



NORTH MIAMI POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES



GRIEVANCE 200.04

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Chief of Police

SUPERSEDES: 10-23-20 CFA: 6.01, 6.02, 6.03

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I. PURPOSE

In a mutual effort to provide harmonious working relations between the City of North Miami and collective bargaining members, it is agreed to and understood by both parties that there shall be a process for the resolution of grievances or misunderstandings between the parties arising from the application or interpretation of the collective bargaining contracts for both, sworn and non-sworn members.

II. POLICY

To establish guidelines that will assist members of the Department in the proper grievance procedures and arbitration process as applicable.

III. SCOPE

This policy applies to all members of the Department.

IV. DEFINITION

Grievance: Defined as any dispute, controversy or difference between the City of North Miami and the collective bargaining union, or the City of North Miami and a collective bargaining member(s) on any issues with respect to, on account of, or concerning the meaning, interpretation or application of the current collective bargaining agreement or any provisions thereof.

Language Clarification:

- Should: Indicates a general or expected action, absent a rational basis for failing to conform.
- Shall or Will: Indicates a mandatory action.

V. GRIEVANCE PROCEDURES - SWORN PERSONNEL

CFA 6.01A

- A. The Office of the Chief of Police is responsible for coordinating the grievance process for its sworn members and acknowledging the receipt of the grievance by noting the date and receiving agent. **CFA 6.01B, CFA 6.02**
 1. Concerned supervisors at Step 1 of the grievance process will ensure that the Chief's Office is notified in order to initiate the logging process of all steps.
- B. A grievance shall refer to the specific provision or provisions of the collective bargaining agreement alleged to have been violated. Basic information required from a grievant consists of:
 1. A statement of the grievance and the facts upon which it is based, an allegation of the specific wrongful act and harm done.
- C. The criteria for union representation during a grievance is that it is pursuant to the bargaining member's request.
- D. Formal written responses at any step of the grievance process will identify the remedy or adjustment, if any, to be made to resolve the grievance, or written notification that said grievance will not be resolved at the current step. **CFA 6.01C, D**
- E. Affected sworn personnel will follow the procedures outlined in the current Police Benevolent Association (PBA) contract under Articles 23 and 24 of the agreement. An **excerpt** of these procedures is set forth below:

1. The number of days in presenting a grievance and receiving a reply from the different levels of supervision shall be based upon calendar days. However, should the last day fall on a weekend or holiday, the next business day shall be the last day upon which a grievance may be filed. The grievance will be submitted to the Chief's office, where it will be logged, noting the date and time received, as well as the name of the person receiving the grievance. In addition, a grievance may be filed electronically and is deemed filed upon receipt. It is the grievant's responsibility to confirm receipt of the grievance.
2. Grievances shall be processed in accordance with the following procedure steps:
 - a. **Step 1:** All grievances involving sworn personnel will be discussed with his/her Division Head (Assistant Chief) within ten (10) calendar days of the occurrence, which gave rise to the grievance. A Union representative may be present to represent the employee, if so requested by the employee. The Division Head shall attempt to adjust the matter and must respond to the employee within ten (10) calendar days.
 - b. **Step 2:** If the grievance has not been satisfactorily resolved, the employee or Union representative shall reduce the grievance to writing and present it to the Chief within ten (10) calendar days from the time the response was due in Step 1. If the grievance is filed at Step 2, without the assistance from the Union, a copy of the grievance will be provided to the Union. Should the Chief and Union agree on a meeting, the Chief shall meet with the Union and employee, and respond to the Union and employee in writing ten (10) calendar days from the receipt of the written grievance or the date of the meeting, should one occur. If a grievance is filed at this step by an individual without the assistance of the Union, the Chief and employee filing the grievance may agree to a meeting provided that the Union is given the opportunity to be present for said meeting. All grievances must be processed within the time limits provided within the most current police contract.

CFA 6.01C

- c. **Step 3:** If the grievance has not been satisfactorily resolved by the Chief in Step 2 it shall be presented in writing to the City Manager within ten (10) calendar days from the time the response was due in Step 2. If a grievance is filed at Step 3 by an individual without the assistance of the Union, the City agrees to provide a copy of the grievance to the Union. If the City Manager or his designee and the Union agree that there should be a meeting, the City Manager or his designee shall

meet with the employee and/ or the Union representative. The City Manager or his designee shall respond in writing to the employee and the Union within ten (10) calendar days from the receipt of appeal or the date of the meeting, should one occur. If a grievance is filed at Step 3 by an individual without the assistance of the Union, the City Manager or his designee and the employee filing the grievance may agree to a meeting provided that the Union is given the opportunity to be present for said meeting.

- d. **Step 4:** If the grievance has not been satisfactorily resolved, the Union may proceed to file for arbitration.

VI. ARBITRATION OF GRIEVANCES - SWORN PERSONNEL

- A. All sworn members shall have the right to arbitration of decisions if a grievance has not been satisfactorily resolved within the grievance procedure in accordance with Article 24 of the Agreement between City of North Miami and PBA. The Union shall have the right to request a review by an impartial neutral no later than fifteen (15) calendar days following the City Manager's response in Step 4 of the grievance procedure.
- B. An **excerpt** of these procedures is set forth below.
 1. The Parties shall jointly request a list of seven (7) names from the American Arbitration Association. Within seven (7) calendar days of receipt of the list, the parties shall alternately strike names, the grievant striking first, thus leaving the seventh (7th) who will act as the Arbitrator.
 2. The City and the Union shall attempt to mutually agree in writing as to the statement of the grievance to be arbitrated prior to the arbitration hearing, and the Arbitrator shall confine their decision to the particular grievance, if specified. In the event the Parties fail to agree on the statement of the grievance to be submitted, the Arbitrator will confine their consideration and determination to the written statement of the grievance presented in the grievance procedure and the response of the other party. The Arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement the Agreement between the City and the PBA or any part thereof or amendment thereto. The Arbitrator shall have no authority to consider or rule upon any matter, which is stated in this Agreement, not to be subject to arbitration or which is not a grievance as defined in this Agreement; nor shall this collective bargaining agreement be construed by the Arbitrator to supersede applicable laws in existence at the time of signing of this

Agreement, except to the extent as specifically provided herein.

3. The initiating Parties shall not be penalized in any way for exercising their rights under the above referenced contractual agreement. However, each Party shall bear the expense of its own witnesses and of its own representatives. The impartial Arbitrator's fee and related expenses and expense of obtaining a hearing room, if any, shall be equally divided between the parties. Any Party desiring a transcript of the hearing shall bear the cost of such transcript, unless both Parties mutually agree to share said cost.
4. Copies of the Arbitrator's decision shall be furnished to both Parties within thirty (30) calendar days of the closing of the arbitration hearing and such award shall be final and binding on both parties.

C. Performance evaluations of "Expected Performance" or "Exceeding Expectations," or "Exceptional," shall be grievable to the City Manager pursuant to Article 23 of the agreement between City of North Miami and PBA (referenced above) but not arbitrable and are not subject to appeal to the City's Personnel Board.

VII. GRIEVANCE AND ARBITRATION PROCEDURES- NON-SWORN PERSONNEL

CFA 6.01A

A. The Office of the Chief of Police is responsible for coordinating the grievance process for its non-sworn members and acknowledging the receipt of the grievance by noting the date and receiving agent. **CFA 6.01B**

1. Concerned supervisors at Step 1 of the grievance process will ensure that the Chief's Office is notified in order to initiate the logging process of all steps.

B. A grievance shall refer to the specific provision or provisions of the collective bargaining agreement alleged to have been violated. Basic information required from a grievant consists of:

1. A written statement of the grievance and the facts upon which it is based, a written allegation of the specific wrongful act and harm done, and a written statement to the remedy or adjustment sought.

C. The criteria for union representation during a grievance is that it is pursuant to the bargaining member's request.

D. Formal written responses at any step of the grievance process will identify

the remedy or adjustment, if any, to be made to resolve the grievance.
CFA 6.01C,D

- E. Non-sworn members shall have the right to file a grievance under Article 10, outlined in the International Union of Police Associations (IUPA) contract, (applies only for paying members) or file an appeal under Rule 13 of the City's Civil Service Rules, but not both. Once the non-sworn member files in either forum they are precluded from filing in the other forum.
- F. Grievances involving non-sworn personnel will be given to his/her immediate supervisor within ten (10) calendar days of the occurrence. An **excerpt** of these procedures that follow, is set forth below.

Step 1: Whenever an employee has a grievance, he/she should first present it to his/her direct supervisor within ten (10) calendar days of the event giving rise to the grievance, by way of a completed and submitted grievance form. In cases where the grievance involves the supervisor, the grievant shall instead submit the grievance to the Department Director or his/her designee at Step 2 of the grievance procedure, within the time limit provided for the submission of the grievance in Step 1.

The grievance shall be signed by the employee and shall specify all of the following:

- The date of the alleged grievance;
- The specific Articles and Sections of this Agreement allegedly violated;
- The facts pertaining to or giving rise to the alleged grievance; and
- The relief requested.

The supervisor or Department Director or his/her designee, if applicable, may informally meet with the employee to address the grievance. A Union representative shall be present at the meeting upon the employee's request. The supervisor or Department Director or his/her designee, if applicable, shall reach a decision and communicate in writing to the employee and the Union representative within ten (10) calendar days (or such longer period of time as is mutually agreed upon in writing), from receipt of the grievance.

Step 2: If the grievance is not resolved at Step 1, or if no written disposition is made within the Step 1 time limits, the Union shall have the right to appeal the Step 1 decision to the Department Director or his/her designee within ten (10) calendar days from the due date of the Step 1 response. Such an appeal must be accompanied by a copy of the original written grievance. The Department Director or his/her designee may

conduct a meeting with the grievant and his/her Union representative. The Department Director or his/her designee shall, within ten (10) calendar days after the presentation of the grievance (or such longer period of time as is mutually agreed upon in writing), render his/her decision on the grievance in writing to the aggrieved employee and the Union representative.

Step 3: If the grievance is not resolved at Step 2, or if no written disposition is made within the Step 2 time limits, the Union shall have the right to appeal the Step 2 decision to the City Manager or his/her designee within ten (10) calendar days from the due date of the Step 2 response. Such an appeal must be accompanied by a copy of the original written grievance, together with a signed request form requesting that the Step 2 decision be reversed or modified. The City Manager or his/her designee shall conduct a meeting with the grievant and his/her Union representative. The City Manager or his/her designee shall, within ten (10) calendar days after the presentation of the grievance (or such longer period of time as is mutually agreed upon in writing), render his/her decision on the grievance in writing to the aggrieved employee and the Union representative.

- G. If the grievance is not resolved at Step 3, or if no written disposition has been rendered within the applicable time limits, the Union shall have the right to appeal to binding arbitration within ten (10) calendar days from the date the Step 3 disposition is given, or the due date of that decision, if no written decision is made. Disciplinary actions involving terminations of employment, demotions and unpaid suspensions are the only disciplinary actions subject to binding arbitration if the grievance is not resolved at Step 3. All other disciplinary actions are grievable through Step 3 only and are not subject to binding arbitration.
- H. Failure on the part of the City to answer within the time limits set forth in any Step will entitle the Union to proceed to the next step applicable. The time periods contained herein may be mutually waived or extended.
- I. Where a grievance is general in nature in that it applies to a number of employees having the same issue to be decided, it shall be presented directly to the Department Director or his/her designee at Step 2 of the grievance procedure, within the time limit provided for the submission of the grievance in Step I and signed by the aggrieved employees or the Union representative on their behalf.
- J. The arbitrator may be any impartial person mutually agreed upon by the parties. In the event the parties are unable to agree upon said impartial arbitrator within ten (10) calendar days after the City or Union requests arbitration, the parties shall jointly request a list of seven (7) names from

the American Arbitration Association. Within ten (10) calendar days of receipt of the list, the parties shall alternately strike names, with the City striking first. The remaining name shall act as the arbitrator.

- K. The City and the Union shall mutually agree, in writing, as to the statement of the grievance to be arbitrated prior to the arbitration hearing and the arbitrator shall confine his decision to the particular grievance specified. In the event the parties fail to agree on the statement of the grievance to be submitted to the arbitrator, the arbitrator shall confine his consideration and determination to the written statement of the grievance and the response of the other party. Copies of any documentation provided to the arbitrator by either party shall be simultaneously provided to the other party.
- L. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this collective bargaining agreement or any part thereof or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this agreement not to be subject to arbitration. The arbitrator may not issue declaratory or advisory opinions.
- M. Copies of the arbitrator's decision should be furnished to both parties within thirty (30) calendar days of the closing of the arbitration hearing. The arbitrator's decision will be final and binding on all parties.
- N. Each party shall bear the expense of its own witnesses and of its own representatives for the purposes of the arbitration hearing. The parties agree to equally share the arbitrator's fee and any related expenses including any cost involved in requesting a panel of arbitrators. The hearing room shall be supplied and designated by the City. Any person desiring a transcript of the hearing shall bear the cost of such transcript, unless both parties mutually agree to share such cost.
- O. Unless otherwise agreed to by both parties, grievances shall be processed separately and individually. Accordingly, only one (1) grievance shall be submitted to an arbitrator for decision in any given case.

VIII. APPEAL OF DECISIONS - SWORN PERSONNEL

Sworn members shall make an exclusive election of remedy to appeal disciplinary action through either the grievance procedure contained in Section V. "Grievance Procedures-Sworn Personnel", or through the City's Personnel Board. If an employee elects to appeal a disciplinary action through the City's Personnel Board, then he/she will be precluded from utilizing the grievance procedure for redress of the disciplinary action. **CFA 6.03**

IX. APPEAL OF DECISIONS - NON-SWORN PERSONNEL

Appeals of decisions for non-sworn members shall be done in accordance with the respective procedures listed in Section VII. "Grievance and Arbitration Procedures-Non-Sworn Personnel", or as outlined in the City's Civil Service Rules, but not both. **CFA 6.03**

X. RECORDS

Grievance records, for all personnel, will be maintained by the Personnel Department, and will be kept in a locked file cabinet while the grievance is in progress. Once resolved, the file will be moved to a storage file within City Hall.