

TA for Union

*4/28/2021*

TA for County

*Myra M. Wood*

4/28/2021

AFSCME Local 2831- General Unit

## ARTICLE 6

### GRIEVANCE PROCEDURE

#### Section 1 – Purpose

(A) The purpose of this procedure is to secure, at the lowest possible level, mutually acceptable solutions to grievances, which may arise from time to time affecting bargaining unit employees.

(B) Should a disagreement arise concerning the interpretation or application of the provisions of this Agreement, or as to the performance of the obligations herein, such disagreement shall be settled according to the terms hereinafter provided. An employee, at their discretion, may elect to be represented by the **UNION** at any step in the procedure.

(C) "Date of occurrence" herein shall mean the date the aggrieved party had or should reasonably have had knowledge of the occurrence.

(D) Notwithstanding the provisions of Step 1 below, it is understood that the aggrieved party is obligated to attempt to resolve the matter informally; however, for the purpose of preserving time limits, the aggrieved party may formally submit the particulars of the grievance to the applicable supervisor pending conclusion of the informal attempt. Applicable supervisor shall mean the first supervisory person with the authority to respond with a proposed resolution on behalf of the **COUNTY**.

#### Section 2 – Grievance Steps

##### (A) STEP 1

(1) The aggrieved party and/or designated representative shall first attempt to informally resolve the issue with the applicable supervisor. In the event such attempt is unsuccessful, the aggrieved party shall refer the grievance in writing to the supervisor, within fourteen (14) calendar days of the occurrence of the grievance. The notice shall include:

- (a) A statement of the grievance and relevant facts;
- (b) Applicable provisions of the contract; and
- (c) Remedy sought.

(2) The supervisor shall attempt to resolve the grievance and shall furnish a written statement of their position within seven (7) calendar days.

##### (B) STEP 2

If the grievance cannot be resolved in Step 1 above, or the supervisor has not submitted a written reply within seven (7) calendar days, the grievance shall be referred in writing to the applicable Department Director who shall designate a representative. The representative who shall investigate the particulars of the grievance and shall attempt to resolve the issue within seven (7) calendar days of receipt, and shall furnishing a written reply to the aggrieved party and the **UNION** within that time period.

##### (C) STEP 3

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(1) If, after proceeding through Step 2 above, the grievance is still unresolved, the aggrieved party and/or designated representative may refer it to the Department Director, no later than seven (7) calendar days from the date of the Step 2 response or date when said response is due.

(2) The Department Director, or designee, and the **COUNTY's** Labor Relations Manager shall meet with the grievant and the designated representative no later than fifteen (15) days from receipt of the Step 3 appeal.

(3) The Department Director shall provide the **COUNTY's** written response within fifteen (15) days from the date of the Step 3 meeting.

(4) Should the **COUNTY** be the aggrieved party, the matter shall be introduced at this step.

(5) Any grievance which involves discharge, or is of a class action nature, may be introduced at this step.

**(D) STEP 4**

If the Step 3 response from the **COUNTY** is not acceptable, the **UNION** may submit the matter for arbitration and request a list of arbitrators from the Oregon State Employee Relations Board within thirty (30) days of the **COUNTY's** Step 3 meeting.

**Section 3 – Arbitration Guidelines**

(A) In the event the respective representatives of the **COUNTY** and the **UNION** cannot agree to the selection of an arbitrator within eight (8) calendar days, final selection shall be accomplished with one (1) party, to be determined by lot, first striking off one of the five (1 of 5) names submitted by the State Mediation and Conciliation Service and thereafter the parties alternately striking names until one (1) name remains.

(B) The arbitrator shall have no authority to alter, modify, amend, vacate or change any terms or conditions of this Agreement, to substitute their judgment for that of either party in any instance where the parties have exercised their rights under the terms of this Agreement, nor shall the arbitrator decide on any condition which is not specifically treated in this Agreement.

(C) The Award of the Arbitrator may or may not include back pay, provided however, that any back pay award shall not be in excess of the amount of wages and benefits actually lost during the period from sixty (60) days prior to the filing of the grievance and the date of implementation of the arbitrator's award, less any compensation that the employee actually received.

(D) The Decision and Award of the arbitrator shall be submitted within thirty (30) calendar days following the presentation of the case, and such decision shall be final and binding on both parties.

(E) The **COUNTY** and the **UNION** agree that the loser of the arbitration shall pay the full expenses and Arbitration fees of the arbitrator only; the **COUNTY** and the **UNION** shall assume individual liability for the cost of their respective witnesses.

(F) The arbitrator shall identify the losing party in the arbitration hearing and so state in the written decision to both parties.

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**Section 4 – General Provisions**

- (A) All meetings and hearings under this procedure shall be kept informal and private, and shall include only such parties in interest and/or designated representatives as referred to in this Article.
- (B) All information relative to the grievance and resolutions accomplished via the procedure shall be considered exempt from public disclosure to the extent allowed by law.
- (C) The **UNION** shall designate authorized representatives to investigate and process grievances on behalf of the **UNION** and shall notify the **COUNTY** of any changes in such authorization.
- (D) All grievance proceedings and reasonable investigation time, where practicable, shall be held during the regular business hours when county facilities are open, on **COUNTY** premises and without loss of pay or recrimination to the aggrieved party and/or a designated representative. It is understood that the **COUNTY** shall not incur overtime liability as a result of such proceedings or investigation.
- (E) A grievance may be terminated at any time upon receipt of a signed statement or electronic communication from the employee, or duly designated representative, stating the matter is no longer at issue. A grievance settlement without **UNION** concurrence shall not prejudice any position taken by the **UNION** during the grievance proceedings.
- (F) A resolution of a grievance reached at or after Step 3 of this procedure, and approved by the Department Head, shall have the same effect as an arbitration award on the department involved.

**Section 5 – Time Limits**

- (A) Any time limit in this ~~procedure~~ Article may be extended for reasonable cause by mutual agreement and be binding on both parties. Such agreement, when practicable, shall be reduced to writing and signed by both parties or by mutual consent via email. Failure by the aggrieved party and/or designated representative to properly observe time limits as stated without such agreement shall cause the grievance to become null and void.
- (B) Should the appropriate management personnel fail to respond to the grievance at any level within the time limits prescribed, exclusive of the provisions of Paragraph (A) above, the grievant may immediately appeal to the next higher step in the procedure.

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**ARTICLE 16**

**LAYOFF AND RECALL**

**Section 1 – Layoff**

- (A) Bargaining unit employees with the least seniority within the job classification and series within a department shall be subject to layoff first unless, in the COUNTY's judgment, the retention of special skills requires layoff on another basis. It shall be understood that on a COUNTY-wide basis, initial probationary and temporary employees within the affected classification or any lower classification in the classification series shall be removed from COUNTY employment before a layoff of permanent employees occurs. If approved by the COUNTY, an employee may elect to be subject to layoff even though their seniority may be greater than that of an employee scheduled for layoff.
- (B) Should a layoff or elimination of a position occur the employee with the least seniority within the affected classification shall move to a lesser classification in the same series within the same department provided that the employee's seniority is greater than that of any employee in the lesser classification. Then the least senior employee or employees displaced would have the same right to move to the next lower classification in the same series within the same department.
- (C) Employees subject to layoff shall be given written notification at least fourteen (14) calendar days in advance of the effective date of layoff.

**Section 2 – Recall**

- (A) The order in which recall/transfer takes place shall be as follows:
  - (1) Reassignment of duties within department within same classification.
  - (2) Primary recall (recall by seniority to the same classification or any lower position in the same classification series).
  - (3) Secondary recall (recall to a position other than the classification series from which the employee was laid off).
  - (4) Transfer
  - (5) Promotion
- (B) In order to assure proper recall procedures, Human Resources will:
  - (1) Maintain an up to date recall list by auditing the computer-generated data after each run to assure accuracy.
  - ~~(1)~~(2) At the time of layoff, the employee will designate how they wish to receive recall notices. The options are: electronic notification via personal email, or certified letter via United States Postal Service (USPS).
  - ~~(2)~~(3) When a vacancy occurs for which there are primary recall candidates, Human Resources will send a notice of recall to the most senior employee on the recall list via their choice of notification method, and if that is by USPS, the notice will go to at the last address on file or their current COUNTY work place. If being sent via USPS, the notice shall be in a sealed envelope and delivered in a format where delivery can be verified by the recipient's signature.

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(3)(4) Human Resources Analysts staff will maintain a file on all recall candidates for secondary recall (recall to a position other than the classification series from which employee was laid off). If there are no primary recall candidates for a vacant position, Human Resources will send all employees eligible for secondary recall a notice including a description of the job and a supplemental questionnaire to be completed and returned within five (5) work days. All those determined to meet minimum qualifications will be referred to the hiring department for interview and selection.

(4)(5) Unless otherwise provided in this Article, the most senior candidate shall be recalled. If there are no candidates in the same classification as the vacant position, a list of recall candidates who meet the minimum qualifications of the vacant position as provided in subsection 2 (B) (3) above will be given to the hiring authority. Unless otherwise provided in this Article, recall shall be made from this pool of candidates.

(5)(6) Human Resources will continue notifying all employees on layoff status on the recall list of employment opportunities as provided in Section 3 herein. However, a recall candidate may request to be removed from the list under secondary recall and forfeit any future secondary recall rights. The COUNTY will notify the union of the candidate's request for removal.

(C) Order of recall preference shall be as follows:

- (1) Recall to former classification.
- (2) Recall to lower position in same classification series.
- (3) Recall to another position at same level or lower salary range. (Recall under this section need not be by strict seniority, but no person not on the recall list may be hired to fill a position other than a position within the Department of Public Safety or the Office of the District Attorney until all employees with recall rights who possess the necessary skills, ability and fitness to perform the requirements of the vacant position have been offered recall.)
- (4) Employees on layoff status shall be given preference in accordance with their seniority in filling a vacant position in the classification in the bargaining unit held at time of layoff or any below it in the bargaining unit in the same series, provided they possess the necessary skills, ability and fitness to perform the requirements of the vacant position. If an employee is offered recall to a lower classification as listed above, and refuses said offer, the employee will only be eligible for recall to the classification held at the time of layoff. However, an employee shall not be required to accept recall to less than their original hours in order to maintain recall rights, nor shall acceptance of such position negate their recall rights.
- (5) Compete for positions as per Article 8 of this Agreement.
- (6) Further, an employee assigned, or reassigned to a different classification at department initiative subsequent to preliminary notification of layoff, or within ninety (90) calendar days of actual layoff, will be eligible for primary recall to either the classification held at the time of layoff or the one from which reassigned. The employee shall indicate at the time of layoff which classification they wish to retain primary recall rights to. While the employee may retain secondary recall rights to another classification (s), their primary recall rights shall only apply to the one classification identified at the time of layoff.

(D) Employees' responsibilities include:

- (1) Employees must notify Human Resources of changes in address, phone number or any other change, which would prevent Human Resources from being able to contact the employee

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when a position becomes available (except for those working for the **COUNTY**).

- (2) Employees must respond within five (5) business days from documented date of receipt of notice of recall.
- (3) Employees planning to be out of town should notify Human Resources or notify a friend or relative to contact them immediately if they receive a notice of recall.
- (4) ~~To give recall candidates the best opportunity for rehire, an undated application and resume should be provided to Human Resources office.~~
- (E) An employee who accepts recall to a lower classification shall retain recall rights to their original classification or original hours in accordance with Section 2 (A) of this Article.
- (F) An employee who accepts recall to a non-bargaining unit position shall retain recall rights in accordance with Section 2 (A) of this Article.
- (G) Employees shall not be required to accept recall to a position located more than thirty (30) miles from their previous reporting place or if they can demonstrate to the satisfaction of the **COUNTY** that their health would be adversely affected.
- (H) An employee shall not be required to accept recall to a part-time or temporary position in order to maintain recall rights.
- (I) The **COUNTY** shall furnish the **UNION** with a current list of all bargaining unit employees on layoff status with recall rights.

### **Section 3 – Opportunity for Work During Layoff**

- (A) It is understood that the **COUNTY** will offer employment as provided herein to those on the bargaining unit recall list before filling a temporary bargaining unit level position from a non-recall source.
- (B) The **COUNTY** shall offer employment as temporary positions to employees on layoff within the employees' classifications on the basis of seniority as such positions become available. However, if an employee is offered such a temporary position as provided herein and refuses said offer, the employee will only be eligible thereafter for recall as provided in Section 2 herein.
- (C) In the event that no employee accepts an offer of employment, as provided in subsection 3 (B) above, said employment may be offered to other employees, provided said employees possess the necessary skills, ability and fitness to perform the requirements of the available work. The **COUNTY** shall not be required to offer temporary positions to such employees on the basis of seniority.

### **Section 4 – Classification Series**

A classification series is a group of classifications with similar duties of increasing complexity and responsibility which comprise the normal promotional progression within an occupation or discipline; for example: Maintenance Specialist 1, Maintenance Specialist 2, Maintenance Specialist 3; or Administrative Technician, Administrative Assistant, Administrative Analyst, Senior Administrative Analyst. The groupings set forth in Appendix D-C shall be considered the classification series.

### **Section 5 – Protection/Rights During Layoff**

- (A) The seniority of an employee who has completed probation shall be protected for a period of twenty-four (24) calendar months during layoff, provided that such employee has not been given

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an opportunity to return to work in their same classification. The employee must immediately notify the **COUNTY** of any change in their mailing address. This notice requirement shall not apply to employees working for the **COUNTY** in other positions. Failure to give notice shall result in the employee relinquishing all rights to recall.

- (B) Notwithstanding the twenty-four (24) month limit above, employees in layoff status, still employed by the **COUNTY** shall have recall rights until they are returned to their original hours or greater in their original classification.
- (C) Employees on layoff status shall have the option of paying for continued health insurance coverage at the **COUNTY** rate. The **COUNTY** shall administer all such payments.

**Section 6 – Termination for Exhaustion of Non-Occupational Disability Leave**

Employees who have been terminated upon exhaustion of non-occupational disability leave benefits provided under Article 11, Section 4, shall be deemed to have been laid off and shall have recall rights provided that within one (1) year of such termination a written request to be placed on the recall list is made to the Human Resources office. The request must include the employee's statement of willingness to accept regular employment under the terms of this Article and it must be accompanied by a full doctor's release stating clearly and in writing that the employee is fully capable of performing the regular duties of the job. The recall provisions set forth above will apply as if the employee had been laid off as of the date of request for reinstatement.

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**ARTICLE 18**

**SOLID WASTE MANAGEMENT FEE COLLECTORS**

The following shall apply to employees classified as Waste Management Fee Collector and Senior Waste Management Fee Collector:

**Section 1 – Safeguarding Cash Change Funds**

Employees are responsible for safeguarding the cash change fund, cash fee receipts and other **COUNTY** property entrusted to their care and necessary for the performance of their job. However, in the event of loss or damage beyond the control of the employee or not contributed to by their negligence, the employee shall not be held personally liable.

**Section 2 – Assignments During Audits**

To allow for periodic audits the **COUNTY** may make changes in an employee’s work location without giving ten (10) days’ notice up to twice per calendar year provided that the employee suffers no loss in compensation and is paid mileage to the temporary work site in excess of the employee’s normal commuting mileage. Additional commuting time shall be included in the regular work schedule for the first day of reporting to the new work location. Thereafter, during the duration of the temporary assignment (not to exceed one (1) calendar week) the employee shall be compensated for additional commuting time at the appropriate regular or overtime rate of pay.

**Section 3 – Holidays**

On holidays, including designated holidays, when the site is not closed, the employee shall have the option of receiving holiday pay pursuant to the relevant terms of the Agreement or of receiving pay for working on the holiday and receiving appropriate compensatory time off as compensation for the holiday. On holidays when the site is closed on a day the employee otherwise would work, the employee shall receive holiday pay for the amount of time the employee would normally have worked.

**Section 4 – Overtime**

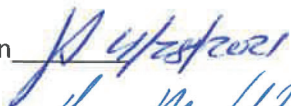
Employees may be scheduled to work up to ten (10) hours per day, but not more than forty (40) hours per week, without the **COUNTY** incurring liability for overtime compensation. Part-time employees who desire additional hours and who notify the supervisor of the locations and times they are available for work shall be given the first consideration for additional hours at their regular site or to substitute at other sites provided that the need for coverage is known to the supervisor (or designee) at least twenty-four (24) hours in advance and further provided that the employee is qualified to perform the duties required in the new assignment. This provision shall not require the **COUNTY** to provide overtime hours and the additional work assignments under this provision shall not entitle the employee to eligibility for additional benefits. This provision shall not obligate the **COUNTY** to make fractional work assignments, i.e., multiple small work assignments to make up one longer work requirement. Assignments of extra hours under this provision are voluntary and shall not require a ten (10) day notice of schedule change. The **COUNTY** shall retain the final decision in work assignments and work schedules.

**Section 5 – Requests for Reassignment**

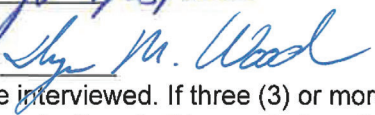
Non-probationary employees who have more than six (6) months of service shall have the opportunity to file a written request for reassignment with the supervisor. As vacancies occur, such employees who have submitted requests relevant to a vacancy and who are qualified to perform the duties required in the



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position will be interviewed. If three (3) or more employees have requested and are qualified for the reassignment, selection shall be made from these employees. If fewer than three (3) employees have requested and are qualified for the reassignment, the **COUNTY** shall consider the employees requesting reassignment but may elect to post the position for employment applications.

### **Section 6 – Transfer from a 520 Position to a 1040 Position**

- (A) Employees hired as non-represented 520 Waste Management Fee Collectors who later transfer into a represented 1040 Waste Management Fee Collector position will be paid Holidays and Time Management retroactively to either the first date the employee worked in the fiscal year prior to the transfer; or their original hire date in the current fiscal year, whichever is earlier.
- (B) Retroactive Holiday pay will be calculated at 0.115385 for each regular hour worked back to the date determined in paragraph (A) of this section and paid in a lump sum in the first full pay period following the transfer to the 1040 position. Time Management will be prorated based on the regular hours worked retroactively to the date determined in paragraph (A) of this section.
- (C) Such employees will pay AFSCME membership dues retroactively one (1) month prior to transfer to a 1040 position.
- (D) Employees will begin a six (6) month probationary period based on the date determined in paragraph (A) of this section.
- (E) Employees will be eligible for step increases in accordance with this Agreement from the date determined in paragraph (A) of this section.
- (F) Seniority and Benefit Service dates for Time Management accrual will be July 1<sup>st</sup> of the fiscal year or hire date, whichever is later.
- (G) Any Oregon Sick Leave accrued as a 520 employee that has not been taken prior to the transfer to the 1040 position will be paid out to the employee the first full pay period following the transfer to the 1040 position. Any sick leave that was taken in the time period between the dates determined in paragraph (A) of this section and the transfer to the 1040 position will be deducted from the retroactive Time Management accrual.
- (H) Employees will be eligible to take Time Management at the end of their six (6) month probationary period as determined in paragraph (D) of this section. Employees will be able to take Time Management for illness or emergent situations prior to the six (6) month period.

### **Section 7 – Mileage Reimbursement**

- (A) The County will reimburse Fee Collectors mileage to and from their Home of Record (HOR) and the requested work site when asked to work on their regularly scheduled day off.
- (B) When provided mileage reimbursement, Fee Collectors will be reimbursed private automobile mileage equal to the IRS authorized rate pursuant to Lane Manual 2.63.
- (C) Fee Collectors will not be on paid County time during their travel to or from their HOR and the requested work site. The parties understand that the travel time is not considered compensable time under the Fair Labor Standards Act (FLSA) or Oregon wage and hour law.

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(D) The parties agree to use Google Maps to determine the calculation of miles for reimbursement purposes from the HOR to the requested work site. Mileage for all Fee Collector reimbursements will be rounded up to the nearest half (.5) mile.

(E) If a Fee Collector is asked to work at an alternate site on a scheduled work day, they will be reimbursed mileage round trip from their HOR or normally scheduled work site, whichever is shorter.

(F) If required to make a deposit at a bank, Fee Collectors will be reimbursed mileage from their work site to the agreed upon bank. The Fee Collectors' shift and reimbursable mileage ends at the bank.

(G) If asked to bring in paperwork, Fee Collectors will be reimbursed mileage from their HOR to the location the paperwork was delivered. In addition, Fee Collectors will receive a minimum of one (1) hour pay at the applicable straight or overtime rate or for actual hours worked, whichever is greater.

(H) On mandatory training days, Fee Collectors will be reimbursed mileage from their HOR to the training location, round trip and compensated at the applicable straight or overtime rate for actual hours attending training.