

EL DORADO COUNTY FIRE PROTECTION DISTRICT

POLICY TITLE: Grievance Procedure

POLICY NUMBER: 2260

2260.10

This policy shall apply to all full-time employees in all classifications.

2260.20

Purpose: The purpose of this policy is to provide a procedure by which employees may formally claim that he/she has been affected by a violation, misapplication, or misinterpretation of a law, District policy, rule, regulation, or instruction.

To state the policy and provide the means for employees, recognized employee organizations, and management together to solve grievances in an orderly manner within a reasonable time period, to provide methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and management.

2260.30

Policy:

- A. Any employee has the right to file a grievance free of fear, intimidation, or coercion from any party;
- B. Any employee may represent himself or select whomever he wishes to represent him at any or all steps in the grievance procedure;
- C. Grievances may be initiated by the employee, or the Association on the employee's behalf or on behalf of the Association;
- D. The Employee's or Associations' first contact regarding job and working conditions is with the immediate supervisor or supervisors shall attempt to settle grievances informally at this level;
- E. The grievant has the right to represent himself on his own behalf on District time and will not lose pay. Grievant shall not prepare his case on District time. Our representative selected by the grievant to represent him at such grievance meeting on District time will not lose pay. Grievant or his representative will not be paid to attend grievance meetings schedule during hours not worked by grievant or his representative.

2260.40

Definition:

- A. A grievance is a claim, charge or dispute involving the following:
 1. The interpretation or application of any District rule, regulation, ordinance, resolution affecting an employee's wages, hours, or conditions of work not falling within rights reserved by management.
 2. The interpretation or application of the provisions of this MOU. The right to assign or reassign employees to District station is a management prerogative and is not grievable.

2260.50

Time Limits/Procedure:

The procedure, time limits, and extensions relating to grievances shall be as set forth in the Personnel Rules.

2260.60

Procedural Due Process:

The Grievance procedure shall not act as a substitute for procedural due process rights for individual employees.

Prior to any removal of an employee for cause, the District must follow the Disciplinary Appeal Procedure as described in Appendix "A."

2260.70

Grievance by Association

If a grievance is filed by the Association it must bear the signature of at least one (1) employee who has been grieved. Grievances filed by the Association with respect to an issue or dispute which allegedly affects the Association shall bear the signature of an Association Representative. The grievance procure, except as otherwise set forth, shall not apply to the "Meet and Confer" process.

2260.80

Time to File

A grievance must be filed within ten (10) calendar days (excluding Saturdays, Sundays, and holidays) after the informal step of the procedure as spelled out below. Failure to process a timely grievance shall act as a bar to the claim alleged. The issue of timeliness shall constitute an appropriate issue for determination by the Board. In the event the board determines that a grievance was submitted in an untimely manner, the Board shall not have authority to issue recommendations with respect to the substantive issues of the dispute involved. The time limits specified at any step in this procedure may be extended in any specific instance by mutual agreement.

2260.90

Level of Filing

Grievances pertaining to suspensions, or discharges, and grievances which allege an effect upon employees of more than one (1) platoon shall be filed at the STEP 2 level. All other grievances shall be filed at STEP 1. Necessary forms and/or documents to be utilized under this procedure shall be adopted by the parties.

2260.100

Steps of Grievance Procedures

Step 1: The grievant shall discuss the grievance in an informal fashion with the Captain or person designated in charge in a good faith effort to resolve the grievance prior to the formal step. This meeting must take place within ten (10) calendar days (excluding Saturdays, Sundays, and holidays) in which the grievant (employee or Association) knows, or in the exercise of reasonable diligence should have known, of the event giving rise to the grievance.

Step 2: If the grievance is not settled at STEP 1 (informal step) the grievance shall then be presented to the Battalion Chief designated in charge in writing. The grievance should state the violation, and the suggested remedy. The Battalion Chief shall have ten (10) days to reply in writing. If the reply is not submitted in the ten (10) days or there is no reply then it is automatically

referred to the next step. If the grievance is settled to everyone's satisfaction then the basis for settlement shall be noted and acknowledged accordingly.

Step 3: If the grievance is not settled in STEP 2, which shall be noted on grievance, it shall be presented to the Fire Chief within seven (7) days after completing STEP 2. The Fire Chief may direct the Captain or designated in charge to discuss the matter again with the grievant, and/or, he will arrange for a grievance meeting. Such grievance meeting shall take place as soon as practicable, but in no event later than eight (8) calendar days from the date or receipt by the Fire Chief. The Fire Chief shall file a written answer to the grievant and/or the Association (where applicable), via U.S. Mail, no later than seven (7) days after such meeting.

Step 4: If the grievance is not settled in STEP 3, it shall be presented to the Board of Directors, or its designee, who shall meet with the grievant and the Association designee(s), (if applicable) within ten (10) days after presentation of the grievance to them. The Board of Directors, or its designee, shall file an answer to the grievant and/or the Association (if applicable) within ten (10) days (excluding Saturdays, Sundays, and holidays) after the termination of the meeting.

Such decision by the Board of Directors shall be final and binding on all parties.

APPENDIX "A"

DISCIPLINARY APPEALS PROCEDURE

All members of the Association, having successfully completed the applicable probationary period, shall have the right to appeal any form of punitive or disciplinary action affecting compensation and pay of the employee including, but not limited to termination, demotion, and suspension without pay. Evaluations, reprimands, job assignments and suspensions with pay are not subject to the Disciplinary Appeals Procedure. The following procedure is hereby established for disciplinary action taken by District.

- A. The District must provide any employee that it intends to discipline with a Notice of Intent to Discipline outlining in detail the specific violations of District rules, regulations, ordinances, or any state or federal law that the employee is alleged to have violated. In addition, the District shall provide the employee written notice of the contemplated action and copies of all material pertaining to the charges including, but not limited to, tape recordings, reports, memorandums, transcripts, witness statements, and all other evidence.
- B. Within ten (10) working days from the service of the Notice of Intent to Discipline the employee must schedule a pre-disciplinary or "Skelly" hearing pursuant to Skelly v. State Personnel Board (1975) 15 Cal. 3rd 194, 124 Cal. Rptr. 14. The employee as the right to be represented by an attorney, labor representative, or other representative of his or her choice in all stages of the disciplinary appeal process. The pre-disciplinary hearing shall be before the Chief or his designee.
- C. Within ten (10) working days of the pre-disciplinary hearing, if disciplinary action is still contemplated, the Chief or his designee shall serve upon the employee Notice of Disciplinary Action, if he still intends to proceed with disciplinary action. Said notice shall include any amendments to the charges or penalty made by the Chief since pre-disciplinary action.
- D. Within ten (10) working days of being served with the Notice of Disciplinary Action the employee shall submit a Notice of Appeal to the office of the Fire Chief. Failure by the employee to submit a Notice of Appeal to the Fire Chief within the time period prescribed shall constitute a waiver of the employee's right of an administrative appeal unless otherwise agreed upon between the parties. All time requirements in this section are subject to modification or waiver by mutual consent of the parties.
- E. Upon receipt of the employee's Notice of Appeal the District's representative and the employee or his/her representation shall, within ten (10) working days select a mutually agreeable arbitrator through a formal arbitration service such as American Association of Arbitrators (AAA), State Mediation and Conciliation Service, or by other mutual agreement of the parties. In the event the parties are unable to agree on the arbitrator within the time stated, the parties shall solicit from the State of California Mediation and Conciliation Service a list of seven arbitrators. After receipt of the list, the parties shall alternately strike arbitrators' names from the list until one arbitrator remains. The remaining arbitrator shall hear the case.
- F. The parties agree that a disciplinary hearing conducted by the arbitrator shall be conducted as follows:
 1. The District has the burden of providing by a preponderance of evidence that the facts support the charges against the employee and that the penalty is appropriate under the circumstances;
 2. Formal rules of evidence shall not apply, however, the arbitrator shall use his discretion to limit evidence based on reliability and relevancy;
 3. Full rules of discovery shall apply to the hearing and must be followed prior to the completion of the hearing. The party seeking the extraordinary discovery of documents must pay for the cost of obtaining such documents;
 4. The arbitrator must issue findings of fact informing the employee and the District of the basis of his/her decision;

5. The employee and the District shall be able to subpoena any witness to testify at hearing pursuant to civil discovery laws of the State of California;
 6. The hearing shall be scheduled and conducted at the earliest possible date taking into account all parties schedules and each party's requisite need for preparation and discovery;
- G. The decision of the arbitrator shall be final unless the decision is appealed to the Board of Directors. The Arbitrator shall have no authority to add to, delete, or alter and provision of this MOU.
- H. Any party wishing to appeal the decision of the Arbitrator may file an appeal to the Board of Directors within ten (10) days from receipt of the Arbitrator's decision. The Board of Directors shall schedule a hearing and shall independently review the transcript and exercise their independent judgment on the case. The Board of Directors may, at their discretion, reopen the hearing and take additional evidence. The Board of Directors shall render their independent decision on the case and is not bound by the findings and determinations made by the Arbitrator. The board shall issue findings of fact informing the employee of the basis of their decision.
- I. All fees and expenses of the arbitrator and the court reported, if requested by any party, shall be shared equally by the District and the Association.