

RULE 18
DISPUTE RESOLUTION

(Effective January 1, 2006; Rules Revision Memo 3C)

Purpose Statement

The purpose of this rule is to provide a process to resolve workplace issues at the lowest possible level (the level which they occur). The City expects employees and supervisors to use the dispute resolution process in good faith. Retaliation against those who participate in the dispute resolution process in good faith is prohibited.

Section 18-10 Definitions

For the purposes of the Career Service Rules (“Rules”), the following terms apply:

A. Open Door Policy

An open door policy encourages employees and supervisors/managers to communicate informally and directly.

B. Mediation

A voluntary process in which a trained mediator assists parties involved in work-related issues to reach a mutually acceptable agreement.

C. Grievance

An issue raised by a Career Service employee relating to actions/inactions taken by the employee’s supervisor/manager that violate the employee’s rights under the Rules, the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies. Notwithstanding the above definition, the following may not be grieved:

1. Issues for direct appeal (see Rule 19);
2. Complaints of discrimination, harassment or retaliation, because there is a separate process for an employee to follow to bring a complaint involving discrimination, harassment or retaliation (see Rule 15);
3. Verbal reprimands;
4. Bonus or incentive payments, or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program; and
5. The mediation process.

D. Supervisor/manager

When the term “supervisor/manager” is used in Rule 18 and Rule 19 APPEALS it shall mean any person has been granted or delegated decision-making authority to take action on behalf of the appointing authority.

Section 18-20 Open Door Policy Process

- A. The City encourages employees to informally and directly discuss work-related issues with their direct supervisors.
- B. If this does not resolve the concern, then the employee is encouraged to bring the issue to the attention of the employee's manager/director, appointing authority, human resource representative, or a member of the Career Service Authority ("CSA") Employee Relations Unit.
- C. The utilization of the Open Door Policy Process does not suspend the timelines for filing a grievance.

Section 18-30 Mediation Process

If any employee or supervisor/manager has a work-related issue that was not taken to or resolved through the open door process, mediation may be requested.

A. Requesting Mediation

(Effective May 19, 2008; Rules Revision Memo 27C)

1. An employee, supervisor or manager may request mediation by submitting a Mediation Request Form to the Career Service Mediation Program ("Mediation Program"). The Mediation Program will notify the other parties.
2. Parties are encouraged to participate in mediation. If either party declines to participate in mediation, then the declining party must notify the other party, the appointing authority or designee and the Mediation Program in writing the reason(s) for declining within 10 calendar days of receiving notice of the request for mediation from the Mediation Program. The notification shall include a certificate of service.
3. If all parties agree to mediation, the Mediation Program will assign a mediator.
4. No less than seventy-two (72) hours prior to the date of the mediation all parties must be informed of any representatives attending the proceedings.

B. Protection of Grievance Rights:

1. If a mediation request is submitted within fifteen (15) calendar days of an action or inaction giving rise to a grievance as defined in section 18-10 C., the time to file a grievance is suspended. Should the grievant wish to continue with the grievance process, the grievance must be filed within seven (7) calendar days following the date of the termination of the mediation process.
2. If a mediation request is submitted after the filing of a timely grievance, the time to respond to the grievance is suspended. Should the grievant wish to continue with the grievance process, the agency must respond to the grievance within seven (7) calendar days following the termination of the mediation process.

C. Permanent Adjournment

Permanent adjournment occurs when the mediator issues a written statement to the parties indicating the mediation is permanently adjourned.

D. Termination of the Mediation Process

Termination of the mediation process occurs on either the date of mailing or delivering the notice of permanent adjournment or the written notice of refusal to mediate or the withdrawal of the mediation request.

E. Communications During Mediation not Admissible in Legal Proceedings

All proceedings held pursuant to or taken in conjunction with mediation are considered confidential. This confidentiality shall be specifically acknowledged and agreed to by each party to mediation prior to the commencement of mediation. No testimony concerning discussions had at or during the mediation shall be admissible in any Career Service hearing. The nature and scope of the confidentiality of discussions, documents and other materials presented at the mediation in furtherance thereof shall be governed by the terms of the Colorado Dispute Resolution Act, C.R.S. 13-22-307, Sections 1 through 4 inclusive, as it may be amended.

Section 18-40 Grievance Procedure

If a work-related issue was not taken to or resolved through the open door policy or mediation, and a Career Service employee has a grievance as defined in Section 18-10 C. of this rule, the following procedures shall apply:

A. Notice to Employees

The department or agency must post or provide to all employees a copy of this procedure, the name and telephone number of the department or agency designee(s) who may accept grievances, and the acceptable methods of delivery of grievances. If the department or agency fails to appoint a department or agency designee, the appointing authority shall be deemed to be that department or agency's designee.

B. Filing of Grievance

In order to file a grievance an employee must:

1. Prepare and complete all sections of the official CSA grievance form.
2. Deliver the grievance to the department or agency designee within fifteen (15) calendar days after notification of the action or inaction which gives rise to the grievance. If the grievance is mailed, it must be received within the fifteen (15) calendar days.
3. Employees must use their own personal time when preparing grievances unless they are granted permission by their supervisors to use paid work time.

C. Responding to Grievance

The department or agency shall consider the grievance and within fifteen (15) calendar days following receipt of the grievance provide the employee a dated, written notice of a decision. The written decision shall contain a certificate of mailing or certificate of hand delivery which indicates the date the decision was mailed or hand delivered to the employee.

D. Computation of Time:

The period of time shall be computed as follows (all time periods are calendar days):

1. The date of notification of the action or inaction shall be the date the employee knew or should have known of the action or inaction.
2. The period of time for filing the grievance starts on the day following the date of notice of the action or inaction.
3. The date for responding to a grievance starts on the day following receipt of the grievance.

4. If the final date for filing or responding to a grievance falls on a day the CSA office is not open for business, the final date shall be construed to be the next working day.
5. The grievance filing or response period ends at 5:00 p.m. on the final date.

E. Filing with Career Service Hearing Office:

1. Only grievances in conformance with and processed pursuant to the requirements of this Rule 18 may be appealed. Notwithstanding other provisions in these rules, written reprimands and PEPR ratings of "Successful" or higher may not be appealed.
2. If the department or agency has not responded within fifteen (15) calendar days of the delivery of the grievance, and the employee wants to pursue the action/inaction giving rise to the grievance further, the employee may appeal within fifteen (15) calendar days to the Career Service Hearing Officer ("Hearing Officer") in accordance with the provisions of Rule 19 APPEALS.
3. If the department or agency fails to implement a remedy awarded in the grievance response, the employee must notify the department or agency designee in writing of their intent to file an appeal within seven (7) calendar days following the date the employee knew or should have known of the department or agency's failure to implement the remedy. If the department/agency designee fails to implement the remedy within fifteen (15) calendar days, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 APPEALS.
4. If a grievance negatively impacts an employee's pay, benefits or status and is not resolved to the satisfaction of the employee, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 APPEALS.