

CITY OF LEON VALLEY  
PROCEDURE MANUAL

GRIEVANCES  
TABLE OF CONTENTS

I. GENERAL POLICY ..... Page 1

II. POLICIES/PROCEDURES ..... Page 1

    A. Administrative Responsibilities ..... Page 1

    B. Definitions ..... Page 2

    C. Confidentiality in the Grievance Complaint Procedure ..... Page 2

    D. Freedom from Reprisal ..... Page 2

    E. Time Limitations ..... Page 2

    F. The Grievance Procedure ..... Page 3

III. SUPERVISORY RESPONSIBILITIES ..... Page 5

    A. Supervisory Responsibilities ..... Page 5

    B. General Considerations ..... Page 5

IV. ADA GRIEVANCE PROCEDURE ..... Page 6

V. GRIEVANCE PROCEDURE FORMS ..... Page 7

    A. Employee Grievance Form ..... Page 7

    B. Grievance Reply and Employee Answer Form Instructions ..... Page 7

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# CITY OF LEON VALLEY

## GRIEVANCE MANUAL

### Section I - General Policy

The City of Leon Valley is a nondiscriminatory safe place to work, free of harassment and where all policies are applied in an equitable manner. It shall be the policy of the City of Leon Valley to give eligible employees an opportunity to discuss with their supervisors grievances and discrimination complaints in order to fashion a mutually satisfactory settlement as soon as possible. In the presentation of grievances at any supervisory level, employees are assured of freedom from restraint, interference, discrimination or reprisal. Settlements may be negotiated at any step throughout the Grievance Complaint Procedure.

Employees are employed on an "at will" basis. This means that with regard to such employees, nothing shall be construed to constitute a contract of employment, either expressed or implied nor shall anything be construed to modify the employment-at-will relationship, which exists between the City and the employees. Neither the offer or acceptance of employment or the establishment and maintenance of operating policies or procedures by the City of Leon Valley create a contract of employment except as may be expressly approved in writing by the City Council or City Manager and employee. Absent an express written contract with an individual employee, no employee is entitled to job tenure. Although, it is intended that the relationship between the City and its employees will grow and be in the best interests of both the employee and the City, the relationship is terminable at any time at the will of either the employee or City Manager.

### SECTION II - Policies/Procedures

#### **A. Administrative Responsibilities**

1. City Employees - All City employees shall be responsible for following the procedures as outlined in this regulation. Their cooperation and assistance in the settlement process is expected.
2. City Manager - As chief administrative officer of the City, the City Manager will ensure that the procedures are implemented in accordance with the provisions outlined in this section.
3. Department Heads - All Department Heads shall be responsible for ensuring that aggrieved employees within their departments are given the opportunity to file grievances and discrimination complaints without fear of restraint, interference, discrimination or reprisal. Department Heads shall also be responsible for ensuring that an earnest attempt is made to resolve every grievance that originates in his/her department.

4. Supervisory Personnel - All supervisory personnel shall be responsible for ensuring that their subordinates are given the opportunity to file grievances without fear of restraint, interference, discrimination or reprisal. The assistance and cooperation of supervisory personnel to fairly resolve every grievance is expected throughout the settlement process.

**B. Definitions**

1. Employee - Any person employed by the City of Leon Valley as outlined in the City's Personnel Manual.
2. Grievance - An allegation regarding the improper application of written policy, regulation or procedure of the City or department for whom the employee works which has personally affected the grieving employee. Under this policy, employees are allowed and encouraged to grieve all matters except matters for which other written appeal processes are provided.
3. Retaliation - Laws prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceedings, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

**C. Confidentiality in the Grievance Complaint Procedure**

It is the responsibility of all City employees involved in the grievance process, with the exception of the grieving employee, to maintain the confidentiality of the grievance. Confidentiality within legal limits, is necessary to insure that all individuals involved in the process feel free to present any and all information they may have without fear of reprisal or recrimination.

**D. Freedom from Reprisal**

No employee acting in an official or unofficial capacity shall take or threaten to take any act or reprisal against an employee or condone such reprisal by other employees, because the employee has in good faith presented or expresses an intention to present a grievance or who participates in the grievance investigation process.

**E. Time Limitations**

1. Since it is important that grievances be resolved as rapidly as possible, time limits, as set out in "Steps of the Grievance Process" shall be considered a maximum and every effort shall be made to expedite the process. However, the limits may be extended or shortened at any or all steps if both parties agree in writing. In the event the last day of a time limit falls on a weekend or a City holiday, the time limit shall include the next working day.

2. A grievance not brought forward by the employee within the time limits prescribed at each step shall not be considered timely and shall be void.
3. A grievance not responded to within the time limits prescribed by the appropriate representative at each step shall be considered a violation of this policy for which the representative may be subject to disciplinary action.

**F. The Grievance Procedure**

1. Any employee having a problem regarding his/her employment must first discuss the problem with his/her immediate supervisor. If the problem is not settled to the employee's satisfaction, the employee may then submit his/her grievance in writing. Filing the grievance timely:
  - a. The employee shall, within ten (10) working days (fourteen (14) calendar days for shift firefighters) of the date the incident occurred or from which he/she could have become knowledgeable of the incident, file the grievance with his/her first line supervisor.
  - b. If the Department Head is the employee's immediate supervisor, the employee within five (5) working days (seven (7) calendar days for shift firefighters) of the date the grievance was first discussed with the Department Head, present the grievance in writing to the City Manager.
  - c. If the City Manager is the employee's immediate supervisor, the employee within five (5) working days of the date the grievance, present the grievance in writing to the Mayor.
2. The employee will submit the formal grievance on the Employee Grievance Form (Attachment 1). The employee will complete items 1 through 9 on the form. The supervisor will complete on the Employee Grievance Form items 11 and 12.
  - a. In no instance should an employee present his grievance to any other level supervisor unless the grievance involves alleged illegal activity on the part of the supervisor.
  - b. Employees may choose a representative including another City employee to represent them.
  - c. The supervisor *may*, at his discretion, permit a co-worker representative to discuss the grievance with management during working time, but is not required to excuse the co-worker from his regular duties or pay the co-worker for time spent in the representation of an employee
3. After receipt of the Grievance Form, Supervisor shall complete items 1-8 on the Grievance Reply and Employee Answer form (Attachment 2) within five (5) working days (seven (7) calendar days for shift firefighters). The employee will fill out items

9-16 on the Grievance Reply and Employee Answer form (Attachment 2) within 3 working days (Five (5) calendar days for shift firefighters).

4. If the employee's question or complaint is not resolved after the supervisor's response on the Grievance Reply and Employee Answer Form (Attachment 2), the employee may appeal the written answer within five (5) working days (seven (7) calendar day for shift firefighters) to the next person in the chain of command .
5. The next higher level supervisor in the chain of command, shall review the employee's grievance and consider all supervisory effects to resolve it. The complaint may be discussed with both the employee and the supervisor and the supervisor shall provide a decision in writing to the employee within a period of time not to exceed five (5) working days (seven (7) calendar days for shift firefighters) from the date the grievance is formally submitted to the supervisor.
6. The process outlined in Step 5 will be repeated up the chain of command until resolution or settlement of the grievance or a final written decision is rendered by the City Manager.
7. Upon receipt of the grievance, the City Manager will provide a final decision to the grieving employee and forward the answer to the grieving employee through the appropriate chain of command. The City Manager may, at his /her option, meet with the parties to the grievances, separately or together. In any case, the City Manager's decision will be final.
8. Copies of the grievance will be distributed to the employee, the immediate supervisor, the Department Head, and the City Manager. Copies of all completed forms are kept in the Human Resources office in a permanent grievance file.

#### **G. General Provisions**

1. Due to the nature of the charges, all sexual harassment complaints shall be filed directly with the City Manager and all general harassment complaints will be filed directly with the Department Head.
2. If a grievance is presented to a supervisor regarding the correct application of a City or departmental policy, rule or procedure which such supervisor does not have the authority to modify or change, such grievance will be forwarded as rapidly as possible to the management level which can address the policy, rule or regulation. Those parties forwarding such grievances may, however, include a recommendation as to the appropriateness of such policy, rule or regulation.
3. If a grievance is presented to a supervisor regarding an action taken by an employee of another section within the same department over which that supervisor has no jurisdiction, the grievance shall be forwarded immediately to the grieving employee's Department Head.

4. If a grievance is presented to a supervisor regarding an action taken by an employee of another Department, the Department Heads of both departments will investigate and confer on the grievance. The response will be returned to the grieving employee through the employee's Department Head and normal chain of command. If the employee is not satisfied, he may then grieve the matter to the City Manager.
5. Employees who resign their employment with the City of Leon Valley forfeit their right to have access to the grievance process. Attempted withdrawal of a resignation shall not give the employee access to this procedure.
6. The City of Leon Valley has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in programs or activities sponsored by a public entity. Complaints should be directed to the Human Resources Officer who has been designated to coordinate ADA compliance efforts. Also see Procedure Directive A5-Harassment Free Workplace.

### Section III - Supervisory Responsibilities

A. Supervisory Responsibility - An investigation of any grievance should, at a minimum, include the following:

1. Determine exactly what the problem is to be; investigate the facts.
2. Decide the level at which the grievance resolved.
3. Assert the kind of settlement, if any, to be offered the employee. What does the employee really want? What can the City do to accommodate the employee
4. Meet with the employee and personally discuss your response. Summarize your conclusions.
5. If the response is acceptable to the employee, follow through and check the results. If unacceptable and further review is requested, every effort must be made to assist the employee in articulating his complaint.

B. General Considerations

1. In administering employee grievances, all levels of management and supervision should realize employees do not always feel free to express their true concerns, in which case the City Manager might be in a better position to provide assistance.

2. An employee's grievance may or may not be objectively justified. What is important is that the grievance is real to the employee. Of course, not all legitimate employee complaints can be resolved to the employee's complete satisfaction. Management should constantly endeavor to provide creative solutions for areas of employee dissatisfaction and, at the very least, give the employee an honest and timely explanation of its response. In that matter, the employee will at least have the satisfaction of "stating his case" and receiving management's attention and response.
3. The grievance procedure should assure consideration of every employee's grievance with a degree of promptness, sympathy, interest, understanding, fairness, competence and authority which will encourage the employee that they have been treated fairly.
4. Supervisors and employees should both understand that not all situations that cause grievances can be eliminated, and not all grievances can be resolved by the immediate supervisor.
5. Some supervisors consider the grievance a reflection on the loyalty of the employee and on the supervisor's capabilities. The supervisor may also fear being overruled. Although these feelings are natural, the supervisor should not then interfere with fair and objective treatment of the employee. The absence of grievances is not in itself an indication of high morale in an organization, and being overruled occasionally is no reflection on the supervisor's capability.

Attachments:

Attachment 1: Employee Grievance form

Attachment 2: Grievance Reply and Employee Answer Form

# City of Leon Valley

## EMPLOYEE GRIEVANCE FORM

Any employee having a problem regarding his employment must first discuss the problem with his/her immediate supervisor. If the problem is not settled to the employees's satisfaction, the employee may then submit his/her grievance in writing.

Employees presenting grievances must be specific and state exactly what occurred to cause the grievance. For example, what rule or regulation was unjustly applied (how, where, by whom and to whom). Grievances that are not specific or are incomplete will be returned for further information.

Name (1)	Job Title (2)	Department (3)
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DATES, TIME, LOCATION:

Date of Occurrence (4)	Time (5)	Location (6)	Date Presented(7)
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(8) STATEMENT OF EMPLOYEE'S GRIEVANCE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(9) SETTLEMENT DESIRED: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employee's Signature (10)	Received by (12)	Date (13)
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City of Leon Valley

GRIEVANCE REPLY AND EMPLOYEE ANSWER FORM

(1) REPLY TO EMPLOYEE GRIEVANCE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name (2)	Title (3)	Date (4)	Received by (5)	Date (6)
Signature (2)			Department (2)	

**EMPLOYEE ANSWER**

- (7) ( ) I am satisfied with the answer to my grievance.
- (8) ( ) I am not satisfied with the answer to my grievance and wish to have it referred to the next step.

(9) Additional Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employee's Name (10)	Date: (11)	Received By:(12)	Date: (13)
Signature (10)			