



CITY OF AUSTIN

OMBUDSPERSON PROCESS

MISSION STATEMENT: The Ombudsperson serves as a neutral third-party to provide assistance to resolve employee grievances, workplace environment issues and other human resources-related matters. The Ombudsperson strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsperson is an advocate for properly administered processes, not an advocate on behalf of any individual, group or administrator within the City of Austin.

INITIATING THE OMBUDS PROCESS

- 1.1 Any non-civil service regular employee who files a personnel action grievance requesting a hearing concerning disciplinary probation, denial of promotion, suspension, demotion or termination of employment may request a review of the grievance by the Ombudsperson. All requests must be filed in writing with the Director of Human Resources. The employee's written request for Ombuds review may be filed at the time the Personnel Action Grievance is filed, but not later than three (3) working days from the Human Resources Director's actual receipt of employee's personnel action grievance. The required form will be available in the Human Resources Department.
- 1.2 At any time, the Director of Human Resources may request the services of the Ombudsperson in any human resources-related matter.

THE OMBUDS PROCESS

- 2.1 When an Ombuds review of a personnel action grievance is timely requested, the Director of Human Resources will forward a copy of the request and the employee's grievance to the Ombudsperson. The Ombudsperson will notify the employee and the Department Director that the request for review has been received.
- 2.2 All requests for service will be processed in a timely and efficient manner. The initial grievance review will be completed within three (3) working days of the Ombudsperson's receipt of the request. If additional time is required, the Ombudsperson shall notify the employee, the Department Director and the Director of Human Resources. After the initial grievance

review is completed, the Ombudsperson may take any one or a combination of the following actions:

- (1) Request additional documentation from the employee and/or the Department;
- (2) Make recommendations regarding the investigation (if applicable);
- (3) In coordination with Department Human Resources or HRD, assist with follow-up meetings with the employee and/or the Department;
- (4) Recommend formal mediation of the grievance by the Ombudsperson;
- (5) Recommend other alternative resolution of the grievance; and/or
- (6) Take no action and allow the grievance process to proceed.

2.3 If the personnel action grievance is not resolved during the Ombuds process, the Ombudsperson will notify the Director of Human Resources, the employee and the Department Director that the Ombuds process is closed.

2.4 As used in this section:

- (1) Notification to the employee will include the employee's representative (if applicable).
- (2) Notification to the Department Director will include the Department Human Resources Manager (if applicable).

AGREEMENT BY EMPLOYEE

3.1 By requesting the services of the Ombudsperson, an employee agrees to the following:

- (1) No grievance hearing by the hearings officer shall be held until the Ombudsperson has notified the employee, the Department Director and the Director of Human Resources that the Ombuds process is complete. The requesting employee agrees that the applicable timeline for any such hearing is extended during the Ombuds process as authorized by COA Personnel Policies IV C (6).
- (2) The Ombudsperson is authorized to view the requesting employee's disciplinary and personnel files to the extent necessary to fulfill his/her duties. In the course of the Ombuds review, the Ombudsperson may have access to all records ordinarily available to city administrators in connection with an employee grievance.
- (3) No opinion, proposal or recommendation of the Ombudsperson regarding the grievance may be introduced before a hearings

officer or grievance committee. Further, the Ombudsperson may not be called as a witness at a grievance hearing or grievance committee meeting.

- (4) No proposal or recommendation to resolve the grievance made by any participant or his/her representative (if applicable) during the Ombuds process may be used against the employee or the Department at any stage of the City of Austin personnel action grievance appeal process.

OMBUDS MEDIATION

- 4.1 Any recommendation for mediation by the Ombudsperson or the Director of Human Resources shall be made to the Assistant City Manager (ACM) over the Labor Relations Office. That ACM will consult with the Assistant City Manager over the Department involved in the issue and determine if the Department will be directed to participate with the employee in a formal mediation to be conducted by the Ombudsperson. When requested or agreed upon by a Department Director, mediation may be conducted by the Ombudsperson without an ACM directive.
- 4.2 As provided in the City Charter, the Clerk of the Municipal Court has the authority to make the final decision regarding personnel action grievances for employees of the Municipal Court. A recommendation for mediation of any personnel action grievance for an employee of the Municipal Court shall be made to the Court Clerk.
- 4.3 The mediation shall be conducted according to procedures approved by the Ombudsperson. The mediation procedures will be available to the parties prior to the mediation.
- 4.4 At the conclusion of a mediation, the Ombudsperson shall report only the following information to the Director of Human Resources and, if applicable, the Assistant City Manager(s)/Municipal Court Clerk who referred the issue to mediation:
 - (1) The date the mediation was conducted;
 - (2) Whether the employee attended the mediation;
 - (3) Whether a representative of the Department with the authority to resolve the dispute attended the mediation;
 - (4) Whether a resolution agreed to by the parties was reached; and
 - (5) If a resolution was reached, how the issue was resolved.

A copy of the mediation report as set forth above will be provided to the employee and Department Director.

EMPLOYEE REPRESENTATION

- 5.1 No employee is required to be represented in the Ombuds process. In accordance with COA policy, an employee may be represented by a designated Grievance Representative, another COA employee or any other person the employee chooses.
- 5.2 If the employee's representative is a City employee, the representative may be granted administrative leave for work performed in connection with the Ombuds process. This leave shall be requested and shall be granted in accordance with COA Personnel Policies.

PERSONNEL ACTION GRIEVANCE HEARINGS

- 6.1 The Ombudsperson may attend any grievance hearing before a hearings officer. The role of the Ombudsperson at a grievance hearing shall be as an observer only.
- 6.2 No opinion, proposal or recommendation of the Ombudsperson regarding the grievance may be introduced by any party before a hearings officer or grievance committee.
- 6.3 The Ombudsperson may not be called as a witness or participate other than as an observer at a grievance hearing.

COMMUNICATION WITH THE OMBUDSPERSON

- 7.1 The Ombudsperson will handle all communications received in performing his/her duties with discretion. The operations of government are generally considered to be public; so information in the possession of the Ombudsperson may be subject to release. All persons involved in the Ombuds process should note that written communication (e.g. any letter, memorandum, e-mail, etc.) to or from the Ombudsperson may be subject to release pursuant to the Texas Public Information Act.
- 7.2 Communication with the Ombudsperson is not considered privileged communication by law.
- 7.3 Communication with the Ombudsperson is not notice to the City of Austin, and the Ombudsperson does not serve as an agent of notice. By telling the Ombudsperson about a dispute or concern (including harassment or discrimination), an individual has not informed or notified the City of

Austin. However, the Ombudsperson may report an incident if the Ombudsperson considers the incident to pose a risk of serious imminent harm. For other concerns, the Ombudsperson may refer an employee to an appropriate person in order to request that the City take formal action.

DEFINITIONS

- 8.1 As used herein, “regular employee” shall have the same definition as provided by the City of Austin Personnel Policies for Non-Civil Service Personnel. Regular employee does not include offices and employments excluded from the classified personnel service by the City of Austin Charter.

EFFECTIVE DATE

- 9.1 An employee’s request for review of a personnel action grievance may only be made for grievances filed after May 24, 2011.