



**CITY OF VISALIA PERSONNEL POLICY**  
**Policy #117**  
**Grievance Procedure**

---

**I. PURPOSE**

To resolve applicable complaints as near as possible to the point of origin and to provide a process for any regular employee who feels that he/she has been personally adversely affected by the misinterpretation or misapplication of policies contained herein.

**II. POLICY**

Any regular employee (including promoted probationary employees who previously achieved regular status) who wishes to challenge a violation of these policies may file and process a grievance as set forth in this Policy.

An employee serving an initial appointment probationary period may not file a grievance under this Policy, except that such employee, who feels personally adversely affected by the misinterpretation or misapplication of probationary rules and/or policies, can grieve that misapplication or misinterpretation of probationary rules and/or policies to himself/herself.

**III. DEFINITIONS**

A. Grievance

Subject to the exclusions listed below, a grievance is defined as any dispute that: 1) is job-related, 2) is wholly or partially within the province of the City to rectify or remedy, 3) concerns terms and conditions of employment, 4) involves the interpretation, application, or alleged violation of these Policies or a current Memorandum of Understanding (MOU) between the City and a recognized employee organization representing City employees, and 5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

B. Exclusions from the Grievance Procedure

Matters which are not subject to the Grievance Policy include the following:

1. Challenges to any discipline, including reprimand, suspension, reduction in pay, demotion and discharge;
2. Requests for changes in the content of employee evaluations or performance reviews, verbal or written warnings, reprimands or counseling memos;
3. Challenges to the decision to reclass, layoff, transfer, reassign, deny reinstatement, deny flexing, or deny a merit increase;
4. Challenges to examinations or the appointment to positions;



**CITY OF VISALIA PERSONNEL POLICY**  
**Policy #117**  
**Grievance Procedure**

---

5. Complaints concerning equal employment opportunity, discrimination or harassment, which are subject to the procedures in City Policies #101-Equal Employment Opportunity and #120-Anti-Harassment, Discrimination, Retaliation .
6. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meet and confer process or matter within the scope of representation;
7. Other matters for which a specific method of review is provided by law, by the rules and regulations of the City Council or by administrative regulations and procedures of the City are not within the scope of this Grievance Policy.

#### **IV. PROCEDURE**

##### **A. Step 1 - Informal Discussion**

Within fourteen (14) calendar days of the occurrence of the act(s) that constitute the alleged grievance, an employee shall discuss the grievance with his/her Immediate Supervisor who will attempt to resolve the matter. An Immediate Supervisor is the lowest level administrator having immediate jurisdiction over the Grievant. The Immediate Supervisor will give the Grievant a verbal or written reply within fourteen (14) calendar days after the discussion.

##### **B. Step 2 – Formal Discussion**

If the grievance is not resolved informally at Step 1 and, if the complaint constitutes a grievance as herein defined, the Grievant may file a formal grievance. To do so, the Grievant must present the relevant facts in writing to the Immediate Supervisor within fourteen (14) calendar days of the date of the Immediate Supervisor's reply. Upon receipt of a written grievance, the Immediate Supervisor shall notify the Human Resources Manager.

The written grievance must identify all of the following:

- a) Fully describe how the Grievant is/was adversely affected by a specific act or omission which gave rise to the alleged violation, misinterpretation, or misapplication;
- b) Identify the specific provision of these Policies or an applicable MOU which was allegedly violated, misinterpreted, or misapplied;
- c) The date or dates on which the violation, misinterpretation, or misapplications allegedly occurred;
- d) The documents, witnesses or other evidence that support the grievance;
- e) The desired solution or remedy;
- f) The signature and identification of the Grievant; and
- g) The person, if any, the Grievant has chosen to be his/her representative.

No grievance will be accepted for processing until all of the information listed above is provided. Within fourteen (14) calendar days after the Grievant provides all of the information listed above, the Immediate Supervisor may, in his/her discretion, schedule a meeting with the Grievant for the parties to work at resolving the grievance. The Immediate Supervisor shall give the Grievant and his/her representative, if any, a written



**CITY OF VISALIA PERSONNEL POLICY**  
**Policy #117**  
**Grievance Procedure**

---

reply within fourteen (14) calendar days after receipt of the written grievance, or the meeting, whichever occurs later, and will file a copy in the department's grievance file and file a copy with the Human Resources Manager. If the Grievant is not satisfied with the response, he/she may proceed to Step 3.

**C. Step 3 – Department Head Review**

If the grievance is not resolved at Step 2, the Grievant may submit a written appeal to the Department Head within fourteen (14) calendar days after the date of the Immediate Supervisor's written reply. The Grievant shall provide the Department Head with 1) a copy of the employee's original grievance, 2) a copy of the Immediate Supervisor's decision, and 3) a concise statement of the reasons for the Department Head Review. Upon receipt of the written request, the Department Head shall notify the Human Resources Manager.

Within fourteen (14) calendar days thereafter, the Department Head may, at his/her discretion, schedule a meeting with the Grievant and/or Immediate Supervisor for the purpose of giving the parties the opportunity to resolve the grievance. The Department Head will give the Grievant and his/her representative, if any, a written reply within fourteen (14) calendar days after receipt of the written grievance, or the meeting, whichever occurs later, and will file a copy in the department's grievance file and file a copy with the Human Resources Manager. If the Grievant is not satisfied with the response, he/she may proceed to Step 4.

**D. Step 4 – Mediation**

If the grievance is not resolved after Step 3, as an alternative to proceeding directly to Step 5 - City Manager, the Grievant may request mediation. A request for mediation must be presented in writing to the Human Resources Manager within fourteen (14) calendar days from the date a decision was rendered at Step 3. As soon as practicable or as otherwise agreed to by the parties, a mediator shall hear and attempt to mediate a resolution to the grievance. The mediator shall be bound by the language of the MOU and City Policies, and shall confine him/herself to the precise issues submitted to him/her. A request for mediation will automatically suspend the normal processing of a grievance until the mediation process is completed. The mediation process shall be optional and is scheduled by the City. Any opinion expressed by the mediator shall be informal and will be advisory only. State Mediation and Conciliation Service will be utilized for this mediation process. The Mediator's findings will be provided to the City Manager for consideration.

**E. Step 5 – City Manager**

Any grievance not resolved at Step 3 and/or Step 4 may be submitted to the City Manager in writing no later than fourteen (14) days after the date of the Department Head's written reply, or unsuccessful conclusion of mediation, whichever occurs later. The Grievant shall provide the City Manager with 1) a copy of the employee's original grievance, 2) a copy of the Immediate Supervisor's decision, 3) a copy of the Department Head's written response and 4) a concise statement of the reasons for the City Manager Review. Within fourteen (14) days thereafter, the City Manager may, at his/her discretion, schedule a meeting with the Grievant, Immediate Supervisor and/or



**CITY OF VISALIA PERSONNEL POLICY**  
**Policy #117**  
**Grievance Procedure**

---

Department Head to discuss the matter. After consideration of the facts, the City Manager will give the Grievant and his/her representative, if any, a written reply within fourteen (14) calendar days after receipt of the written grievance, or the meeting(s), whichever occurs later, and will file a copy with the Human Resources Manager.

**F. City Manager's Decision on Grievance**

The decision of the City Manager will be final and binding. The City Manager's decision will be limited as follows:

1. The decision shall neither add to, detract from, nor modify the language of these Policies or any applicable MOU.
2. The decision shall be confined to the precise issue(s) the grievance has raised and that the Grievant has submitted.
3. Any monetary award in favor of the Grievant may not exceed wages or benefits that the Grievant has actually lost as a result of the matters alleged in the grievance. In no event shall any grievance award include any compensatory damages or attorneys' fees.

**G. Settlement of Grievance**

Any grievance will be deemed settled when review to the next step is not requested within the specified time limit, unless an extension of time to a definite date has been mutually agreed upon in writing. Any grievance that the Grievant fails to timely move to the next step shall be deemed resolved on the basis of the last disposition.

**H. Representation**

An employee may have one (1) representative of his/her choice present at all stages of the grievance procedure, except that no one may be represented by an employee he/she supervises, his/her supervisor or department head, nor an employee involved in the grievance. If the Grievant's representative is a fellow employee, that employee will receive time-off from his/her work assignment for the time of the grievance meeting or mediation. Forty-eight (48) hours prior to any grievance meeting, the employee shall inform the immediate supervisor, Department Head or City Manager whether he/she shall be represented at the grievance meeting and shall identify the representative.

**I. No Retribution**

An employee shall not be penalized for using this procedure.

**J. Withdrawal**

A Grievant may withdraw a grievance at any time, without prejudice, by giving written notice to the City representative who last took action on the grievance and by providing a copy of the notice to the Human Resources Manager.

**K. Miscellaneous**



**CITY OF VISALIA PERSONNEL POLICY**  
**Policy #117**  
**Grievance Procedure**

---

If an employee is given an order that he/she wishes to grieve, the employee must first comply with the order and file a grievance later, unless the employee reasonably believes that the assignment endangers the health or safety of the employee or others, or if the employee reasonably believes that the requested assignment violates the employee's constitutional rights. If this is the situation, the employee shall notify the Human Resources Manager in a timely manner.

L. Delegation

The City Manager may delegate non-involved department heads or other management-level employees to act on his/her behalf in this process. The findings and recommendations they render will be advisory to the City Manager, whose ultimate decision will be final and binding.

---