



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Grievance and Arbitration		Article: 1408	
APPROVED: TR Merickel, Chief Probation Officer			
EFFECTIVE: July 2015	REVIEWED: August 2018	REVISED: July 2015	UPDATED: July 2015

Objectives

1. To informally settle disagreements at the employee-supervisor level.
2. To provide an orderly procedure to handle the grievance through each level of Supervision.
3. To correct, if possible, the cause of the grievance and to prevent future complaints.
4. To promote harmonious relations among employees, their supervisors, and departmental administrators.
5. To assure fair and equitable treatment for all employees.
6. To resolve grievances at the departmental level before appeal to higher levels.

Definitions

- A. The following terms, as used in this Article, shall have the following meaning:
1. **Grievance** – A complaint by an employee, alleging a violation of rules and regulations (except C.S.C. rules) or policies governing personnel practices and working conditions. A grievance may be filed when the employee believes an injustice has been done because of an unfair application or deviation from a departmental policy.
 2. **Day** – Calendar day, exclusive of Saturday, Sunday, and County holidays.
 3. **Employee** – Any employee in the classified service of the County of Kern regardless of status.
 4. **Immediate Supervisor** – The person who assigns, reviews, or directs the work of an employee.
 5. **Superior** – The person to whom an immediate supervisor reports.
 6. **Representative** – A person who appears on behalf of the employee.
 7. **Department Head/Appointing Authority** – The officer or employee having charge of the administration of a department of Kern County government; in this case the Chief Probation Officer.

B. Exclusions

1. Work assignments, unless the complaint arises out of an allegation that the employee was required to work out-of-classification in violation of that provided by Kern County Ordinance Code and did not receive the out-of-classification pay or unless there is evidence the assignment of work is a form of disciplinary action.
2. Classification and salary matters relative to classifications.
3. Appeals involving demotions, dismissals, incremental denials, suspensions, promotions, separations, and examination procedures. (These matters are within the Civil Service Commission's authority).
4. County policy and ordinance questions, including subjects involving newly established or amendments to existing Board of Supervisors' resolutions, ordinances, or minute orders, unless the allegation is that they are not uniformly administered.
5. Work performance evaluations.
6. Impasses in meeting and conferring upon terms of a proposed MOU.
7. Grievance filed after twenty days from date of occurrence, or after twenty days from the date the employee had knowledge of an occurrence (but in no case later than one year from date of occurrence).

TIME LIMITS

A. Time limits are established to settle grievances quickly. Time limits may be extended by agreement of the parties. If the grievant is not satisfied with the decision rendered, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure of the employee to submit the grievance within the time limits imposed shall terminate the grievance process, and the matter shall be considered resolved. Failure of the County to respond within the time limits specified will allow the grievant to submit the grievance to the next higher step of the grievance procedure.

B. The Parties' Rights and Restrictions

1. A party to the grievance shall have the right to record a formal grievance meeting at the expense of the requesting party.
2. The grievance procedure shall not limit the right of any employee to present a grievance individually.
3. An employee may have a representative present at all steps of the grievance procedure.
4. Reasonable time in processing a grievance will be allowed during regular working hours, with advanced supervisor approval. Supervisory approval will not be unreasonably withheld.

5. Only a person selected by the employee from within a recognized employee organization and made known to management prior to a scheduled grievance meeting, shall have the right to represent or advocate as an employee's representative.
6. Nothing within this grievance procedure shall be construed as limiting the right of management to manage the affairs of the County. Grievances of an identical nature concerning the same subject matter may be consolidated.

INFORMAL GRIEVANCE DISPOSITION

Within twenty (20) days from the occurrence of the issue that gave rise to the complaint, or within twenty (20) days from the employee's knowledge of the occurrence (but no later than one (1) year from the date of occurrence), an employee will promptly and informally meet to discuss the complaint with his immediate supervisor. In those circumstances where the nature of the complaint involves the immediate supervisor, the employee may informally discuss the complaint with the next higher level of supervision, provided prior notification is given to the immediate supervisor by the employee. Such initial discussion shall precede the use of the formal grievance procedure. If the supervisor fails to reply to the employee within five (5) days of the meeting, or if the employee is not satisfied with the decision, the employee may utilize the formal grievance procedure.

[Employee Grievance Form is available in the Common drive: z:\Common\DeptForm](#)

FORMAL GRIEVANCE PROCEDURE

- Step 1. The grievance form and any supporting documents shall be delivered to the supervisor with whom the informal meeting was held, no later than five (5) days from receipt of the supervisor's informal response or within ten (10) days from the close of the informal meeting if no decision is rendered. The formal grievance procedure shall be initiated by the employee, in writing on the grievance form. The grievance should state the nature of the grievance, the alleged violation by section or number, if any, and the desired solution.

The supervisor shall hold a formal meeting with the employee within five (5) days of the receipt of the formal grievance to review the facts, gather all supporting documents, discuss the complaint and desired solution and discuss the proper appeal procedure.

The supervisor will issue a written decision on the original grievance form within five (5) days from the close of the formal meeting.

- Step 2. If the employee feels the immediate supervisor has not resolved the grievance, the employee may appeal to the next higher level of supervision and Department Head jointly. At this time, all supporting documents and evidence relative to the grievance shall be included with the appeal and made known to both parties. A formal meeting shall be held with the employee and his/her representative, if requested, within (10) days from the date of the appeal receipt. At which time there will be an attempt to settle the grievance.

A decision shall be made, in writing, on the original grievance form to the employee by the Department Head within ten (10) days from the close of the formal meeting.

Step 3. If the employee is not satisfied with the decision of the Department Head, he may appeal the decision to the County Administrative Office within five (5) days from receipt of the Department Head's decision. In his/her appeal to the County Administrative Office all supporting documents must be attached to the grievance form, together with the grievant's reason for appeal and stated remedy requested.

The County Administrative Office (CAO) or designee will review the original grievance, all supporting documents, the Department Head's response, and the remedies requested. They will issue a written decision within ten (10) days from receipt of the grievance. If the employee is not satisfied with the decision of the CAO or designee, the employee may submit the grievance to advisory arbitration by written request to the County Administrative Office. They shall within five (5) days from receipt of the grievant's request, set a date for a meeting to:

1. Attempt to settle the grievance
2. Agree to any stipulations
3. Agree upon the issue statement
(Issue statement will reflect issue as presented in original grievance as written on grievance form)
4. Select an impartial arbitrator

SELECTION OF THE ADVISORY ARBITRATOR

If the parties fail to agree on an arbitrator, a list of five (5) neutrals will be jointly requested from the Federal Mediation Service, the State Mediation and Conciliation Service, or the American Arbitrator's Association. The agency will be mutually selected.

The parties shall select a neutral by alternatively striking a name from the list, with the remaining name being the selected neutral. Should both parties agree that the first list submitted is unsatisfactory; the parties may request a second list.

The arbitration procedure will be informal and private. The arbitration procedure shall not be bound by any rules of evidence governing trial procedure in State Courts.

The arbitrator will not have the power to add to, subtract from, or otherwise modify the provisions of any Memorandum of Understanding (MOU), Rules, Regulations, or Ordinances of the County of Kern.

The arbitrator will confine the decision to the issue submitted.

The arbitrator's decision will be advisory, subject to approval by the Board of Supervisors.

The cost of the arbitrator shall be borne equally between the County and the grievant. Any costs associated with witness fees, transcriptions or special counsel shall be borne by the requesting party.

The arbitrator shall be requested to submit his/her decision within thirty (30) days from the close of the hearing.