

DIVISION 7. - GRIEVANCES, COMPLAINTS AND APPEALS

Sec. 19-236. - Definition.

For the purposes of this division, "working day" shall be defined as Monday through Friday, except designated city holidays. The first working day following an event shall be the next day that is not a Saturday, a Sunday or holiday as established in section 19-121.

(Code 1964, § 22.1400; Ord. No. [23324](#), § 1, 9-18-17)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 19-237. - Grievances, complaints and disciplinary reviews.

- (a) All classified employees shall have the right, except as specified herein, to utilize the grievance, complaint and disciplinary review procedures of this division when they believe an action taken against them was without just cause. The grievance, complaint and disciplinary review procedures of this division shall not be available to the following:
 - (1) Probationary employees.
 - (2) Employees who are serving a qualifying period subsequent to their initial probationary period except in matters not related to their status in the position in which they are serving the qualifying period.
 - (3) Employees or job applicants who feel they have been discriminated against based on race, creed, color, religion, sex, age, sexual orientation, gender identity, national origin, ancestry, marital status, political affiliation or disability. Such discrimination cases shall be handled pursuant to section 19-182.
 - (4) Temporary employees, as defined by section 19-4 and section 19-157.
- (b) It shall be the policy of the city insofar as possible to prevent the occurrence of grievances and complaints and to deal properly with those which occur.

(Code 1964, § 22.1410; Ord. No. 17016, § 1, 9-17-01; Ord. No. 21206, § 1, 1-3-12; Ord. No. [23324](#), § 1, 9-18-17)

Sec. 19-238. - Procedures for grievances, disciplinary review and complaints.

- (a) Whenever an employee or employee bargaining group eligible to file a grievance, disciplinary review or complaint desires to do so, the employee or employee bargaining group shall follow the procedures set out in this section. An employee may have the assistance of an attorney, a representative of the employee's bargaining group or other representative in any stage of the process. Notification of such assistance shall be given in writing signed by the employee on a form to be provided by the human resources department. A represented employee shall participate fully at all stages of the process. All documents and other submissions by employee's representative shall be read and signed by the employee to verify that submission is truthful and accurate. Employees and their representatives may, with the permission of their supervisors, be granted time off with pay for the purpose of necessary discussions and conferences with city supervisors and administrators relating to the resolution of specific grievances and complaints.
- (b) Employees who feel that they have been discriminated against pursuant to equal employment opportunity provisions of city ordinance, state or federal laws shall follow the complaint procedures set out in section 19-182.

- (c) An employee objecting to the content of a job performance review may forward the objection directly to the employee's department head and if the employee, department head, and supervisor cannot reach agreement, the human resources director, or the human resources director's designee, will attempt to conciliate the matter. If the conciliation effort does not resolve the problem, the human resources director shall issue a final decision regarding the objection.

- (d) Complaint procedures.

- (1) An employee or employee bargaining group may file a complaint. All complaints shall be in writing on a form provided by the human resources director and shall be submitted to the human resources department within ten (10) working days following knowledge of the basis for the complaint. The human resources department will refer the complaint to the department head of the appropriate department. No complaint may be filed when a grievance has been or is filed related to the same issues. The department head will have ten (10) working days from the day the complaint is received from the human resources department to try to informally resolve the complaint. The department head will provide the human resources department and the employee or employee bargaining group with a notice of the outcome of the informal discussions on a form provided by the human resources department.

- (2) If at the end of ten (10) working days the complaint has not been resolved to the satisfaction of the employee or employee bargaining group, the employee or employee bargaining group may submit a request for elevated review to the human resources department within five (5) working days.

The human resources director, or the director's designee, will attempt to conciliate the matter within ten (10) working days of receipt of the complaint. In the alternative, if the complaint was submitted by an employee bargaining group and involves a dispute concerning the meaning, interpretation or application of a collective bargaining agreement, either party may request mediation, in which case the mediation procedure described in this section will apply.

- (3) If at the end of ten (10) working days of conciliation efforts, or at the conclusion of the mediation, the issue is not resolved, the employee or employee bargaining group may request in writing that the original complaint be forwarded to the city manager for determination. The request must be made within five (5) working days of the conclusion of conciliation or mediation. Within ten (10) working days of such a request, the human resources director shall make a recommendation to the city manager and forward the complaint, the department response, and all other written material deemed relevant to the city manager.

- (4) The city manager shall, within fourteen (14) working days:

- (a) Make a final determination; or
 - (b) Take no action and thereby uphold the human resources director's recommendation, making the recommendation final.

- (5) No complaint may be filed for the purpose of harassing or annoying any person. The filing of complaints for that purpose may be grounds for disciplinary action or being barred from filing complaints.

- (e) Disciplinary review procedures.

- (1) An employee may request disciplinary review of written discipline, other than suspension without pay, dismissal or disciplinary demotion. Any employee requesting disciplinary review shall file the request for review in writing on a form provided by the human resources department within ten (10) working days of receiving the written notice under section 19-226. The request must be filed with the human resources department, which shall promptly forward a copy to the employee's department head. Within ten (10) working days, the department head, or the department head's designee, shall meet with the employee and any other necessary staff for a determination of the request, as well as review any documentation relating to the disciplinary action. The department head's designee shall not be the same person who imposed the discipline. Upon completing the review, the department head, or the department head's

designee, shall issue a decision on a form provided by the human resources department either affirming the disciplinary action or making such modification as the department head, or the department head's designee, deems appropriate, and shall give notice of that decision to the employee and the human resources department.

- (2) If the employee is dissatisfied with the department head's decision, the employee may request that the original complaint be forwarded to the human resources department within five (5) working days for elevated review. The human resources director, or the director's designee, may attempt to conciliate the matter within ten (10) working days. The determination of whether to modify the discipline shall be made by the department head.

(f) Grievance procedures.

- (1) Employees suspended without pay, dismissed or given disciplinary demotion, including discharged employees, may file a grievance in response to receiving the written explanation of disciplinary action required by section 19-226. An employee may also file a grievance following notice of separation as allowed by section 19-211(f).
- (2) The employee must file the grievance with the human resources department within ten (10) working days of receiving the written notice under section 19-226 or the written notice under section 19-211(c).
- (3) The written reasons shall be on a form provided by the human resources director, and include:
 - (a) A plain statement of the action taken.
 - (b) A list of evidence, documents and witnesses supporting the grievance.
 - (c) The summary of the facts supporting the grievance.
 - (d) The applicable laws, ordinances or rules.
 - (e) The specific relief requested.
 - (f) Any request that the human resources director review documents unavailable to the employee.
 - (g) As an attachment, any notice received by the employee regarding the action.
 - (h) Any other information deemed relevant by the employee.
- (4) Within ten (10) working days of receipt of the notice from the employee, the human resources department shall provide a notice of receipt of the filing of the grievance to the department head. Within ten (10) working days of receipt of the notice from the human resources department, the department head will provide a written response to the grievance on the form provided by the human resources department. If not resolved with the issuance of the department head's written response, within five (5) working days of receiving the department head's response, the human resources director shall assure that all required procedural steps have been taken by the department issuing the action and, if the required steps have not been taken, return the disciplinary action to the department, which shall, within five (5) working days, correct any deficiencies or rescind the action.

The human resources department may independently investigate the matter and will notify the employee and the department head if an investigation is conducted. If the human resources director determines that the disciplinary action, as currently documented, appears inconsistent with prior departmental or city disciplinary actions, the human resources director, or the director's designee, shall meet with the department head to determine if any modification to the action should be taken; the determination of whether to modify the discipline shall be made at that time by the department head.

The director of human resources shall inform the employee of the outcome of the review and conference with the department head. If the employee is not satisfied with the outcome of the review, the employee may request mediation or appeal to the personnel advisory board

pursuant to section 19-239. An appeal to the personnel advisory board must be taken within five (5) working days of the date on which the human resources director informs the employee of the outcome of the review or within five (5) days of the written notice from the mediator issued pursuant to section 19-238(g) that the mediation has concluded.

- (g) Mediation procedure. The human resources director shall arrange for mediation through the University of Missouri School of Law, or a mutually agreed mediator. The mediation will be held at a mutually agreeable time and location within the City of Columbia. The mediator shall work to reach a resolution of the dispute that is agreeable to all parties. The mediation may continue beyond the initial session if agreed by all parties, including the mediator.

If the mediator concludes that the parties have negotiated to impasse, either party may ask that the mediator render a non-binding opinion as to the proper outcome of the dispute. The mediator has the authority to render such an opinion if the negotiations are at an impasse, the requesting party has negotiated in good faith and the mediator believes the rendering of an opinion may aid in the resolution of the dispute. The decision on whether to render an opinion is within the unreviewable discretion of the mediator, who is not required to provide an opinion. If rendered, the opinion must provide the recommended outcome and mediator's rationale for the recommended outcome. The mediation will be confidential and, before proceeding with mediation, both parties must agree in writing that the any information produced in the mediation, other than the terms of an agreement but including the mediator's recommendation and rationale, will not be used for any purpose outside the mediation, including subsequent litigation or proceedings relating to the labor negotiations.

If the mediation concludes without an agreement, the mediator shall immediately inform all parties in writing of the date on which the mediator determines that the mediation has concluded.

- (h) Prior to the expiration of deadlines set out herein, the human resources director may, under reasonable circumstances, grant extensions to such deadlines. The human resources director shall provide notice of any extension to all parties.
- (i) Grievances, disciplinary reviews or complaints which are not specifically resolved and not continued by the employee within the aforementioned time sequences, including extensions, shall be considered as satisfied and not subject to further consideration. Grievance, disciplinary review or complaint responses by the department head which are contrary to established time sequences may be elevated to the next step of the process by the human resources director on request of the employee or the employee bargaining group. The human resources director will have discretion in determining whether to elevate the dispute, but shall assure that the process is managed expeditiously.

(Ord. No. 15754, § 2, 9-21-98; Ord. No. 17850, § 1, 9-15-03; Ord. No. 19677, § 1, 9-17-07; Ord. No. 20438, § 1, 9-21-09; Ord. No. 21828, § 1, 9-16-13; Ord. No. [23324](#), § 1, 9-18-17)

Sec. 19-239. - Appeals to personnel advisory board.

Eligible city employees may appeal grievance determinations involving suspensions without pay, dismissals or disciplinary demotions against them to the personnel advisory board provided the grievance procedure has been utilized by the employee.

Personnel advisory board appeal procedures are as follows:

- (1) The employee may file a written request with the human resources department for a hearing before the personnel advisory board. An appeal to the personnel advisory board must be taken within five (5) working days of the date on which the human resources director informs the employee of the outcome of the review provided under section 19-238(f) or within five (5) days of the written notice from the mediator issued in accordance with section 19-238(g) indicating that the mediation has concluded. The request shall be on a form provided by the human resources department. A hearing shall be scheduled as soon as possible and shall be

conducted by procedures and rules established by the personnel advisory board. The hearing shall be closed. The employee shall have the right to be heard and to present evidence. Testimony shall be given under oath and a record made of the hearing.

Each party, as well as the board, may engage counsel and call witnesses. The board shall upon request of any party issue subpoenas and shall in a proper case issue subpoenas duces tecum for the hearing, but not for depositions. Subpoenas shall be issued, served and enforced in the same manner as subpoenas issued under RSMo Ch. 536, by agencies created by the constitution or state statute. Technical rules of evidence shall not apply. After hearing and consideration of the evidence and within ten (10) working days after the hearing, the board shall render its recommendations in writing to the city manager. As soon as possible after the hearing, a certified written transcript of the hearing along with all exhibits produced at the hearing shall be delivered to the city manager. The city manager shall review the transcript and exhibits and, within thirty (30) days of receiving the transcript, render a decision supported by findings of fact and conclusions of law which shall be final, binding and not subject to further administrative appeal except to the extent allowed by state law.

- (2) For problems involving sexual harassment or a potential discriminatory situation, the employee may contact the human resources department or may utilize available remedies under existing local, state and federal legislation.

(Code 1964, § 22.1430; Ord. No. 13821 § 1, 9-20-93; Ord. No. 14167 § 1, 8-15-94; Ord. No. 17016, § 1, 9-17-01; Ord. No. 17850, § 1, 9-15-03; Ord. No. 21828, § 1, 9-16-13; [Ord. No. 22579, § 1, 9-21-15](#); Ord. No. [23324](#), § 1, 9-18-17)

Sec. 19-240. - Deputy police chief and assistant police chief appeal rights.

The deputy police chief and any assistant police chief shall be given, upon written request, a meeting with the chief of police within forty-eight (48) hours of a dismissal, disciplinary demotion or suspension that results in a reduction or withholding of salary. At any such meeting, the chief shall provide a brief statement, which may be oral, of the reason of the discharge, disciplinary demotion or suspension and permit the employee the opportunity to respond. The result of this meeting shall be reduced to writing. This subsection shall not apply to a deputy chief or assistant police chief serving in a probationary period.

(Ord. No. 21456, § 1, 9-17-12; Ord. No. 21828, § 1, 9-16-13)