

MEMORANDUM OF AGREEMENT

The purpose of this Agreement is to set out a procedure to settle any grievances or complaints that might arise out of the classification actions resulting from the 1997-99 DCTU Classification and Compensation Study ("The Study") This Agreement is subject to ratification by the Portland City Council

- 1 Personnel Rule 2-035 provides *"Unless otherwise provided by a collective bargaining agreement, any employee adversely affected by a change in classification or whose request for a change in classification was denied, and any appointing authority who disagrees with a classification decision by the Director, may have the final decision of the director reviewed by the [Civil Service] Board"*

Any appeal under the Personnel rules must be made in the time period and manner prescribed by the Personnel Rules

- 2 On February 3, 1999 the City Council adopted a classification structure resulting from the 1997-99 DCTU Classification and Compensation Study


- 3 The City and Union have bargained to completion and agreed to a Grievance Resolution Process to settle any grievances or complaints that might arise out of the classification actions resulting from the 1997-99 DCTU Classification and Compensation Study

- 4 Effective February 3, 1999, the City of Portland (City) and the DCTU agree to the Grievance Resolution Process (Attachment "A") to resolve any and all grievances or complaints that might arise out of the classification actions resulting from The Study The parties further agree

- that compensation actions are not appealable,
- that compensation will be a subject of bargaining during the 1999 wage re-opener,
- that Section 34 of the DCTU contract does not apply to any part of The Study or actions resulting from The Study, and
- to certain amendments to the Personnel Rules which are also set out in Attachment "A"

5 This Agreement is expressly executed as an addendum to the labor agreement between the City of Portland and the District Council of Trade Unions. The Grievance Resolution Process is effective February 3, 1999 and will expire at the conclusion of the last grievance hearing resulting from a grievance filed under this grievance process.

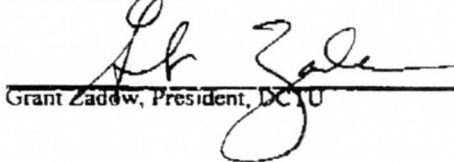
FOR THE CITY OF PORTLAND:



Janice Deardorff, Director of Human Resources

2/9/99
Date

FOR THE DCTU:



Grant Zadow, President, DCTU

Feb. 8, 1999
Date

APPROVED AS TO FORM:



Liana Colombo, Deputy City Attorney

2/9/99
Date

Attachment A1997-99 DCTU CLASSIFICATION AND COMPENSATION STUDY
GRIEVANCE RESOLUTION PROCESS

1 To promote the success of the 1997-99 DCTU Classification and Compensation Study, all parties pledge their immediate cooperation to settle any grievances or complaints that might arise out of the classification actions resulting from the 1997-99 DCTU Classification and Compensation Study ("The Study") The parties agree that compensation actions are not appealable Compensation will be a subject of bargaining during the 1999 wage re-opener The parties agree that Section 34 of the DCTU contract does not apply to any part of the Study or actions resulting from the Study

2 This process applies to classification actions resulting from The Study Appeals from classification actions made outside of The Study are not covered by this process

3 Upon notification to the Union of filing for redress of any classification action resulting from The Study in another recognized legal forum (including the Civil Service Board), any grievance filed by an employee or Union under this Letter of Understanding will be withdrawn

4 Procedure for Classification Allocation to Adopted Classification Structure

A Proposed Allocation The City will notify the Employee, Bureau and Union of the proposed allocation of the employee's position

B Informal Review The Employee, Union or Bureau shall have an opportunity to provide additional information to the City and request an informal review of the proposed allocation, following the procedure prescribed in the notice of proposed allocation The City shall review the information and, if necessary discuss it with the Employee, Union or Bureau

C The recommended classification structure will be presented to City Council for them to either adopt or reject If City Council does not adopt the classification structure, the DCTU Class/Comp Study ends

D Final Allocation Once the classification structure has been adopted by City Council, the City shall notify the Employee, Bureau and Union of the final allocation of the employee's position The Notice of Final Allocation shall provide the sole opportunity to grieve classification actions resulting from The Study

5 Procedure for Grievance Appeal to Panel

A If an employee feels adversely affected by the Final Allocation, the employee or union shall file a grievance in writing within 20 working days of the date on the Notice of Final Allocation

B Time Limits It is important that grievances be processed as rapidly as possible The number of days indicated is a maximum The time limits specified may, however, be extended by written mutual agreement

C Grievances shall be filed on the appropriate form. The grievance must contain a detailed statement specifying

- (1) The date of the Notice of Final Allocation,
- (2) The reasons why the employee or union believes the action was without a rational basis, or contrary to a provision of rules promulgated by the Personnel Director for classifications, or was for a political reason, or was in violation of law,
- (3) The corrective action being requested

D Hearing and Decision Grievances of Final Allocations shall be heard by a panel consisting of a labor representative, a management representative, and a neutral agreed upon by the Union and the City. The panel shall consider evidence presented by the Union and the City and shall make a decision, limited to classifications in the structure adopted by Council as part of this study, based solely on this evidence. The decision shall be made by a majority vote, rendered in writing, and will be final and binding.

E Expedited Hearing Process Hearings conducted under this Grievance Resolution Process will be expedited in nature and will follow the format below

- (1) Appellants will be notified of the hearing date by the Bureau of Human Resources. There will be at least 10 working days notice prior to any hearing date.
- (2) Hearings shall be informal in nature.
- (3) No party may be represented by legal counsel at the hearing.
- (4) Each side shall be allowed up to 45 minutes to present its case including the presentation of any witnesses. Cross-examinations shall be limited to 10 minutes per side. Each side shall be allowed 5 minutes to present closing arguments.
- (5) A party wishing to have documents considered by the panel must provide a copy for each of the three panel members and one copy for the opposing side no later than 5 calendar days prior to the scheduled hearing. The panel is not required to review the documents prior to the scheduled hearing. The time which the panel takes to review the documents will be deducted from the time available to the party to make its case. The panel, in its sole discretion, may waive this requirement at the hearing upon good cause being shown.
- (6) At the conclusion of the hearing, the panel, after deliberation, shall normally render a "bench" decision, limited to classifications in the structure adopted by City Council as part of this study, and the standard of review detailed in subsection (9), which will then be recorded in writing by a designated member of the panel.
- (7) The panel, at its sole discretion, may extend the time limits for either party.

(8) Burden of Proof The party filing the appeal shall have the burden of proof and the burden of going forward with the evidence. The party who has the burden of proof shall present its case first following a brief introduction of the issue by a member of the Bureau of Human Resources.

(9) Standard of Review The panel will review the Final Allocation to determine whether the allocation, as alleged by the appellant, was without a rational basis or contrary to law or rule or taken for political reason.

(10) Conduct of Witnesses, Parties and the Public All parties, their representatives, witnesses and spectators shall conduct themselves in a respectful manner. Demonstrations of any kind will not be permitted. Failure to comply with this rule or with the panel's effort to maintain order and proper decorum are grounds for removal from the hearing. Refusal of a witness to answer any question ruled to be proper shall, in the discretion of the panel, be grounds for striking all testimony previously given by the witness.

F Settlements Any settlement of a grievance between the Union and the City shall be binding on all parties. Any settlement by the City must be approved by the Bureau Head, Personnel Director and City Attorney. Any settlement must be approved by the employee and the Union.

G Costs The City and the Union shall divide equally the neutral's fee. If the labor advocate on the panel is a City of Portland employee, Section 19.2.2 of the DCTU contract shall apply. All other expenses (if any, for the grievant and panel members) shall be paid by the party incurring them.

6 Amendments to Personnel Rules to Implement this Grievance Procedure

The Union and the City agree on the following amendment to the Personnel Rules. The City will give public notice and submit the amendment to the City Council for approval.

When adopted by Council via Resolution, the following rules shall be adopted as amended and filed with the Personnel Director:

[Ref: City Charter Section 4-401, Personnel Rule 1-005]

"Section 5-026 Appeal of Classification Actions from the 1997/1999 DCTU Study

This process shall apply to classification appeals resulting from the 1997/1999 DCTU Classification Study ("The Study") Sections 2-045 - 2-070 and Chapter 5 (with the exception of Section 5-026) of the Personnel Rules do not apply to classification actions resulting from the 1997/1999 DCTU Classification Study.


(1) An employee may appeal classification actions resulting from The Study either as a grievance under the terms of the Letter of Understanding Between the City and the DCTU *or* under this Rule.

- (a) Proposed Allocation The City shall notify the Employee, Bureau and Union of the proposed allocation of the employee's position
- (b) Informal Review The Employee, Union or Bureau shall have an opportunity to provide additional information to the City and request an informal review of the proposed allocation, following the procedure prescribed in the notice of proposed allocation. The City shall review the information and, if necessary discuss it with the Employee, Union or Bureau
- (c) Classification Structure The recommended classification structure will be presented to City Council for them to either adopt or reject. If City Council does not adopt the classification structure, the DCTU Class/Comp Study stops
- (d) Final Allocation Once the classification structure has been adopted by City Council, the City shall notify the Employee, Bureau and Union of the final allocation of the employee's position. The Notice of Final Allocation shall provide the sole opportunity to appeal classification actions resulting from The Study
- (e) Requests for Reconsideration The Employee, Bureau or Union may file a written request for reconsideration of the allocation with the Director. The request for reconsideration must be filed within 20 working days of the letter of notification by the City of the final allocation, and must specify the reasons for the request and the relief being sought. The Director shall respond in writing to the request for reconsideration as quickly as is practical, given the number of other requests
- (f) Appeal of Allocation The Employee, Bureau or Union may have the Director's decision reviewed by the Civil Service Board under Rules 2-015, 2-035, and Subsection (G) below
- (g) Board Review
 - 1 The Board will review the Personnel Director's decision to determine solely whether the decision, as alleged by the appellant in the Notice of Appeal, was without a rational basis or contrary to law or rule or made for political reason. The review will be conducted based solely on written information submitted by the appellant and the Director. No hearing shall be conducted or permitted
 - 2 The Board shall issue a written decision as quickly as is practical, given the number of other appeals
 - 3 If the Board concludes that the allegations in the appeal are correct, the Board shall set aside the Director's decision and remand the decision back to the Director for further review. The Board's order shall specify and explain the reasons for the Board's action
- (h) The final decision of the Board or any appeal to the Board shall be subject to review by the Circuit Court in the manner provided by statute for review of quasi judicial decisions of lower tribunals

- (1) The record of the appeals process shall be limited to (a) a statement identifying the dispute, (b) all written materials submitted to the Board, unless withdrawn by the offering party with the approval of the Board, and (c) the Board's final written decision.
- (2) This Personnel Rule expires at the conclusion of the last appeal hearing resulting from an appeal resulting from the 1997/99 DCTU Classification Study.

Resolution No _____, effective February 10, 1999

FOR THE CITY OF PORTLAND:

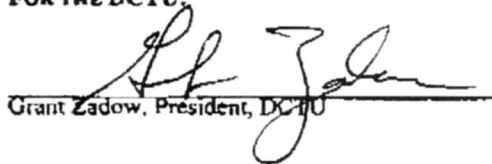


 Janice Deardorff, Director of Human Resources

2/9/99

 Date

FOR THE DCTU:



 Grant Zadow, President, DCTU

2-8-99

 Date

APPROVED AS TO FORM:



 Liana Colombo, Deputy City Attorney

2/9/99

 Date

O:\CC\C\CLASS\STUDIES\DCTU\Panel Appeals Process

NOTICE OF GRIEVANCE/APPEAL OF CLASSIFICATION ACTION
RESULTING FROM THE 1997-99 DCTU Classification and Compensation Study

Name of Employee _____

Union _____

Representative _____

Date on Notice of Final Allocation _____

(Attach a copy of the Notice of Final Allocation)

Statement of Appeal (you may use some or all of the following)

1 ____ I believe the allocation of my position was without rational basis because

2 ____ I believe the allocation of my position was contrary to a provision of Personnel Rules for classification actions The reason I believe Rule(s) _____ was/were violated

3 ____ I believe the allocation of my position was for a political reason because ____

4 ____ I believe the allocation of my position was in violation of the following law

because _____

The corrective action I request is to have my position allocated to the classification of

Signature

Date

PROVIDE A COPY OF THIS GRIEVANCE TO YOUR UNION

35766

RESOLUTION No.

Adopt Memorandum of Agreement with District Council of Trade Unions concerning alternative grievance resolution process for DCTU classification and compensation study allocations (Resolution)

WHEREAS, the City of Portland wishes to be fair and efficient in its handling of disputes regarding classification and allocation actions, and

WHEREAS, as part of the 1997/99 DCTU class/comp study, the City has made 1800 allocation decisions in conjunction with a labor/management advisory committee, and

WHEREAS, a large number of appeals might result from these allocation decisions, and

WHEREAS, the current Personnel Rules regarding appeals from classification actions are time consuming and are the only option currently available to affected employees, and

WHEREAS, the 1997/99 DCTU class/comp study labor/management advisory committee has developed an alternative grievance resolution process, and

WHEREAS, the DCTU has signed the alternative grievance resolution process Memorandum Of Agreement,

NOW THEREFORE BE IT RESOLVED, that the City Council of Portland, Oregon does hereby adopt the alternative grievance resolution process memorandum of Agreement attached hereto as Exhibit A

Adopted by the Council **FEB 10 1999**

Mayor Katz
Office of Finance and Administration -
Bureau of Human Resources
Tim Grewe Janice Deardorff J Worcester A Messer
February 2, 1999

GARY BLACKMER
Auditor of the City of Portland

By 
Deputy

192
 Agenda No
RESOLUTION NO.
 Title

35766

Adopt Memorandum of Agreement with District Council of Trade Unions concerning alternative grievance resolution process for DCTU Classification and compensation study allocations (Resolution).

INTRODUCED BY	DATE FILED FEB 5 1999
MAYOR VERA KATZ	Gary Blackmer Auditor of the City of Portland
NOTED BY COMMISSIONER	By <u>Cay Kershner</u> Deputy
Affairs	
Finance and Administration <i>UK</i>	
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau Bureau of Human Resources	ACTION TAKEN
Prepared by Date	
A Messer 2/2/99	
Budget Impact Review	
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not Required	
Bureau Head Janice Deardorff Tim Grewe <i>Tim Grewe</i>	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS	
		YEAS	NAYS
Consent <input checked="" type="checkbox"/> Regular	Francesconi	Francesconi	}
NOTED BY	Hales	Hales	
City Attorney <i>MK</i>	Saltzman	Saltzman	
City Auditor	Sten	Sten	
City Engineer	Katz	Katz	