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Director of Finance & Administration

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Director of Operations

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Director of Communications

ROBERT WELLINGTON  
Legal Counsel

# MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

*Home of the Last Chance Mercantile*

## PERSONNEL COMMITTEE MEETING

### AGENDA

Wednesday, December 2, 2020

10:30 a.m.

Bales Boardroom

14201 Del Monte Blvd., Monterey County, CA

*Please Note:* Meeting will be held virtually via zoom compliant with Governor Newsom's executive Order N-29-20 which allows local legislative bodies to hold public meetings via teleconference and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body to avoid public gatherings, and which suspended all contrary provisions of the Brown Act. To join the zoom webinar, click on this link <https://us02web.zoom.us/j/88666096170>, copy/paste the link into your browser, or type the link into your browser. If your computer does not have audio, you will also need to join the meeting via phone. To participate via phone, please call: 1-669-900-9128; Meeting ID: **886 6609 6170** Public Comments: if you are unable to participate via telephone or virtually, you may also submit your comments by e-mailing them to [igonzales@mrwmd.org](mailto:igonzales@mrwmd.org) with one of the following subject lines "Public Comment Item #" (insert the item number relevant to your comment) or "Public Comment - Non Agenda Item". Comments must be received by 4:00 p.m. on Tuesday, December 1, 2020. All submitted comments will be provided to the Committee and may be read into the record or compiled as part of the record. Public comment will also be accepted during the meeting.

### CALL TO ORDER

### ROLL CALL AND ESTABLISHMENT OF QUORUM

### PUBLIC COMMUNICATIONS

Anyone wishing to address the Committee on matters *not* appearing on the Agenda may do so now. *Please limit comments to a maximum of three (3) minutes.* The public may comment on any other matter listed on the agenda at the time the matter is being considered by the Board.

### ITEMS FOR COMMITTEE CONSIDERATION, DISCUSSION AND ACTION

1. Presentation of OE3 Health Care Premium Increases for 2021
2. Review Discipline & Grievance Policies
3. General Manager Communications

### CLOSED SESSION

As permitted by Government Code Section 54957.6 et seq., the Board may adjourn to a Closed Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the District's Meyers-Milius-Brown Act representative.

1. District Negotiators: General Manager and Personnel Committee  
Unrepresented Individual: District Legal Counsel Rob Wellington for Revision of Monthly Retainer Terms:  
All Terms and Conditions

### ADJOURNMENT

NEXT MEETING DATE: Wednesday, January 6, 2021 at 10:30 a.m.



# Memorandum

## MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

DATE: November 25, 2020  
TO: Personnel Committee  
FROM: General Manager  
SUBJECT: Personnel Committee Meeting of December 2, 2020

1. **Presentation of OE3 Health Care Premium Increases for 2021**

Staff will present the 2021 health care rate increase sent to us by the OE3 Health and Welfare Trust. Staff will detail how our labor contracts treat rate changes and the resultant impact on employee premiums at various levels of plan coverage and on District costs.

*Recommendation: Information Only*

2. **Review Discipline & Grievance Policies**

At the request of Board Chair Theis, staff is bringing forward the Discipline and Grievance Policy for review and discussion. The purpose of the review is to discuss how the Board would like to address disciplinary appeals that come before the Board. Please see the attached memo from HR Manager Berta Torres.

*Recommendation: Information Only*

3. **General Manager Communications**

- **COVID – 19 Update** As Monterey County has experienced an uptick in positive COVID-19 cases, so has the District. In total, the District has had six (6) cases of employees infected with COVID-19. We are also seeing an increase of employees needing to self-quarantine as a result of being in close contact with infected individuals outside of work. Staff has issued numerous reminders around the site and through our message boards about the importance of restricting travel and multi-family gatherings. Additional planning around “mission critical” areas such as the scales and LFG plant operations has also been identified and alternative work plans developed.
- **MBARD Update** Staff is working on a revision of roles and responsibilities around the LFG collection system. This revision will better align operational duties and functions around the landfill management staff and keep engineering and compliance responsible for tabulating and interpreting the data collected from the landfill management staff. Oversight of our LFG contractors in the field will be under the landfill management staff. Staff expects to complete our revision of roles and responsibilities in the response plan to the NOV expected to be received from MBARD.
- **M1W Update** District staff and M1W staff have been meeting to develop the process for the transference of the project development from M1W to the District. District staff will be working on a financial model with M1W that will allow for the payment back to the District of the cost for development and financing over time. Staff hopes to have that ready for the Board by the January Board meeting.

**CLOSED SESSION**

As permitted by Government Code Section 54957.6 et seq., the Board may adjourn to a Closed Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the District's Meyers-Milias-Brown Act representative.

- 1. District Negotiators:           General Manager and Personnel Committee  
Unrepresented Individual: District Legal Counsel Rob Wellington for Revision of Monthly Retainer  
Terms:                               All Terms and Conditions

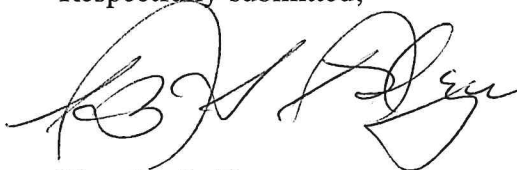
**RETURN TO OPEN SESSION WITH ANY REQUIRED ANNOUNCEMENTS FROM CLOSED SESSION**

Please note: A report out and announcement concerning the closed session will be posted on the District's website following the Board meeting, or provided to anyone requesting same by emailing [igonzales@mrwmd.org](mailto:igonzales@mrwmd.org).

**ADJOURNMENT**

**NEXT MEETING DATE:** Wednesday, January 6, 2020 at 10:30 a.m.

Respectfully submitted,



Timothy S. Flanagan



# 19% healthcare premium increase for 2021

## From OE3 Health & Welfare Trust:

### CONTRIBUTION RATE CHANGE EFFECTIVE IN JANUARY 1, 2021

We are notifying you of the new contribution rates which will be effective January 1, 2021.

The Plan benefits described in your Summary Plan Description of 2017 will continue in effect with no changes. The below listed are the approved rates from the Board of Trustees, the following are the benefits that your employees and their eligible dependents receive from this Trust Fund:

#### Active, Indemnity Plan B, Delta w/o ortho, Vision

	<u>2020 Rates</u>	<u>20221 Rates</u>
3-Party Rate – Single	\$ 731.00	\$ 867.00
3-Party Rate – Member + 1	\$1,461.00	\$1,735.00
3-Party Rate – Member + Family	\$1,973.00	\$2,342.00



## Why the increase?

- According to OE3 Health Trust, increase is caused by double-digit expense growth in both medical and prescription drug costs
- With this change, rates will have increased an average of 5% per year over past 3 years

	2018	2019	2020	2021	3yr Ave. Increase
<b>SINGLE</b>	\$751	\$751	\$731	\$867	5%
<b>TWO PARTY</b>	\$1,503	\$1,503	\$1,461	\$1,735	5%
<b>FAMILY</b>	\$2,029	\$2,029	\$1,973	\$2,342	5%



# Per terms of MOUs, increases are shared by District and employees by formula

## 14. HEALTH AND WELFARE

- 14.1 Health Insurance Premiums: The District shall contribute towards health insurance premiums (medical, dental, vision) as follows:
- a. The District will pay 88% toward healthcare insurance premiums and the Employee will pay 12% of premium rate.
  - b. The District will cover any healthcare insurance premium increase up to 7.5% per year.
  - c. Employees are responsible for any healthcare insurance premium increase above 7.5% and up to 10% per year.
  - d. Any healthcare insurance premium increase over 10% per year shall be split 50/50 between the District and the Employee.



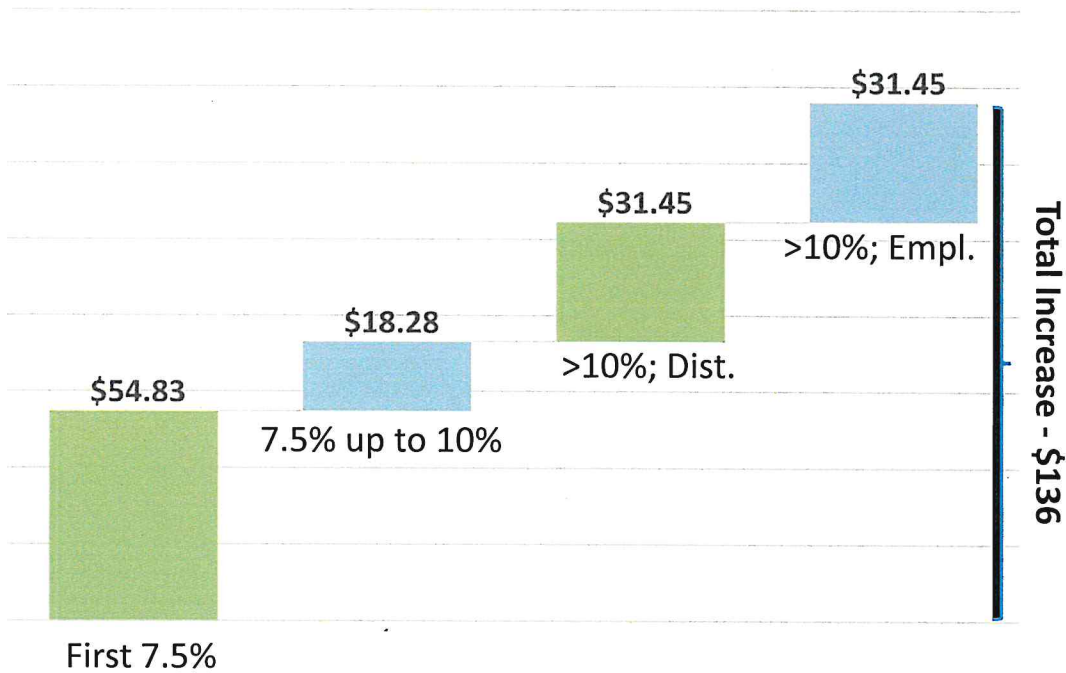
# Employee share of premiums for 2021

<b>MONTHLY RATES</b>	<b>2020</b>	<b>2021</b>	<b>Increase</b>
<b>SINGLE</b>	\$87.72	\$137.45	\$49.73
<b>TWO PARTY</b>	\$175.32	\$275.80	\$100.48
<b>FAMILY</b>	\$236.76	\$371.94	\$135.18

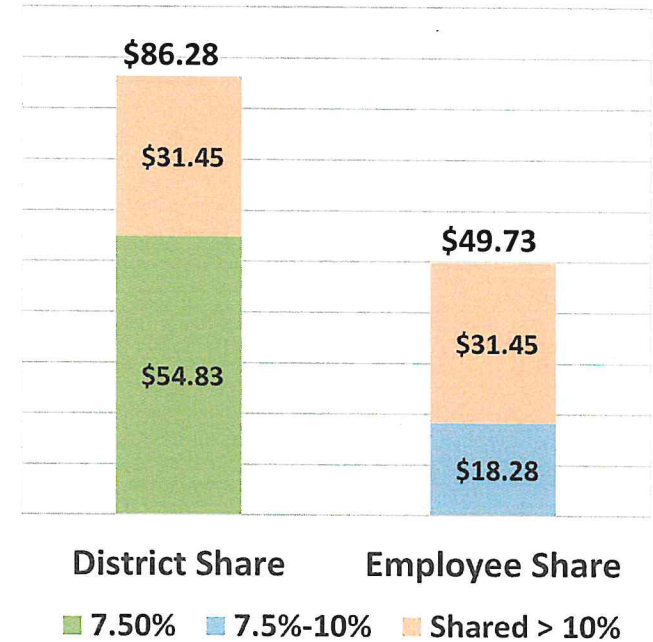


# Calculation Example: Single

## How Increase is Shared



## Total Split of Increase








# Memorandum

## MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by:  Date: 11/25/2020  
General Manager

DATE: November 27, 2020  
TO: Personnel Committee  
FROM: HR Manager  
SUBJECT: Discipline & Grievance Policies

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**RECOMMENDATION:** That the Personnel Committee review the Discipline & Grievance Policies and advise of any desired process changes to Sections 11.8 and 11.9.4, Appeal to District Board of Directors.

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### BACKGROUND & DISCUSSION

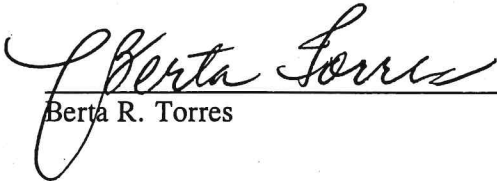
At the October 7, 2020 Personnel Committee meeting, staff presented the District's Discipline and Grievance Policies to the committee to bring awareness of the final step in the appeal process (Section 11.8), in preparation for the potential of a disciplinary action proceeding to the step of appealing to the Board of Directors.

Chair This requested the Personnel Committee further review said policy - specifically the sections related to Board of Directors appeals (Sections 11.8 and 11.9.4) and provide guidance to staff as to any process changes the committee would like to see implemented.

As this policy is within the scope of bargaining, any policy changes must be negotiated with the Operating Engineers Local 3 and it is staff's intent to bring forward the Personnel Committee's recommendations to the next round of labor negotiations. Please note the policy allows the Board Chair, in his/her discretion, to refer disciplinary appeal matters "to a committee of less than quorum of the Board's members to conduct such a hearing and report, in closed session, its findings and recommendation." Staff recommends disciplinary appeal matters be heard by the personnel committee and this clause allow for this. See section 11.8.

Staff will be available to answer any questions you may have regarding the above-referenced policy and process at the Personnel Committee meeting on December 2, 2020.

Respectfully,

  
Berta R. Torres

# 11. Discipline and Grievance Policies

## 11.1 Corrective Action

We strive to create a positive and respectful workplace. Employees also bear responsibility for creating this kind of a working environment. During the course of employment, there may be times when an employee's performance, behavior or actions do not meet the District's standards. In that type of a situation, the District will take the level of corrective action it believes will solve the problem. Corrective action may include coaching or formal disciplinary action.

11.1.1 While the District will engage in some form of progressive discipline, it reserves the right to determine the appropriate level of discipline, based on the severity and/or frequency of the offense(s). Examples of the conduct that is unacceptable and may result in disciplinary action:

- a) Unsatisfactory work performance,
- b) Dishonesty, including but not limited to, deception, lying, unauthorized disclosure of confidential records or information, falsification of timecards or District records, abuse or misuse of District property or resources, theft, fraud,
- c) Misconduct, including but not limited to, abusive conduct towards other District employees or customers, bullying, sexual or any unlawful harassment or discrimination.
- d) Insubordination,
- e) Failure to observe Health and Safety Rules, Standard Operating Procedures, and violation of District policies.

11.1.2 This is not an exhaustive list. Whether or not, a particular behavior, attitude or activity is identified in this policy, or in this Employee Handbook, the District has the right to correct it as it deems appropriate, including termination of employment.

## 11.2 Administrative Leave of Absence

Management staff may place an employee on paid administrative leave from his/her position at any time for behavior that adversely affects the safety and well-being of other employees or visitors. An employee may also be placed on administrative leave for refusing to carry out reasonable instructions given by a manager or supervisor. If a member of management is not available, on site or by telephone, a supervisor may place an employee under their supervision on administrative leave for such behavior(s). An investigation to determine if disciplinary action is warranted will follow.

### 11.3 Types of Disciplinary Actions

- a) **Verbal Warning:** A Verbal Warning is documented by the supervisor or manager and maintained in the Supervisor's File.
- b) **Written Warning:** A Written Warning shall be presented in person if possible and placed in the employee's personnel file. A Written Warning may not be used as the basis for escalating to a higher step of disciplinary action for the same or similar infraction after three (3) years from the date of the Written Warning.
- c) **Disciplinary Probation:** An employee placed on disciplinary probation shall accrue vacation and paid sick leave. However, the employee shall not accrue earned time for step advancement or promotion while on such probation. Disciplinary probation shall be three (3) months to six (6) months, at the sole discretion of Management. Persons placed on disciplinary probation may be terminated for failure to meet job requirements, including conduct that might normally be grounds for a different disciplinary action.
- d) **Reduction in Pay:** An employee's pay may be reduced by one or more steps, as a result of a disciplinary action. The employee shall be given a Notice of Disciplinary Action, which shall include notification of all conditions which must be met in order to receive his or her normal salary.
- e) **Demotion:** Such action shall be pursuant to conditions specified in a Notice of Disciplinary Action. Factors leading to demotion shall include:
  - i. An employee fails to meet performance standards,
  - ii. For any other reasonable grounds as disclosed in the Notice of Intent to Take Disciplinary.
  - iii. Employees may only be demoted to classifications for which minimum qualifications are met.
- f) **Suspension:** Notice of Disciplinary Action shall be given the employee. The maximum period of suspension shall be twenty (20) working days, at the sole discretion of the District.
- g) **Discharge or Dismissal:** Notice of Disciplinary Action shall be given the employee. An employee who has been discharged from District service shall be paid accrued vacation and earned compensating time.

### 11.4 Notice of Intent to Take Disciplinary Action

Notice of the proposed disciplinary action shall be provided to the employee in person, whenever possible and union representative, if appropriate and placed in the employee's personnel file. Such Notice of Intent to Take Disciplinary Action shall include:

- a) A statement of the nature of the disciplinary action.

- b) A statement of the charges upon which the disciplinary action is proposed, and copies of the material on which it is based.
- c) A statement advising the employee of his or her Skelly rights to respond to the charges either orally in a pre-disciplinary (Skelly) hearing, or in writing; such response must be made within 14 calendar days after receipt of the Notice of Intent to Take Disciplinary Action.

### **11.5 Pre-Disciplinary (Skelly) Hearing**

Regular employees, not in a probationary period, have a right to request a pre-disciplinary hearing, also known as a Skelly Hearing and to respond to a proposed termination, demotion, reduction in pay, or suspension. If the employee chooses to exercise his/her Skelly rights, said hearing shall occur within fourteen (14) calendar days of a response to the Notice of Intent to Take Disciplinary Action, and shall be heard by the Director of Finance & Administration or his/her designee who will act as Skelly Officer. The employee and the District have the right to be represented by counsel at any such hearing. Exercise of Skelly rights shall not preclude the employee from exercising his or her right of appeal. If the employee does not respond or upon conclusion of the Pre-disciplinary hearing, the Skelly Officer shall, within 14 calendar days, by written notice to the employee and union representative, if appropriate, affirm, reduce, or abandon the proposed disciplinary action. If the decision is to abandon all action, the notice of intended disciplinary action shall be removed from all personnel files.

### **11.6 Notice of Disciplinary Action:**

If the Skelly Officer determines that an employee shall be demoted, suspended, discharged, or have a reduction in pay, the Skelly Officer shall issue a Notice of Disciplinary Action which shall contain the effective date of the action, full and complete written reasons for such disciplinary action, and any supporting documents or evidence, that were not produced with the Notice of Intent to Take Disciplinary Action. If the Union represented the employee in the matter, or if the employee specifically directs, the Union shall be provided a copy of the Notice.

### **11.7 Appeal of Disciplinary Action to General Manager**

The decision by the Skelly Officer to discharge, demote, suspend without pay or reduce an employee's pay, may be appealed in writing to the General Manager within fourteen (14) calendar days of the Notice of Disciplinary Action. In the case of a department director, or if the General Manager is not available for any reason, District Counsel may appoint an impartial Hearing Officer to hear the appeal. Within fourteen (14) calendar days of receipt of an appeal, the General Manager or Hearing Officer shall schedule a hearing. The employee and the District, at their individual expense, may be represented by counsel and may call witnesses. The technical rules of evidence

shall not be applicable to the hearing; however, hearsay alone shall not be sufficient to sustain a finding of fact. The hearing shall be tape recorded unless the employee requests and makes arrangements for a stenographic reporter. If a stenographic reporter is used, the District shall pay one-half of the fee for such reporter. Any transcripts requested shall be paid for by the party requesting the transcript. Within fourteen (14) calendar days of that hearing, the General Manager or Hearing Officer shall deliver a written decision to the employee.

## **11.8 Appeal of Disciplinary Action to District Board of Directors:**

Regular employees, not in a probationary period, who has been discharged, demoted, suspended without pay for more than three (3) days or had a reduction in pay may appeal the Hearing Officer's decision to the Board of Directors, by delivering a written appeal to the General Manager within fourteen (14) calendar days after the employee's receipt of the written decision from the Hearing Officer. Within fourteen (14) calendar days of receipt of an appeal, a hearing shall be scheduled. The hearing shall be conducted by the Board or the Board Chair, in his or her discretion, may appoint a committee of less than a quorum of the Board's members to conduct such a hearing and report, in closed session, its findings and recommendations. An Appeal can be made only upon the following grounds:

- a) That the procedures set forth in the Personnel Policies have not been followed;
- b) That the action was taken solely because of discriminatory practices;
- c) That the action taken was not in accord with the facts;
- d) That the grounds for the action taken are without merit or unfounded.

### **11.8.1 The following procedures shall apply to the appeal:**

- a) The hearing shall be in closed session, unless the appealing employee requests a public hearing, provided, however, if the hearing is to be conducted by a committee of the Board, the hearing shall be in closed session.
- b) The parties may be represented by counsel at their own expense.
- c) Board review shall be based on the record of the proceedings before the General Manager or Hearing Officer, with no new testimony taken, and the final determination of the General Manager.
- d) Each party may submit written argument to the Board. The written argument shall not exceed fifteen (15) letter-size pages, typewritten and double-spaced and shall be submitted at least seven (7) calendar days before the hearing for inclusion in Board agenda materials. If such written argument is not received within this time frame it shall be deemed waived.
- e) Each party shall be allotted thirty (30) minutes for presentation of the oral argument to the Board.

- f) The hearing shall be tape-recorded unless the employee requests and makes arrangement for a stenographic reporter. If a stenographic reporter is used, the District shall pay one-half of the fee for such reporter. Any transcripts requested shall be paid for by the party requesting the same.
- g) Not later than seven (7) calendar days after the completion of the hearing, each party may submit a written argument to the Board or the committee that conducted the hearing. The written argument shall not exceed twenty (20) letter-size page, typewritten and double-spaced. If such written argument is not received within this time frame, it shall be deemed waived.
- h) The decision of the Board of Directors shall be issued within (21) calendar days of the hearing, provided, however, if the hearing was conducted by a committee of the Board, the committee shall report to the Board, in closed session, at the first meeting of the Board scheduled after twenty-one (21) calendar days of the hearing, its findings and recommendation and the decision of the Board of Directors shall be made within fourteen (14) calendar days thereafter. The decision of the Board shall be final.
- i) The Board of Directors may affirm, modify or reverse the decision of the General Manager or Hearing Officer.
- j) No action shall be brought in Superior Court to challenge the Board of Directors' decision more than ninety (90) days from date of decision.

## 11.9 Grievance Procedure

The purpose of the grievance procedure is to promote improved employee-employer relations by establishing a procedure for the prompt resolution of employee complaints as near as possible to the point of origin and at the lowest supervisory level possible.

11.9.1 Employee Rights: Any employee shall have the right to grieve a violation, misinterpretation and misapplication, or improper application of written regulations, resolutions, ordinances, or policies applicable to the employee.

11.9.2 Informal Procedure: Grievances shall be presented to the employee's manager by the employee or union representative within seven (7) calendar days from the date of the occurrence that is the basis for the grievance. The employee's manager shall have seven (7) calendar days to resolve or respond to the grievance.

11.9.3 Formal Procedure: In the event the employee believes the grievance has not been satisfactorily resolved, the employee, individually or through their union representative may submit the grievance in writing to the Department Director or designee, with a copy to the Human Resources Manager, no later than fourteen (14) calendar days after the date of the occurrence that is the basis for the grievance. The grievance must explicitly specify the

nature of the grievance, the date of the occurrence, the policy or the particular section of the rule, resolution or ordinance alleged to have been violated, the date on which the grievance was taken up with the immediate supervisor and the disposition of the grievance by the immediate supervisor and the remedy being requested.

- a) Within fourteen (14) calendar days of receipt of the grievance, the Department Director or designee shall meet with the grievant, investigate the matter and issue a written response to the grievance.
- b) If the grievance involves a claim or dispute against the Department Director, a hearing officer with experience and knowledge of public sector employment practices and procedures, shall be appointed to hear the matter. The grievant and Management Representative, at their own expense, may be represented by counsel and may call witnesses. Within seven (7) calendar days of the hearing, the Department Director or designee shall deliver a written decision to the grievant.
- c) In the event the grievance is not satisfactorily resolved by the above, the employee, individually or through his union representative, shall present their grievance in writing to the District General Manager or designee no later than seven (7) calendar days after the written decision by the Department Director or designee. Such written grievance shall explicitly specify the nature of the grievance, the date of the occurrence, the policy or the particular section of the rule, resolution or ordinance alleged to have been violated, the disposition of the grievance by the Department Director and the remedy requested. The General Manager or designee shall meet with the employee or union representative, and may at his discretion, provide for a hearing of grievance within 14 calendar days of receipt of the written grievance. If the General Manager or designee schedules such a hearing, the grievant shall be given opportunity to present evidence and witnesses in their behalf. A decision of the General Manager or designee shall be rendered within 14 calendar days after the hearing.

**11.9.4 Appeal to Board of Directors:** If the grievant believes the grievance has not been satisfactorily resolved, the employee may request within seven (7) calendar days, that the General Manager schedule an appeal hearing before the Board of Directors or a committee appointed by the Board. The hearing shall be scheduled as soon as it is reasonably possible to place on the agenda for the next scheduled Board or committee meeting. The following procedures shall apply to the hearing:

- a) The hearing shall be in closed session, except that if the grievance is from a group of employees the hearing shall be public.
- b) The grievant, at the grievant's expense, and the General Manager may be represented by counsel.

- c) Board review shall be based on the record of the proceedings before the General Manager and the final determination of the General Manager, with no new testimony taken.
- d) Each party may submit written argument to the Board. The written argument shall not exceed fifteen (15) letter size, double-spaced, typewritten pages and shall be submitted at least seven (7) calendar days before the hearing for inclusion in Board agenda materials. If such written argument is not received within this time frame, it shall be deemed waived.
- e) Each party shall be allotted fifteen minutes for presentation of oral argument to the Board or committee.
- f) The hearing shall be tape recorded unless the employee requests and makes arrangements for a stenographic reporter. If a stenographic reporter is used, the District shall pay one-half of the fee for such reporter. Any transcripts requested shall be paid for by the party requesting the same.
- g) The Board may affirm, reverse or modify the decision of the General Manager.
- h) The decision of the Board shall be made within ten (10) working days and shall be final at that time.
- i) No action shall be brought in superior court to challenge the Board's decision more than ninety (90) days after that decision becomes final.
- j) Written Records of Grievances: All documents, communications, and records dealing with the processing of a grievance shall be kept in a separate grievance file in Human Resources and shall not be kept in the personal history file of the participants.
- i. Freedom from Reprisal: An employee filing a grievance in conformity with this policy shall have freedom from reprisal.
- ii. Failure to Act: If the finding or resolution of a grievance at any step of the procedure is not appealed within the prescribed time, said grievance shall be considered settled on the basis of the last answer provided, and there shall be no further appeal or review. Should the District not respond within the prescribed time, that action shall be considered to be a denial and the grievance shall proceed to the next step.

// END OF EMPLOYEE HANDBOOK

*thankful*  
  
*grateful*  
To be part of the MRWMD Team!