

PERSONNEL POLICIES HANDBOOK

9.00.00 GRIEVANCE POLICIES

9.01.00 Grievances - Represented Employees (i.e. Local 660, ALADS, PPOA)

Specific grievance procedures are described in detail in the various Memoranda of Understanding (MOU) that cover members of employee organizations certified by the county and authorized by County Code Section 5.04. Therefore, any grievance procedure described in an MOU that applies to District Attorney employees supercedes the grievance procedures described below in this chapter.

Represented employees must follow the procedures stated in their MOU and are encouraged to contact a union business agent or union steward with any questions they may have regarding grievances.

9.02.00 Grievances - Non-represented Employees

The department's grievance policy serves the important purpose of promoting favorable employer-employee relations by expeditiously resolving employee complaints, disputes and disagreements. The grievance procedures provide for the timely investigation and resolution of employee complaints or disputes with a minimum of disruption to the conduct of departmental operations. The Employee Relations Division shall maintain the grievance file for a period of three years. On the third anniversary of the close of a grievance, the file and its contents will be destroyed.

The Chief Deputy District Attorney, through the Employee Relations Division, is responsible for administering the department's grievance policy. All questions, issues or disputes involving grievance procedure, jurisdiction or authority shall be referred to the Employee Relations Division.

Department management has the responsibility, at the earliest possible time, to inform an employee of any limitation of the department's authority to fully resolve or grant the requested remedy in the grievance, and to provide the employee with the information necessary to process his/her grievance to the proper level, agency or authority.

9.02.01 Grievances - Reason to File

Grievances can be filed by all employees who have complaints about the interpretation or application of rules and regulations governing personnel practices and/or working conditions. (County Code Section 5.04.230)

OFFICE OF THE DISTRICT ATTORNEY

PERSONNEL POLICIES HANDBOOK

9.02.02 Grievances - Performance Evaluation Appeal

The grievance procedures and forms may be used to appeal an annual Report of Performance Evaluation (PE). However, an employee who disagrees with their PE may also prepare a written explanation and/or statement expressing their disagreement. Such written statement will be attached by the employee's rater to the PE and will become a permanent part of the employee's personnel file.

9.03.00 Grievances - Who May File

Only permanent and probationary employees of the department have the right to file a grievance under this procedure.

9.04.00 Grievances – Reprisals Prohibition

No employee of the department shall deny any subordinate employee the opportunity to file a grievance authorized by this procedure, or subject an employee who has filed or is about to file a grievance to discrimination, coercion, restraint, and/or reprisal.

9.05.00 Grievances - Informal Discussion

Before a formal written grievance is filed, employees and supervisors are encouraged to meet in an attempt to find an acceptable solution to a complaint or dispute by informal means. An employee's failure to initiate the informal discussion with the immediate supervisor shall not preclude or be prejudicial to the filing of a formal grievance.

9.06.00 Grievance Procedure – Level 1

A grievance must be initiated on an Office of the District Attorney Grievance Form, available in this handbook, within 10 business days of the occurrence of the matter or of learning of the occurrence of the matter on which the grievance is based. The matter must be stated clearly and propose a remedy. The employee shall submit an original and two copies of the Grievance Form to his/her immediate supervisor and retain one copy.

The Level 1 grievance is reviewed, evaluated, and decided by the employee's immediate supervisor. Generally, this will be the supervisor who signs the employee's Performance Evaluation as "rater." The Level 1 supervisor will arrange a meeting date and location with the employee and/or the employee's representative, within five business days from the receipt of the grievance. After the

OFFICE OF THE DISTRICT ATTORNEY

PERSONNEL POLICIES HANDBOOK

grievance meeting, the original Grievance Form and a completed Grievance Response Form - Level 1, will be returned to the employee within 10 business days. Supervisors should complete the Level 1 process within the specified time period unless there has been a mutually agreed upon time waiver.

A Level 1 grievance may be denied due to the fact that it is not within the scope of authority of the supervisor to grant the requested remedy. A Level 1 supervisor may grant or deny, in part or in its entirety, an employee's grievance.

9.06.01 Grievance Procedure – Level 2

If the grievance is denied in whole or in part at Level 1, or if the employee is not satisfied with the Level 1 response, appeal may be made to Level 2. Within 10 business days from the receipt of the Level 1 response, the employee shall submit the original and one copy of the Grievance Form and the Grievance Response Form - Level 1, to the named Level 2 supervisor. The Level 2 supervisor is usually the supervisor of the Level 1 supervisor. The Level 2 supervisor will arrange a meeting date and location with the employee and/or the employee's representative within five business days from the receipt of the grievance forms. After the grievance meeting, the original Grievance Form and the completed Grievance Response Form - Level 2, will be returned to the employee within 10 business days. Supervisors should complete the Level 2 process within the specified time period unless there has been a mutually agreed upon time waiver.

A Level 2 grievance may be denied due to the fact that it is not within the scope of authority to grant the requested remedy. A Level 2 supervisor may grant or deny, in part or in its entirety, an employee's grievance.

9.06.02 Grievance Procedure – Level 3

If the grievance is denied in whole or in part at Level 2, or if the employee is not satisfied with the Level 2 response, review may be sought at Level 3. Within 10 business days from receipt of the Level 2 response, the employee shall submit the original and one copy each of the Grievance Form and the Grievance Response Forms - Levels 1 and 2, to the named Level 3 supervisor. The Level 3 supervisor will usually be the supervisor of the Level 2 supervisor. The Level 3 supervisor will arrange a meeting date and location with the employee and/or the employee's representative within five business days from the receipt of the grievance. After the grievance meeting, the original Grievance Form and the completed Grievance Response Form - Level 3, will be returned to the employee within 10 business days. Supervisors should complete the Level 3 process within the specified time period unless there has been a mutually agreed upon time waiver.

OFFICE OF THE DISTRICT ATTORNEY

PERSONNEL POLICIES HANDBOOK

A Level 2 supervisor may grant or deny, in part or in its entirety, an employee's grievance. A Level 3 decision shall be final.

A representative of the Employee Relations Division may be present at all Level 3 grievance hearings, and is generally present when a union representative is present at any level grievance meeting.

9.06.03 Grievance Procedure - Meetings

Grievance meetings are intended to be informal. The goal of the hearings is to resolve issues. They are not civil trials or administrative hearings, and no record is required. Audio recordings are permitted with full disclosure to all present and by mutual consent. Secret recordings are not permitted and are prohibited by law. The rules of discovery and evidence do not apply. Employees may bring witnesses. However, only county employees who have direct, first-hand knowledge of the event or issue giving rise to the grievance may be called as witnesses by the employee. Witnesses must obtain prior approval from their immediate supervisor to attend a grievance meeting and are entitled to attend grievance meetings with pay.

9.07.00 Grievance Representation

Employees have the right to a representative in the preparation of the written grievance and in the formal grievance meetings. Such representative shall not be a party to the grievance. Employees have the right to present evidence in support of their position. This evidence may be presented by statements from supervisors and co-workers. Reasonable time is allowed for an employee to discuss the grievance with the representative. An employee serving as a representative during a grievance must give reasonable notice and obtain prior approval from his or her supervisor in advance of any grievance-related meeting.

A supervisor may not serve as an employee representative for a grievance. Such service is a conflict of interest. A supervisor is defined as any person who has the responsibility of preparing a Performance Evaluation (PE) for any District Attorney employee.

9.08.00 Grievance - Waiver of Level 1 and/or Level 2 Time Limits

Level 1 and/or Level 2 grievance meetings described above and any time limits established in this procedure may be waived or extended by mutual agreement, confirmed in writing. If a request for review at the next level is not made by an employee within the specified time, the grievance will be deemed resolved consistent with the last decision. If the Level 1 or Level 2 supervisor does not

OFFICE OF THE DISTRICT ATTORNEY

PERSONNEL POLICIES HANDBOOK

forward a decision to the next level in the prescribed time, and no time waiver was obtained, the grievance will be deemed denied and can be submitted by the employee to the next level.

9.09.00 Grievance - Sensitive, Expedited or Extraordinary Complaints

If an employee believes that because of the sensitive, time-critical or extraordinary nature of his or her complaint that it should be reviewed initially by the Level 3 supervisor, the employee may direct the grievance to the Level 3 supervisor with a written memorandum describing the need for departure from the standard procedure and/or time limits. The Level 3 supervisor will determine whether the grievance should be handled in the usual manner or expedited. If it is determined that the grievance should be processed in the usual manner, it will be returned to the employee with a written explanation. In extraordinary cases (as determined by the Level 3 supervisor), the Level 3 supervisor may refer matters to the Chief Deputy. The Chief Deputy may, at his/her discretion, appoint a committee to conduct a review of a grievance that has reached Level 3. This committee shall submit findings and propose a solution to the grievance to the Chief Deputy. The Chief Deputy will then decide and resolve the grievance.

9.09.01 Grievance - Reconsideration

By mutual agreement, confirmed in writing, a grievance may revert to a previous level for reconsideration. For example, a supervisor and employee may want to use this procedure when information or evidence becomes available that was not available for consideration at a lower level hearing.

9.10.00 Grievance - Employee Relations Division

It is the duty and responsibility of the Employee Relations Division to advise supervisors and managers concerning all aspects of grievances. In addition, the Employee Relations Division is available to answer questions by employees concerning grievance procedures. However, the Employee Relations Division cannot give advice to employees concerning the specific facts or merits of their grievances.

9.11.00 Grievance – Forms

Grievance forms are available in the Forms section of this handbook.

OFFICE OF THE DISTRICT ATTORNEY

DEPARTMENT OF THE DISTRICT ATTORNEY
GRIEVANCE FORM

Date _____

Employee _____ Position _____

Office, Division, Section _____ Tel. No. _____

Work Location or Address _____

Employee Representative _____ Tel. No. _____

Nature of Grievance: (Must include specifics - dates, location, names, and details. If the issue is a violation of a Memorandum of Understanding, the M.O.U. section must be specified.)

(Attach additional sheets if necessary)

Requested Remedy: _____

(Attach additional sheets if necessary)

Informal discussion with Immediate Supervisor held on _____
(date)

Employee's Signature

Immediate Supervisor's Signature

Supervisor's name (typed or printed)

Date Received