IHO or the Board may examine any records, evidence and testimony produced at the hearing before the IHO. A simple majority vote of the Board membership shall decide the appeal within twenty (20) days following the last session scheduled for review. The Board will issue a final written decision which shall be binding on all parties.

Timelines

Failure to process a grievance by the grievant within the time limit, or agreed upon extensions, shall constitute waiver of the grievance and will be considered resolved on the basis of the Town's last answer. Failure of a management representative to meet the time limits shall cause the grievance to move automatically to the next step in the procedure. To encourage that grievances are addressed in a prompt manner the time limits set by this policy are intended to be strictly observed and may not be extended except in extreme circumstances and then only upon the express written consent of the parties.

Exclusive Remedy

This procedure constitutes the exclusive process for the redress of any employee grievances as defined herein. However, nothing in this grievance procedure shall prevent any employee from addressing concerns regarding matters not subject to the grievance procedure with administration and employees are encouraged to do so. Matters not subject to the grievance procedure that are raised by employees shall be considered by administration which has final authority, subject to any applicable Board policy or directive, to resolve the matter.