

Section 1: PURPOSE

It is the purpose of this procedure to provide a simplified and definite method for employees to resolve grievances they may have in their employment relationships with the City. The overall policy of the City of Manteca is to provide for the resolution of grievances and internal complaints at the lowest level possible within the employment hierarchy of the City without unnecessarily disrupting City functions or services. The use of this procedure in resolving grievances and internal complaints shall not be held against any employee in any manner. This procedure shall be followed by all city employees. Exception: Fire Department personnel shall follow the procedure defined in their Administration, Policy and Operations Manual for filing grievances.

Section 2: POLICY

This policy is intended for any employee who believes that the City Manager or a City Councilmember has violated his/her rights under the City's Personnel System Rules and Regulations or Municipal Code, or any City Councilmember who believes that an employee has engaged in misconduct or complaint under this Policy and Procedure. Employee organizations may not file an internal complaint under this Policy and Procedure on behalf of the employee organization, but may act as a representative (Refer to Section II).

Section 3: DEFINITION

A grievance is a disagreement between City management and an employee, group of employees, or employee association/union concerning the interpretation, application, or violation of a specific article(s) of Memorandum of Understanding or established written rule(s) or regulation(s), governing personnel practices. Refer to Section I.

For the purpose of this procedure, notification to a party shall be given either personally, by telephone, or in writing. Notice by mail shall be deemed to have been completed on the third calendar day following deposit of notice with the United States Postal Service.

Reasonable City time may be used in the preparation of a grievance or internal complaint. City time may be used for the procedures as set forth below.

Section 4: STEPS IN THE GRIEVANCE PROCEDURE

1. **Time Limitation and Notification:** Time limits are established to settle a grievance quickly. Time limits may be modified only by agreement of the grievant and the responding parties. If at any step of this Grievance Procedure, the grievant is dissatisfied with the decision rendered or a decision has not been filed in a timely manner, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved.

Any employee or group of employees having a grievance shall first discuss the grievance on a personal face-to face basis with his/her immediate supervisor.

A formal grievance may be entertained or advanced to any step if the grievant and the responding parties jointly agree. No complaint shall be considered a grievance unless it is presented within fifteen (15) working days/shifts after the employee is aware or should have been aware of the conditions precipitating the grievance.

- a. **First Step:** If discussing the grievance with the supervisor does not resolve the issue(s), the grievance shall be submitted in writing to initiate the formal grievance process. Within ten (10) working days the immediate supervisor shall render a decision, the grievant may submit the grievance to the next step not later than five (5) working days after the decision is received by the grievant.
- b. **Second Step:** If a mutually acceptable solution has not been reached in Step 1, the grievant shall submit the grievance in writing to the department head or his/her designee within five (5) working days after the completion of the second step. The Administrative Services Director shall make a determination of whether the grievance is a matter for which this Grievance Procedure is appropriate. A meeting with the employee, a representative of the employee's choice or the representative of the Association/Union, and the department head or his/her designee shall be arranged at a mutually agreeable time to review and discuss the grievance. Such meeting shall take place within ten (10) working days from the date the grievance is received by the department head. The department head and the grievant may call any witnesses at such meeting in order to

reach a decision; any meeting may be continued by the department head if necessary. The head or his/her designee shall give a written reply by the end of the fifteenth (15) working day following the date of the meeting. If the grievant is not satisfied with the written decision, the grievant may submit the grievance to the next step not later than five (5) working days/shift thereafter.

- c. **Third Step:** If a mutually acceptable solution has not been reached, the grievant may submit the written grievance to the City Manager. A meeting with the City Manager shall be scheduled at a mutually agreeable time to review, discuss and attempt to resolve the grievance. The City Manager has the authority to hire a hearing officer or arbitrator. Decisions of the City Manager shall be final, except in matters presented by employees in units with advisory arbitration. These employees may request advisory arbitration. Refer to the appropriate Memorandum of Understanding for specific procedures.

Section 5: REPORTING A FORMAL COMPLAINT

1. In the event of an internal complaint, the complainant shall provide a written complaint to the City Manager or any other City management employee. In the event the complainant is a city Councilmember, the written complaint shall be submitted directly to the City Manager who shall undertake the fact-finding described herein, or delegate this responsibility. If the complaint concerns the City Manager, the complaint shall be submitted to the City Attorney who shall immediately notify the City Council. The City Council shall determine how to proceed with the complaint.
 - a. The complaint shall include: (1) a description of the violations(s); (2) date(s), time(s), and location(s) of incidents(s)/violation(s); (3) name(s) of alleged offender(s) and/or witness(es); and (4) the remedy the complainant desires.
 - b. In the event the complaint involves discrimination or harassment on the basis of age, sex, race, disability, national origin, or religion the fact-finder shall advise the complainant of his/her right to file complaints with the U.S. Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, and/or with the City of Manteca pursuant to the City's Harassment and Discrimination Policy and Complaint Procedure. The fact-finder shall inform the complainant of his or her rights, responsibilities and options for

resolving the complaint, including the complainant's right to be assisted by a representative of his/her choice. After review of the complaint, if the fact-finder finds that the complaint involves sexual harassment and/or discrimination, then under those circumstances the procedure set forth in the sexual harassment and/or discrimination policies shall apply exclusively.

- c. A complaint, subject of complaint, or witness may represent himself/herself or may, at the individual's sole expense, designate a representative to assist him/her to present a complaint and/or respond to a fact-finding instituted pursuant to this Policy and Procedure.

2. Time Period for Filing a Formal Complaint

- a. A formal complaint alleging a violation of the Policy shall be filed with the appropriate party as defined above, within twenty (20) working days/shifts after the alleged incident(s) took place, so that an effective investigation of the allegation(s), a resolution to the problem(s), and a remedy to the situation and can occur in an efficient and timely manner.

3. Fact-finding Procedure

- a. The fact-finder shall begin to investigate the complaint with the intention of completing the fact-finding and fact-finding report in a timely manner. At the conclusion of the investigation, the fact-finder shall prepare a written report detailing: (1) the allegations investigated; (2) the findings of fact as to each allegation and a description of the evidence supporting each finding of fact; and (3) a determination, based upon the findings of fact, regarding whether there exists reasonable cause to believe that a violation of City policy occurred.
- b. The fact-finder shall notify the complainant as soon as possible with a written response. The response shall summarize the action recommended by the fact-finder, subject to the privacy rights of all persons involved, the confidentiality of documents, and the law. The fact-finder's response shall be completed within thirty (30) calendar days from the fact-finder's completion of any investigation.

4. Duty to Cooperate with Fact-finding

- a. It is the duty of every City employee, officer, and appointed or elected official to cooperate with the investigation of complaints

filed pursuant to this Policy and Procedure. This duty includes the responsibility to provide, upon the City's request, all relevant information, either verbally or in written form. Any employee who violates these duties, or who interferes with or obstructs an investigation made under this Policy and Procedure, or who willfully provides false or misleading information in the course of a fact-finding, shall be subject to discipline, up to and including termination. Any appointed or elected official who violates these duties will be subject to censure or other action deemed necessary by a majority vote of the City Council.

5. Disciplinary/Censure/Remedial Action

- a. If an investigation and/or findings on a formal complaint reveals misconduct on the part of a City employee, the City shall take appropriate disciplinary/corrective action pursuant to all applicable City disciplinary procedures and to the requirements of applicable laws, including the Public Safety Officer's Procedural Bill of Rights (Government Code Section 3300 et seq.).
- b. If it is determined the City Manager violated any policy or procedures, the City Council shall review the fact-finding report and determine appropriate action.
- c. Any appointed or elected office who is found at fault via the Policy and Procedure herein may be subject to censure, or other remedial action deemed necessary by a majority vote of the City Council.

6. Confidentiality

- a. All information, correspondence, data, documents, tapes, and testimony gathered during the fact-finding regarding a complaint shall be confidential, except as necessary to: make a complete fact-finding; provide an appropriate remedy; initiate and implement disciplinary action; initiate and implement censure; and/or comply with any law (including the Brown Act) and the Public Records Act, subpoena, or court order.