



# FAIRBURN GEORGIA POLICE DEPARTMENT OPERATIONS MANUAL



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## CHAPTER 6            Discipline/Grievance/Appeal

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##### I. PURPOSE

- A Establish guidelines pertaining to discipline.
- B Establish guidelines for employee appeals.
- C Establish guidelines for employee grievances.

##### II. DEFINITIONS

- A ADVERSE ACTION - An action taken by the appointing authority or designee, for cause, that results in a disciplinary suspension without pay, disciplinary salary reduction, disciplinary demotion, or disciplinary dismissal.
- B ADVERSE AFFECT - The results of an action or decision that is not an adverse action, but which deprives the employee of income or the opportunity to earn more income.
- C APPOINTING AUTHORITY - The person who has the authority to appoint and discharge all employees covered by the City's personnel policies. Only the appointing authority can make final decisions on Adverse Actions.
- D DESIGNEE - The person or persons to whom the appointing authority delegates certain authority for the administration of the City. The Chief of Police is the Designee for proposing adverse actions.

- E FIRST LINE SUPERVISOR- the subordinate's direct reporting supervisor, which in most cases is the ranking person above the individual in question
- F GRIEVANCE - A grievance is a claim initiated by an employee alleging that his employment or productivity has been adversely affected by unfair treatment, unsafe or unhealthy working conditions, erroneous or capricious application of Agency policies and procedures, or illegal discrimination.
- G HEARING ATTORNEY - The attorney retained by the City to conduct appeal hearings as the hearing officer.
- H PUNITIVE – Measures that inflict or are intended as punishment
- I PROGRESSIVE DISCIPLINE – Is a system or practice that uses a series of steps or measures to address behavioral and/or performance issues; penalties or consequences increase upon repeat occurrences or failure to correct the problem. The purpose is to help the employee improve their work performance and correct negative behavior.

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**STANDARD OPERATING PROCEDURE  
EFFECTIVE: 05/19/2008**

**S.O.P. 6-1 DISCIPLINARY PROCEDURES**

**I. PURPOSE**

All members of the Fairburn Police Department are members of a team working together with the primary objective of serving the community. Members who fail to follow the necessary rules and regulations governing conduct not only penalize themselves but do a disservice to all members of the agency. The code of conduct rules are not intended to restrict the privileges of anyone but are designed to ensure the rights and safety of all members and to provide working guidelines to encourage equitable and businesslike conduct.

**II. SCOPE**

This code of conduct shall apply to all Agency personnel acting in an official or an unofficial capacity and shall be in accordance with City of Fairburn Personnel Policies.

**III. POLICY**

It is the policy of the Fairburn Police Department to administer discipline in fairness to the employee and the Agency. Discipline may be administered in a positive, corrective or punitive manner. The functions of discipline are:

- A Positive
- B Corrective
- C Punitive

**IV. DISCIPLINE**

- A Supervisors at all levels in the Police Agency are responsible for the administration of discipline. First-line supervisors have the continuing opportunity to observe employee conduct and appearance and must administer discipline where it will be most effective, whether positive, corrective or punitive. First-line supervisors are authorized to take the following disciplinary measures.
  - 1. Positive - Positive discipline is designed to stimulate the morale of the employee. Rewards such as time off with pay, awards and letters of commendation are positive forms of discipline.
    - a) Letter of Commendation: May be presented to employees for their performance in any of the following instances:
      - (1) Employee's action results in the arrest of persons for major felonies.
      - (2) Employee's action results in the rescue of citizen(s) from personal injury/death.
      - (3) Employee's action results in the rescue of another officer from personal injury/death.

- (4) Employee has demonstrated personal involvement in police/community programs.

Watch Commanders or employee's supervisor shall submit a written request for a commendation to be given. Requests will be made to the Chief of Police describing the incident, the employee's performance and reasons why a commendation is recommended.

The Chief of Police may authorize time off with pay to an employee who has devoted extra time for special or exemplary projects.

Refer to Chapter 23 Wellness Program regarding awards and recognition.

2. Corrective - Corrective discipline is progressive and includes training and counseling. This discipline is appropriate in those cases involving minor duty infractions that can be corrected through proper counseling or training.
  - a) Letter of Concern: An inter-office memorandum outlining a specific act, infraction, or violation of a policy or procedure that is usually given by the first-line supervisor and is noted for the record but does not become part of an employee's personnel record.

A supervisor should use this type of action as a function of discipline in cases involving minor infractions. Criteria used to determine the necessity of this action as opposed to other discipline may include:

- (1) Employee's past work record (including disciplinary record, attendance, job performance evaluations, etc.)
- (2) Employee's attitude (toward work place, supervisors and other employees)
- (3) The severity of the offense in relation to Agency guidelines governing offenses

Supervisors who utilize Letter of Concern as a form of corrective action shall document the conditions that prompted the counseling session and the corrective action expected. Results will be forwarded to the Watch Commander and Division Commander for review. A copy of the documentation should be internally maintained in cases of repeat issues.

- b) Training - A supervisor should use training as a function of discipline in those areas involving minor infractions usually of a procedural nature in Agency policy. Examples of areas that training may be used as a function of discipline include radio procedures, firearms qualifications and report writing, etc. Criteria used to determine necessity of training as opposed to other forms of discipline include:
  - (1) The effectiveness of training in an area to improve productivity.
  - (2) The ability of the employee to respond to re-training in specific areas.

- (3) The employee's work performance record to include attendance, disciplinary records, etc.

Supervisors who utilize training as a form of discipline should document the employee's shortcomings, deficiencies, or lack of expertise and either take immediate steps to retrain in deficient areas or schedule for training.

Documentation shall be forwarded to the Watch Commander or next level of supervision for review.

3. Punitive - Punitive discipline shall include:

a) Verbal Counseling: A spoken written warning or indication of disapproval concerning a specific act, infraction, or violation of a policy or procedure that is usually given by the immediate supervisor and is noted for the record but does not become part of an employee's personnel record. The infractions are minor and can be the second step in progressive discipline. These are still notated on the official Verbal Counseling Form.

b) Written Reprimand: A written statement concerning a specific act, infraction of a policy or procedure that is made part of the employee's personnel record. These type of corrective or punitive disciplinary actions occur as a step of progressive discipline, or the infraction is malicious or intentional in nature. Written Reprimands will be forwarded through the chain-of-command for signature acknowledgement to the Chief of Police.

c) Suspension - Pending Investigation of Charges or Trial is the placing of an employee on administrative leave with (without pay) pending investigation of charges (or trial) for job related offenses. Recommendations for such action are noted on a written reprimand; sole decision is made by the Chief of Police.

d) Demotion: The movement of an employee from one position or class to another with a lower grade level assignment. Recommendations for such action are noted on a written reprimand; sole decision is made by the Chief of Police.

e) Dismissal: The removal of an employee from city service for cause. Recommendations for such action are noted on a written reprimand; sole decision is made by the Chief of Police.

If the imposed discipline results in an action above a written reprimand, the employee may appeal through the procedures outlined in the City of Fairburn Personnel Policy Manual. Letter of Concerns, Verbal Counseling, and Written Reprimands are not eligible for appeal.

- B Notification of Response- Corrective and punitive disciplinary action against an employee shall be initiated promptly when it is evident that such action is necessary to maintain an orderly and productive work environment. Except in cases of theft or serious violations of policy or procedure that creates a health or safety risk, disciplinary actions must be progressive in severity. The severity of the action shall be determined after consideration of the nature and gravity of the offense, its relationship to the employee's assigned duties and responsibilities, the employee's

work record and other relevant factors.

Supervisors who remove an employee from duty under any of the conditions listed above must notify the Division/Watch Commander immediately and submit a written report. All corrective or punitive counseling forms must be submitted, and document reviewed by the Deputy Chief of Police prior to counseling session with the employee.

Whenever the circumstances warrant termination, the Chief of Police will have the authority to make a termination recommendation.

- C Notice of Proposed Adverse Action- In all cases of demotion, suspension and dismissal, an employee shall receive written notice of such disciplinary action at least twenty-four (24) hours prior to the effective date, except in cases listed in IV-A-3 above.

The standard charging document shall contain the reasons for the actions with specific charges, the effective date and appeal right. A letter of dismissal will be sent to the affected employee with a copy of the violations attached. At the time of termination, the employee will surrender all Agency issued clothing and equipment. If the employee successfully appeals his/her termination, clothing and equipment will be re-issued.

- D Employee Response to Proposal- When a supervisor has an employee that has an incident/action that would dictate a written reprimand or recommendations for adverse action, the employee will be afforded the opportunity to provide a written statement prior to any counseling session. The purpose of the written statement is to provide any additional information that the supervisor may not have on-hand or known and can dictate if a written reprimand/adverse action would still be applicable, or a lesser action would suffice. The written statement provided by the employee shall be factual. Any statement that contains known or confirmed inaccuracies shall be investigated further. The written statement should be included with any type of reprimand as specified as supporting documentation.
- E Notice of Final Action- For any written reprimand or recommendation of adverse action, the employee, recommending supervisor, and Chief of Police will meet to discuss the incident. The Chief of Police will be the sole authority for final action.
- F Emergency Action- An immediate or higher-level supervisor is delegated the authority to immediately relieve an employee from duty if the retention of such employee will cause or continue a disruption of the work force. The Supervisor will notify the Watch Commander, who will notify the chain-of-command through to the Chief of Police immediately, and within one workday, shall submit a recommendation for appropriate disciplinary action to the Chief of Police.

First-line supervisors may immediately remove any employee for the balance of the workday under any of the following conditions: If this occurs, the supervisor will notify the Division Commander.

- a) Employee is intoxicated.
- b) Gross insubordination or misconduct.
- c) Any violation of criminal law.

- d) Gross negligence involving potential or actual loss of life.
- e) Any violation of Agency rules or regulations that would submit the violating employee to immediate dismissal.

## **V. DISCIPLINARY RECORDS**

All disciplinary records shall be in written form and retained in the employee's file. Letter of Concerns remain for one (1) year and then are purged. Verbal Counseling statements will remain for a minimum period of one (1) year. Written reprimands will remain for a minimum of three (3) years.

After such time, the employee may submit a written request to the Chief of Police for consideration of removal of disciplinary actions regarding written reprimands and chargeable accidents. If the request is approved, the disciplinary record will be removed from the employee's file and destroyed by shredding or burning. Personnel files shall be maintained in the police department and Human Resources department.

Any disciplinary action above a written reprimand shall remain indefinitely in the employee's file.

## **VI. GRIEVANCE**

- A Purpose- the policy is a procedure that outlines how employees can raise concerns or complaints about their workplace. The purpose of this policy is establishing procedures for employees to report and resolve grievances in a fair and expeditious manner. It is intended to assist in achieving and maintaining a favorable work environment, reducing employee dissatisfaction, improving morale, and identifying problems in the agency.
- B Definition- is defined as any dispute about working conditions, alleged violations of City Policy, including an alleged abuse of discretion by a supervisor in the treatment of employees, and disputes as to the interpretation, application, or enforcement of specific employee provisions or rights.
- C Prior to Filing- Employees and their supervisors share a common goal of attempting to resolve most matters through effective management and operations, without resorting to the grievance process. Employees and supervisors are expected to make a sincere effort to reconcile their differences at the lowest organizational level possible. Actions taken to resolve a conflict at this level shall not be considered to be a binding interpretation or application of policy on either party.

It shall be the policy of the department not to discourage the filing of grievances. No member shall be penalized for his/her submission of a grievance.

- D Filing- an employee that wishes to submit a grievance must submit his/her grievance in writing, to the Division Commander within five (5) workdays of the most recent act giving rise to the grievance. Every grievance shall be confidential. Information concerning the grievance shall not be discussed or disseminated to other employees except as required by this policy.
- E Steps- Once the grievant has submitted the formal writing, the Division Commander must have an oral discussion with the grievant within five (5) working days from date



of submission. The Division Commander must provide the grievant with a written decision, and a copy of the decision submitted through the chain-of-command to the Deputy Chief of Police and Chief of Police.

If the grievant has not received a timely response from the Division Commander, or if the grievant is not satisfied with the written response, the grievant may provide a copy of the originally submitted grievance to the Deputy Chief of Police. The grievance must include the reason(s) that he/she is seeking further review of the grievance. The Deputy Chief of Police will provide a response to the grievant within five working days to schedule a meeting. At that meeting, a decision will be made and written response of the meeting provided to the Division Commander and the grievant within five days of the meeting's conclusion.

If the Division Commander, or Deputy Chief of Police, during the grievance process, deems further investigation is necessary, the grievant will be advised of such.

If the grievant wishes to seek a final and binding resolution of the grievance after following all the preceding steps, he/she may request review of the entire record by the Chief of Police. The grievance must include the reason(s) that he/she is seeking further review and provided to the Chief of Police within five working days from the receipt of the written response provided by the Deputy Chief of Police. The Chief of Police will have the final decision-making authority.

- F Supervisor- any supervisor approached by a member wishing to file a grievance shall discuss the grievance with the member and determine if the cause of the grievance is within the authority of the supervisor to rectify.

The supervisor shall verify whether the employee has elected to submit a grievance. The supervisor shall be responsible for explaining to the employee the process that will be followed. If the cause of a grievance is not within the authority of the supervisor to rectify, the supervisor shall make that fact known to the grievant and advise him/her of the appropriate supervisor in the chain of command to whom the grievance must be presented.

If the supervisor can rectify the grievance before the formal filing of a grievance, it is the supervisor's responsibility to document the issue and provide the written document to the Division Commander. The document should, at a minimum, include the complaint and steps taken to resolve the issue, as well as parties involved.

- G Non-Grievable areas- issues that are not grievable include, but not limited to:

1. complaints involving judgments such as salary increases, salary range, classification assignment.
2. decisions or evaluations regarding performance appraisals, performance improvement plans, or retraining corrective actions
3. decisions on organizational structures, work assignments, staffing levels, and shift schedules or assignments
4. notices of proposing disciplinary or adverse action
5. or separation or termination of employment during the probationary period

- H Post Procedures- all grievances, whether formally written and provided to the Division Commander, or grievances handled at the lowest possible supervisor rank (and documented), shall be maintained by the Support Services Division. All grievances will be separately maintained, similar to that of all Internal Affairs investigations.

## VII. APPEALS

- A Purpose- to provide employees a method to appeal the following decisions:
1. Disciplinary actions other than Letter of Concerns, Verbal Counseling, or Written Reprimands
  2. Determinations on complaints filed pursuant to the City of Fairburn's Complaint Procedure
  3. No decisions or employment actions other than those above may be appealed. Additionally, employees who are terminated during or at the conclusion of an Introductory Period may not appeal their termination unless a violation of the city's EEO policy is alleged.

Any adverse action taken is issued by the Chief of Police. If after being given notice of final action by the Chief of Police the employee disagrees or has reason to appeal, the procedures of appeal will provide guidance as to how and complete said action.

- B Reasons- reasons that an employee may choose to file an appeal include, but not limited to:
1. the disciplinary outcome is too severe
  2. the original decision maker was biased
  3. new evidence has come to light
  4. similar misconduct by other employees had been dealt with differently
  5. any part of the disciplinary procedure was wrong or unfair
- C Filing- should an employee choose to appeal a decision, the employee must file an appeal in accordance with the City's Personnel Policy and Procedure, Section 2-55.2 within five (5) business days of receiving the action. The request must be in writing to the Human Resources Director stating that the action is being appealed and the reason for the appeal. If the Human Resources Director finds that the appeal was not submitted in a timely manner, or does not present as a proper appeal, the Human Resources Director will inform the City Administrator and the employee will be notified that the appeal has been dismissed.
- D Hearing- The City will conduct a hearing to decide an appeal properly made under this policy. The City Administrator or his designee will serve as the hearing officer. The parties involved will be notified of the hearing date, which will be held within a reasonable time from the date on which the appeal was filed.
- E Representation- Parties may be represented by legal counsel at the hearing and may bring such witnesses and present such documents and other evidence as they deem

necessary. All witnesses may be questioned by the involved parties, as well as by the hearing officer. The hearing officer will determine all procedural aspects of the hearing and how it is conducted and is not required to abide by the rules of evidence but may decline to hear or consider hearsay evidence. The City Attorney will provide counsel to the hearing officer during the hearing. The hearing will be recorded by the City through audio, visual, stenography, or other means. The appellant may use a court reporter to record the hearing at their expense.

- F The Decision- at the conclusion of the hearing, the hearing officer will review the evidence presented and make a determination. The hearing officer's decision will be reported in writing to the Human Resources Director within a reasonable amount of time after the hearing. The Human Resources Director will then notify the parties of the decision by providing them with copies of the hearing officer's written decision. This hearing officer's decision shall be final and may not be appealed further within the City.
- G Retaliation- any retaliation, or reprisal, against an employee on the basis of the employee's filing or participating in an appeal is strictly prohibited. Any employee who believes he/she has been retaliated against for filing or participating in an appeal should utilize the City's Complaint Procedure, which is contained in the City's Personnel Policy handbook.

### **VIII. EMPLOYEE EARLY WARNING SYSTEM**

If an employee of the agency demonstrates a documented pattern of behavior that could indicate potentially problematic behavior the employee's supervisor shall document his or her concern in a memo through the chain of command. The concerns will be evaluated by the division commander and the supervisor and a plan of corrective action, if needed, shall be created.

Examples of potentially problematic behavior include but are not limited to poor performance evaluations, a sudden increase in disciplinary actions, complaints, use of force incidents that are not within policy guidelines, or any other behavior noted by the employee's immediate supervisor that are of concern.

A plan of corrective action may include but not be limited to disciplinary action, remedial training, involvement with the city's Employee Assistance Program as outlined in city policy, or other actions as deemed appropriate by the chain of command.

**STANDARD OPERATING PROCEDURE  
EFFECTIVE: 01/01/2024**

**S.O.P. 6-2 DISCIPLINARY GUIDE**

**I. PURPOSE**

Employees of the Police Agency are expected to abide by and may be disciplined for violation of City rules and regulations or rules and regulations of the Police Agency.

Recognizing that each instance of misconduct differs from somewhat similar actions in many respects, agency supervisors and the Chief of Police retain the right to treat each occurrence on an individual basis without creating a precedent for other cases which may arise in the future. Rules and regulations in this policy are not to be construed as a limitation upon the retained rights, or discretion, of supervisors and the Chief but are to be used as a guide.

Discipline is used to correct misconduct and poor performance. The Department is committed to using progressive discipline, except in the most egregious cases. Progressive discipline is utilized to correct the behavior with the least amount of discipline based upon the totality of facts and circumstances including the employee's history and past performance.

**II. SCOPE**

The following guide is grouped by severity of the conduct. The guide encompasses non-Adverse action, such as coaching or retraining, Letter of Concerns, Verbal Counseling and Written Reprimand. It also includes recommendations of Adverse Action discipline, which includes Suspension, Demotion, and Termination. The guide cannot list every possible type of misconduct or poor performance, but rather serves as a reference list for the type of corrective action that could be taken in similar circumstances.

The rules and regulations provide recommended progressive penalties to apply for specific offenses; however, the recommended penalties may be modified by the Chief of Police or his/her designee, including a lesser or more severe penalty, when extenuating circumstances are found.

**III. POLICY**

Most employees will perform their jobs properly, comply with rules and regulations of the City, and follow good common sense in performing their duties. However, in some instances, disciplinary action may be necessary. The specific circumstances of a violation will determine the level of action that is to be taken. An officer's work record and performance on the job will be taken into consideration, as well as the nature of the violation. The following is a guide of violations that will assist supervisors:

**Category I Conduct**

The following conduct can often be addressed with Coaching, Retraining, Letter of Concern, or Verbal Counseling. When progressive discipline is used, repeated misconduct within a two-year period would be resolved as a Category II Violation or higher.

- Activity unrelated to duties, engaging in activity unrelated to responsibility while on duty without permission.

- Tardiness or deviation from one's planned on-duty schedule.
- Conduct, rude or insulting language or conduct offensive to the public.
- City Property, altering property/equipment without authorization, improper use of, or negligence
- Dress Code, violation of procedure.
- Duties, failure to act, negligence in.
- Failure to follow direction, or instruction from a supervisor, (through carelessness or negligence.)
- GCIC, general violation of procedure
- Identification, failure to provide information when requested.
- Investigations, failure to conduct/negligence in.
- On Call, violation of duties/responsibilities.
- Police Radio transmissions, unprofessional radio traffic.
- Recording Devices, vehicle camera, personal, violation of procedures.
- Reports, failure to make any written report required in the operation of the department.
- Sick Leave, excessive use of or abuse of.
- Social Networking, violation of procedure.
- Supervision, failure to properly supervise subordinate.
- Training, failure to attend training/attain required hours/attain firearms(s) qualification.
- Vehicles impound, violation of procedure
- Violation of procedure not otherwise specified in the guide.

### **Category II Conduct**

The following conduct is more serious from Category I and can often be addressed with a Verbal Counseling or Written Reprimand. Progressive discipline would be used, so that repeated misconduct within a two-year period would be resolved as a Category III or higher.

- City Vehicle, Review Board determines at-fault accident but no damage and/or no insurance claim.
- City Vehicle, misuse, violation of procedure, or Review Board determines at-fault in a vehicle accident.
- City Vehicle, operating in an unsafe/reckless manner.

- Evidence, failure to thoroughly search for, collect, preserve and store evidence/property in any arrest or investigation.
- Off-duty employment, violation of procedure.
- Sleeping on duty.
- Verbal abuse toward any member of the Department, including gossiping and intentional false claims made towards any individual to disgrace a certain employee's reputation or character.
- Weapons discharge, failure to report discharge of departmental weapon.
- Weapons and Ammunition, violation of procedure.

### **Category III Conduct**

The following conduct can often be addressed with a Written Reprimand or Adverse Action with recommendations for suspension without pay for one (1) to ten (10) days, or demotion. Progressive discipline would be used, so that repeated misconduct within a two-year period would be resolved as a Category IV or higher.

- Aid another officer, failure to, in need of physical assistance.
- AWOL (with no determined exigent or extenuating circumstances)
- Calls for service, failure to respond to.
- Confidential information, knowingly communicating protected information to an unauthorized person.
- City Property, willful damage to property/equipment.
- Detrimental Conduct, any action that could significantly discredit the City or Department.
- GCIC, intentional or negligent misuse of Criminal Justice Information System (CJIS), Criminal Justice Information (CJI) or Criminal History Record Information (CHRI).
- Insubordination, willfully disobeying a supervisor.
- Police Radio transmissions, deliberately interfering with, on duty or off duty.
- Pursuit, failure to terminate vehicle pursuit when ordered to do so by a supervisor.
- Sexual Harassment. Quid pro quo sexual harassment may result in demotion or termination depending on the totality of facts and circumstances.
- Use of excessive force. However, the totality of circumstances may require that the use of force be handled as a Category IV Conduct.
- Any breach of confidentiality made by members of the Peer Support Program.

#### **Category IV Conduct**

The following conduct are considered “zero tolerance” infractions and can often be addressed with Adverse Action with recommendation for suspension without pay for more than ten (10) days, demotion, or termination. These are typically egregious in nature.

- Use of Force, excessive force that is more serious than a Category III incident.
- Bribes, accepting a bribe or gratuity for permitting an unlawful act.
- Drug Testing, failure/refusal to submit.
- Falsification of any document.
- Felony, adjudicated guilty of. This would also include conviction of any misdemeanor that would result in forfeiture of the employee’s ability to operate a city vehicle unless the employee’s classification absolutely does not require the ability to drive.
- Intoxication, consumption of, intoxication by alcohol, or drugs while on duty.
- Moral turpitude, involved in a crime of.
- Racially derogatory terms or slurs directed towards employees or citizens.
- Untruthfulness (Verbally or in writing).