

## NIAGARA FALLS POLICE DEPARTMENT GENERAL ORDER

EFFECTIVE DATE: 10/24/2013	SUBJECT:  <b>GRIEVANCE PROCEDURES</b>	Number 119.00 (NYSLEAP A-16-1)
RESCINDS: 08/29/2013		Number of pages 7

- I. Policy:
  - A. The Niagara Falls Police Department Grievance Procedure is set forth through contractual agreement between the City of Niagara Falls and the following bargaining units:
    1. Niagara Falls Police Club, Inc.
    2. Niagara Falls Police Captains and Lieutenants Association
    3. United Steelworkers of America Local 9434-0
  
- II. Niagara Falls Police Club, Inc.
  - A. Section 8.04 - Grievance Procedure
    1. First Stage
      - a. A grievance shall be initiated by presenting it to the Police Superintendent or his designee. It must be in writing, on a form supplied by the City, and must include the nature of the grievance, the facts relating thereto and the date of submission.
      - b. On receipt of the grievance, the Superintendent or his designee shall conduct an informal hearing at which the grievant and/or representative shall appear and present oral and written statements or recommendations.
      - c. Within five days of submission, the Superintendent will provide a written decision to the grievant and his representative and a copy will be provided to the Chairman of the Labor Relations Committee.
      - d. If the grievance is not satisfactorily resolved the grievant may proceed to the next stage, within five days of the receipt of the decision.

2. Second Stage:

- a. If a grievance is not satisfactorily resolved, under Stage One, a grievant may submit his grievance to the Labor Relations Committee. Upon request by the Committee, the Superintendent will forward all documents relating to the grievance to the Committee.
- b. The Labor Relations Committee will conduct a hearing within ten days of receipt, under oath or otherwise, and will hear testimony of parties and witnesses, and receive documents and other exhibits. It may issue subpoenas and may establish rules for the conduct of the hearings, not inconsistent with any of the provisions of this Agreement.
- c. Within ten days after the hearing the Committee will issue a written decision that will be filed in the City Personnel Department and copies will be provided to each party.
- d. If the grievance is not satisfactorily resolved at this stage, either party may proceed to the arbitration stage, within ten days after the written decision is received or, if no decision is timely received, then within a reasonable time from the date the decision was due to be received.

3. Arbitration:

- a. If a grievance is not satisfactorily resolved as provided above, either party may seek resolution by arbitration, by filing a written demand and by forwarding a copy to the other party.
- b. The notice or demand for arbitration shall be filed with the Public Employment Relations Board and upon receipt of a list of potential arbitrators; the parties will meet in an effort to mutually agree to the selection of an arbitrator from said list. The Public Employment Relations Board will be requested to provide a list of possible arbitrators from the Western New York area instead of statewide.
- c. If the parties fail to agree upon the selection of an arbitrator, then either party may petition a Justice of the Supreme Court of the Eight Judicial District to appoint an arbitrator.
- d. The written decision of the arbitrator shall be final and binding upon both parties to the proceeding. The parties shall share

the expenses and fees of the arbitrator and each party will be responsible for the expenses and fees of its own representatives.

III. Niagara Falls Police Captains and Lieutenants Association

A. Section 8.05

1. First Stage:

- a. The first procedural stage shall consist of the employee's presentation of his grievance to the Police Superintendent or his designee. A statement of grievance at this stage shall be presented on a written form stating the specific nature of the grievance, the facts relative thereto and the date submitted. Said statement shall be made upon a form numbered and supplied by the Personnel Department of the City of Niagara Falls.
- b. Upon receipt of the statement of grievance, the Superintendent, or his designee shall, at the request of the employee, hold an informal hearing at which the employee and/or his representative shall appear and present oral and written statements or recommendations.
- c. The final determination of the first stage of such grievance proceeding shall be made by the head of the department or his designee within five (5) days from the date of submission to him of said grievance. The decision shall be made in writing and communicated to the employee presenting the grievance and to employee's representative, if any, and a copy of the decision shall be submitted to the Chairman of the Labor Relations committee.
- d. If such grievance is not satisfactorily resolved at this first stage within five (5) days from the date of submission, such employee may proceed to the second stage.

2. Second Stage:

- a. The second procedural stage shall consist of a request by the aggrieved employee for a review and determination of his/her grievance by the Labor Relations Committee. In such a case, the aggrieved employee shall submit his request to the Labor Relations Committee within five (5) days from the date of determination of the department head.

- b. The department head upon notice shall forward all papers filed pursuant to said grievance to the Labor Relations Committee. The Labor Relations Committee shall promptly consider all grievances properly presented to it. The committee will schedule, within five days of receipt of grievance, a hearing under oath or otherwise, taking testimony of the parties and their witnesses, receiving documents or other papers submitted to it, issue subpoenas and establish rules for the conduct of the hearings not inconsistent with this grievance procedure.
  - c. The Labor Relations Committee shall make its determination of the grievance and shall render its decision in writing to them within ten (10) days from the date of the hearing of said grievance. The decision shall be filed with the City Administrator. A copy shall be filed in the office of the Personnel Department of the City of Niagara Falls, which copy shall be open to inspection to all parties with an interest therein. Copies of the decision shall be sent to all persons directly concerned and affected by it.
  - d. If such grievance is not satisfactorily resolved at the second stage within ten (10) days, such employee may proceed to arbitration.
3. Arbitration:
- a. All grievances, which are not amicably settled as provided for in Section A and B of this grievance procedure shall, upon the written demand of either of the parties hereto, be submitted to arbitration.
  - b. The arbitrator shall be selected as soon as practicable after written notice demanding the appointment of said arbitrator by either of the parties hereto, which demand must be made within ten (10) days from the date of the mailing of the Labor Relations Committee's decision. Said arbitrator shall be selected by mutual agreement from names supplied by PERB. The parties shall request PERB to select a panel of not more than five (5) arbitrators from the western New York area.
  - c. In the event of failure to select said arbitrator either party to this agreement may petition a Judge of the Supreme Court of the Eighth Judicial District of the State of New York who will appoint such arbitrator.

- d. The decision of the arbitrator thus selected shall be binding upon both parties to this agreement when the same is in accordance with law and has been made in writing and a copy filed with the employee and his collective bargaining representative and with the Labor Relations Committee of the City of Niagara Falls, and shall be considered as a final determination of the question or questions of fact submitted to arbitration.
- e. Both parties hereto shall divide the expenses and fees of the arbitrator selected.

IV. United Steelworkers of America Local 9434-0

A. Schedule D Section 4:

1. First Stage:

- a. The first procedural stage shall consist of a request by the aggrieved employee for a review and determination of his grievance, by the head of the department concerned or his designee.
- b. In such case, the aggrieved employee shall submit to the head of the department concerned, or his designee, a written statement setting forth the specific nature of the grievance and the facts relating thereto.
- c. Such statement shall be made upon a form numbered and supplied by the personnel Department of the City of Niagara Falls.
- d. Upon receipt of the statement of grievance, the department head concerned or his designee shall, at the request of the employee, hold an informal hearing at which the employee and/or his representative shall appear and present oral and written statements or recommendations.
- e. The final determination of the first stage of such grievance proceeding shall be made by the head of the department or his designee within five days from the date of submission to him of said grievance.
- f. The decision shall be made in writing and communicated to the employee presenting the grievance and to the employee's

representative, if any, and a copy of the decision shall be submitted to the chairman of the Labor Relations committee.

- g. If such grievance is not satisfactorily resolved at the first stage within five days from the date of submission, such employee may proceed to the second stage.

2. Second Stage:

- a. The second procedural stage shall consist of a request by the aggrieved employee for a review and determination of his grievance by the Labor Relations Committee.
- b. In such case, the aggrieved employee shall submit his request to the Labor Relations Committee within five days from the date of determination of the department head.
- c. The department head, upon notice, shall forward all papers filed pursuant to said grievance to the Labor Relations Committee.
- d. The Labor Relations Committee shall promptly consider all grievances properly presented to it. The Committee will conduct a hearing under oath or otherwise, taking testimony of the parties and their witnesses, receiving documents or other papers submitted to it, issue subpoenas and establish rules for the conduct of the hearings not inconsistent with this grievance procedure.
- e. Such hearing will be scheduled within five days of the date of submission of the grievance.
- f. The Labor Relations Committee shall make its determination of the grievance and shall render its decision in writing within ten days from the date of the hearing of said grievance.
- g. The decision shall be filed with the City Administrator and a copy shall be filed in the Office of the Personnel Department of the City of Niagara Falls, which copy shall be open to inspection to all parties with an interest therein. Copies of the decision shall be sent to all persons directly concerned and effected by it.
- h. If such grievance is not satisfactorily resolved at the second stage within ten days, such employee may proceed to arbitration.

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3. Arbitration:

- a. All disputes which are not amicably settled as provided for in Sections A and B of this grievance procedure shall, upon the written demand of either of the two parties hereto, be submitted to an impartial arbitrator.
- b. Said arbitrator shall be selected from a panel of arbitrators supplied by either PERB, FMCS, or American Arbitration Association.
- c. The selection of arbitrator shall be by alternating striking of names, and the remaining person shall be the arbitrator.
- d. The order of striking shall be by a coin toss.
- e. The arbitrator shall be notified of his selection by a joint letter from the City and Union, requesting that a time, date and place be set aside.
- f. The decision shall be binding upon both parties to this agreement and shall be a final determination of the questions or questions submitted to arbitration. Both parties hereto shall divide the expenses and fees of the arbitrator selected.