

CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE

Article 28– Grievance Procedure

This rule applies only to those classified employees of the City of Knoxville who have completed their initial probationary period, which includes all departments, boards, agencies and commissions. Classified KUB employees covered by any agreement between KUB and any union will follow the grievance procedure established in that agreement. All other classified KUB employees shall follow the established KUB grievance procedure, the final step of which will be the same as Step 3 in this procedure.

This rule shall not apply in cases where it has been specifically exempted as in Sections 2701.7 and 2912. In addition, and in order to preserve the security of the Board's testing procedures, the usual procedures of this article shall not apply to complaints or grievances regarding civil service examinations, examination materials or documents which contain answers to test items. Complaints of this nature shall first be submitted directly to the Executive Secretary/Director for resolution within five (5) days of the grievance or of the employee's knowledge of its occurrence. If the matter cannot be resolved between the complaining party and the Executive Secretary/Director, the complaining party may then file a grievance pursuant to this Article. Said grievance must be filed within five (5) days from the date of the Executive Secretary/Director's final response to the complaint. Provided further, that in the event such a grievance is filed and in order to preserve the security of the Board's testing procedures, only the specific examination questions and/or documents at issue shall be the subject of the grievance. Furthermore, such test questions and documents and any other examination materials which may be relevant to the grievance shall be made part of the public records only upon the affirmative ruling of the Hearing Officer selected to hear that grievance. If no such Hearing Officer has been selected prior to such issue being raised, one shall be selected by the Executive Secretary/Director for the purpose of making such a ruling and to otherwise handle the Step III hearing, should such a hearing be necessary.

Matters relative to the administration and enforcement of the City's drug and alcohol policy are not grievable under Article 28 of these Rules and Regulations. However, disciplinary actions which result from the enforcement of the drug and alcohol policy shall be appealed under Article 27 of the Civil Service Merit Board Rules and Regulations.

All grievances will be administered in the following manner and processed within the stated time limits. All time limits are stated in terms of working days. Upon failure of the City to comply with the time limits set forth in the procedure and provide a required meeting or response, the employee shall assume this indicates a negative response and shall have the responsibility of proceeding to the next step of this procedure within the time allotted. Failure of the employee to comply with the time limits set forth in the procedure shall constitute an abandonment of the grievance.

Any City employee involved in this procedure will not be charged with leave during the period his/her presence or participation is required. The Board staff shall assist any employee with the preparation of his/her grievance and shall counsel the employee as to the procedures which must be followed. Further, the Executive Secretary/Director is given the authority to design any forms which, in his/her discretion, are found to be necessary and appropriate.

Use of the channels provided for resolution of problems or addressing concerns is encouraged. No classified employee shall be penalized for his/her submission of a good faith grievance. Any

CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE

Article 28– Grievance Procedure

classified employee will have the right to follow all the steps of the Grievance Procedure with complete freedom from retaliation. Acts of retaliation as the result of utilization of the grievance procedure or participation in the grievance of another City employee are prohibited. However, the filing of a grievance will not affect the City's ability to pursue appropriate disciplinary actions. Any employee who believes that he/she has been a victim of retaliation for participating in the grievance process should immediately report such activity to the Civil Service Director.

Step I:

- A. The employee shall present his grievance in writing to his/her immediate supervisor within five (5) days of the grievance or of the employee's knowledge of its occurrence. Said document shall include the employee's name, classification, and address. The grievance shall be dated as of the day the document is given to the immediate supervisor. The grievance shall contain the date of the grievance or the employee's knowledge thereof, the nature of the grievable action, the nature of the employee's disagreement with the action, and the relief being sought. The nature of the grievance shall be stated in sufficient detail to enable the supervisor to respond relative to the grievance. It shall also include a space for the immediate supervisor's signature, indicating his receipt of a copy of the grievance. If the immediate supervisor is unavailable to sign receipt, receipt may be signed by the supervisor's designee in order to preserve timelines.
- B. Upon receipt of the grievance, the employee's immediate supervisor shall sign the appropriate space, indicating receipt of the grievance. A copy shall be kept by the immediate supervisor, with the employee retaining the original. The employee shall forward a copy to the Civil Service Merit Board Office after the immediate supervisor has signed the receipt certification.
- C. The immediate supervisor shall discuss the grievance with the employee and shall attempt to adjust the dispute within three days. This meeting shall be coordinated by Civil Service staff and shall be held at a location designated by Civil Service. The only persons who may be present at this meeting are the supervisor and the grievant. It is the intent of this provision to encourage informal discussion between employees and supervisory staff on matters of mutual concern. Within three days of the meeting, the immediate supervisor shall answer the grievance of the employee. Said answer shall be in writing and shall state with particularity the immediate supervisor's response and the reasons therefor. Any action taken or the lack of action on the immediate supervisor's part shall be explained in this document. The answer shall include an explanation of the reasons for the original action which is the subject of the grievance. The answer shall state the date it is prepared and the date it is presented to the employee. The employee shall sign the answer as having been received and shall retain a copy thereof. The immediate supervisor shall retain the original to be placed in the employee's file.
- D. If the action which results in the grievance is taken by the supervisor above the employee's immediate supervisor, but below the level of Department Head, Step I

CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE

Article 28– Grievance Procedure

shall be read as referring to the intermediate supervisor who took the action and not the immediate supervisor.

Step II:

- A. If the grievance is not resolved at Step I and the employee wishes to continue with the grievance, the employee shall file a copy of his/her grievance with the Department Head within three (3) days of his/her receipt of the immediate supervisor's answer. If the Department Head is unavailable to sign receipt, receipt may be signed by the Department Head's designee in order to preserve timelines. After the Department Head has signed receipt, the employee shall forward a copy to the Civil Service Merit Board Office that includes the supervisor's written response.
- B. Within five (5) days of the receipt of the grievance, the Department Head shall hold a meeting with the employee, the immediate supervisor, the section supervisor, and any witnesses to discuss the grievance. This meeting shall be coordinated by Civil Service staff and shall be held at a location designated by Civil Service. The only persons who may be present at this meeting are the Department Head, the immediate supervisor, the section supervisor, applicable witnesses, and the grievant. It is the intent of this provision to encourage informal discussion between employees and supervisory staff on matters of mutual concern. Within three (3) days of this meeting, the Department Head shall respond in writing to the grievance.
- C. Said answer shall state with particularity the Department Head's response and the reasons therefor. Any action taken or the lack of action on the Department Head's part shall be explained in this document.
- D. The answer shall state the date it is prepared and the date it is presented to the employee. The employee shall sign the answer as having been received and shall retain a copy thereof. The Department Head shall retain the original to be placed in the employee's file.
- E. If the action grieved from has been taken by the Department Head, the grievance procedure will begin with Step 2.

Step III:

- A. If the grievance is not resolved after Step II, the employee, if he/she wishes to continue the grievance, shall file a copy of his grievance and a copy of all responses and/or answers obtained from his supervisors, Department Head, etc. with the Civil Service Merit Board Office within three (3) days of his receipt of the response from the Department Head.
- B. The Executive Secretary/Director shall select an appropriate Hearing Officer from a list approved by the Board. The Hearing Officer and the Executive Secretary/Director shall select a date for the hearing (or pre-hearing conference) of the grievance which date will be within ten (10) days of the receipt of the grievance in the Board office, provided that the Executive Secretary/Director shall have the authority to extend this period if he/she

CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE

Article 28– Grievance Procedure

- finds that he/she is unable to obtain a Hearing Officer within that period. The Executive Secretary/Director shall have the authority to extend this period if he/she has sufficient reason to believe the grievance can be settled by meeting with both parties and working out a settlement without incurring the expense of a Hearing Officer. After said meeting, if no resolution of the grievance is reached and the employee requests that a hearing be convened pursuant to Step III, the Executive Secretary/Director will arrange for the hearing. If the Hearing Officer finds in favor of the City, the City shall have the right to move that the Hearing Officer find that the grievance was frivolous. Upon such a ruling by the Hearing Officer, all costs incurred during Step III will be charged to the employee. In no event shall the hearing (or pre-hearing conference) be set by the Hearing Officer more than thirty (30) days after the receipt of the grievance in the Board office.
- C. Both parties shall have an absolute right to one continuance from the original date of the hearing (or pre-hearing conference), provided that said continuance will not be for more than twenty (20) days and provided that the request for the continuance is submitted to the Hearing Officer no later than three (3) working days prior to the date set for the hearing. The Hearing Officer will have the sole discretion as to whether a request for continuance not filed in a timely manner is granted.
- D. At the hearing both parties may be represented by counsel and shall have the right to call witnesses to testify. The strict rules of evidence shall not apply, and the Hearing Officer may take notice of any judicially cognizable fact or facts. The Hearing Officer shall reduce to writing his/her findings, conclusions, and decision within ten (10) days of the hearing. The original of this decision will be forwarded to the Board, with a copy provided for each party. The decision of the Hearing Officer shall be final; provided however, that such decision may be appealed in accordance with the provisions of Article 27 governing the appeal of a Hearing Officer in a disciplinary action.
- E. Pursuant to T.C.A. Section 27-9-114, contested case hearings by Civil Service Boards of a municipality which affect the employment status of a Civil Service employee are to be conducted in conformity with contested case procedures under T.C.A. Section 4-5-301 et seq. from and after January 1, 1989. Therefore, for any grievances pending or filed on or after January 1, 1989, such procedures shall apply to all hearings and/or pre-hearing conferences before a Hearing Officer held under this Article and to the extent any of the rules or procedures set forth herein conflict with the provisions of T.C.A. Section 4-5-301 et seq., the provisions of T.C.A. Section 4-5-301 et seq. shall control.