




City of Manassas Police Department General Duty Manual



Effective Date: 01-28-2008	GENERAL ORDER	Number: 03-10
Subject: Grievance Procedures		
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Accreditation Standards: 22.4.1/ 22.4.2/ 22.4.3/ 26.1.6 / 35.1.5	By Authority Of:  Douglas W. Keen, Chief of Police	Total Pages: 7

PURPOSE:

To provide a formal method that allows members to resolve their grievances with management fairly and expeditiously.

POLICY:

Members should have an effective means by which their grievances may be fairly and objectively reviewed. The procedures specified in General Order 3-1 and applicable sections of the City Employee Handbook provide an avenue for members to address grievances. These procedures should be followed for seeking relief or redress of grievances. The statements of this General Order are supplemental to the procedures set forth in the Employee Handbook.

DISCUSSION:

N/A.

PROCEDURE:

I. Responsibilities

- A. All members of the Department are responsible for fully utilizing the Department's chain of command to seek out solutions to problems prior to the filing of a grievance.
- B. Supervisors are responsible for the timely solution of problems brought to their attention and within their scope of authority. When a supervisor is unable to resolve a formal grievance or determine grievability of an issue, he is to advise the member of the next step in the process. The City Manager or his designee determines issues of grievability.
- C. The Human Resources Manager shall be notified as soon as possible when a grievance is filed.
- D. The Chief of Police or the Commander of Administrative Services coordinates all grievance procedures with the Human Resources Manager .
- E. The Commander of Administrative Services conducts an annual analysis of grievances. See the Management Information Guide.
- F. All original documentation involved in the grievance shall be forwarded to and maintained by the Human Resources Manager.
- G. Copies of all documentation involved in the grievance maintained by the Department shall be kept secured in a locked file located in the office of the Commander of Administrative Services.
- H. The Chief of Police may take steps to minimize the causes of grievances if, through analysis, it is determined that justification for remedial action exists and / or a trend is developing.

II. Filing Procedures

- A. Members who decide to file a formal grievance should do so in accordance with applicable sections of the City Employee Handbook included in this directive in its entirety.
 - 1. The grievance process is applicable to all fulltime, regular members of the Department.
 - 2. The grievance process does not apply to part-time and volunteer members.

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- B. The Code of Virginia requires that whenever a dismissal, demotion, suspension without pay, or transfer for disciplinary reasons has been imposed upon a sworn member, the law-enforcement officer shall be given written notification of his right to initiate a grievance under the grievance procedure established by the local governing body pursuant to §§ [15.2-1506](#) and [15.2-1507](#). A copy of the local governing body's grievance procedure shall be provided to the law-enforcement officer upon his request.
 - 1. A law-enforcement officer may proceed under either the local governing body's grievance procedure or the law-enforcement officer's procedural guarantees, but not both.
 - 2. Sworn members must note their selection of a specific procedure in the first written request for a hearing, or in the statement of the grievance.
 - 3. Non-sworn members must proceed as set forth in the City Employee Handbook.
- C. The sworn or non-sworn member filing the grievance completes the City of Manassas - Grievance Form "A" (see the City Employee Handbook), with the following information included:
 - 1. A written statement of the grievance and the facts upon which it is based.
 - 2. A written allegation of the specific wrongful acts and harm done.
 - 3. A written statement of the remedy or adjustment sought.
- D. The City of Manassas - Grievance Form "A" is forwarded through the appropriate chain of command in accordance with the timetable set forth in the City Employee Handbook.
- E. Supervisors receiving a written grievance must respond by the following procedures:
 - 1. Acknowledges receipt by signing his name and entering the date and on the appropriate space on the City of Manassas - Grievance Form "A."
 - 2. Analyze the facts or allegations.
 - 3. When applicable, affirm or deny, in writing, the allegations in the grievance.
 - 4. When possible, identify the remedy or adjustments, if any, to be made.
- F. The Chief of Police, or, if necessary, the City Manager or his designee responds, in writing, according to the timetables set forth in the City Employee Handbook.

III. Grievance Procedures excerpted from the City Employee Handbook

The Grievance Procedure excerpted in its entirety from the Employee Handbook is included below for ease of reference.

6.12 Grievance Procedure

The City of Manassas grievance procedure is established to provide City employees an efficient and effective means by which to objectively resolve concerns or problems on matters related to employment and working conditions, and to have them promptly and fully considered. Every reasonable effort shall be made to resolve employee complaints and grievances on an informal basis at the lowest level of management possible. This procedure is administrative in nature and not a judicial proceeding.

Unless otherwise provided by law, all full-time non-probationary City employees are eligible to initiate a grievance under this policy, with the following exceptions: department heads except for the Director of Social Services, and managerial employees engaged in City-wide policy determination; employees whose terms of employment are limited by law; deputies and executive assistants to the City Manager. Constitutional officers and their deputies are not covered by this grievance policy. Assistants and employees of the City Treasurer and City Commissioner of the Revenue are covered by this policy only if the Constitutional Officer who employs them has entered into a written agreement with the City to have them covered by this policy. Human Resources will maintain a list of positions excluded from coverage.

Law enforcement officers, as defined in Chapter 10 of Title 2.1 of the Code of Virginia (1950), as amended, may elect to proceed under this procedure or under the Law Enforcement Officers Procedural Guarantee Act, (Chapter 5 of Title 9.1 of the Code of Virginia (1950), as amended). Such employees may use only one procedure for any single issue, and will not be permitted to use more than one procedure either simultaneously or in a sequence. Selection of the City Grievance Procedure in these matters will be subject to determination of grievability in accordance with City policy.

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6.12.1 Definition of Grievance

A grievance shall be a complaint or dispute relative to an employee's employment involving (but not necessarily limited to):

- a) Disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance;
- b) The application, meaning or interpretation of personnel policies, procedures, rules and regulations, including the application of policy involving matters relating to the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- c) Acts of retaliation for using the grievance procedure or of participation in the grievance of another City employee.
- d) Discrimination on the basis of race, color, creed, political affiliation, age, disability, national origin, or sex.
- e) Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement.

6.12.2 Non-Grievable Complaints

Some complaints are not grievable under this procedure. They involve:

- a) The content of ordinance, statutes or established personnel policies, procedures, rules and regulations;
- b) Work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of job content;
- c) Establishment and revision of wages or salaries, position classification or general benefits;
- d) Failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly;
- e) Disciplinary actions involving verbal or written reprimands;
- f) The methods, means and personnel by which such work activities are to be carried on;
- g) Except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, lay-off, demotion or suspension from duties because of lack of work, reduction in work force or job abolition;
- h) The hiring, promotion, transfer, assignment and retention of employees by the City;
- i) The relief of employees from duties of the City in emergencies.

In any grievance brought under subparagraph g. above, the action shall be upheld upon a showing by the City that (1) there was a valid business reason for the action; and (2) the employee was notified of such reason in writing prior to the effective date of the action.

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6.12.3 Management Rights

Nothing in this procedure is intended to circumscribe or modify the existing management right to do the following:

- a) Direct the work of its employees as well as establish and revise wages, salaries, position classifications and general employee benefits;
- b) Hire, promote, transfer, assign and retain employees;
- c) Maintain the efficiency of governmental operations;
- d) Relieve employees from duties in emergencies; and
- e) Determine the methods, means and personnel by which operations are to be carried on.

6.12.4 Grievability

The issue of grievability may occur at any step of the procedure, subsequent to the reduction of the grievance to writing and prior to the panel hearing, but once raised, the issue must be resolved before further processing of the grievance. Decisions regarding grievability and access to the procedure shall be made by the City Manager, or his designee, at the request of the City or grievant within ten (10) calendar days of the request. A copy of the ruling shall be sent to the grievant, to the grievant's immediate supervisor and to the Human Resources Manager. Decisions of the City Manager, or his designee, may be appealed by the grievant to the Circuit Court of Prince William County for a hearing de novo on the issue of grievability. Proceedings for review of the decision of the City Manager, or his or her designee, shall be governed by the provisions of Virginia Code § 15.2-1507 A.9., as amended, or any successor statute.

The classification of a complaint as non-grievable shall not be construed to restrict any employee's right to seek or management's right to provide customary administrative review of complaints outside of the scope of the grievance procedure.

Grievance Steps:

At each level of management step, the applicable manager or designee will meet face-to-face with the employee and render a decision and comments, in writing, on the form provided by the City, with copies to the Department Head and the Human Resources Manager, within fifteen (15) calendar days after receiving the written grievance. The only persons who may be present at these meetings are the employee, the supervisor, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the City Manager step, the grievant, at their option, may have present a representative of their choice. If the grievant is represented by legal counsel, the City likewise has the option of being represented by counsel.

All stages of the grievance beyond the first step shall be in writing on forms supplied by Human Resources. Once an employee reduces his grievance to writing, he must specify on the appropriate form the specific relief he expects to obtain through use of this procedure. Such relief must be tangible, rational, and within the power of the City of Manassas to grant.

After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other part on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) work days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the City Manager, or his or her designee. Failure of either party without just cause to comply with all substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party.

Procedure: First Step: Supervisor Level

Part A.

Within twenty (20) calendar days after the occurrence or condition giving rise to the grievance, the employee affected may identify the grievance verbally to the employee's immediate supervisor. Within fifteen (15) calendar days of such presentation, the supervisor shall give his/her verbal response to the employee with respect to the

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grievance. In the event that no settlement or verbal response is made by the supervisor within fifteen (15) calendar days of the oral presentation, the grievant may proceed to Part B immediately. Failure on the part of the employee to initiate the action required within the time stated herein shall terminate the employee's right to initiate a grievance on that issue.

Part B.

If there is no resolution or verbal response within the time limit provided in Part A, the employee may reduce the grievance to writing, identifying the nature of the grievance and the expected remedy on Grievance Form A. This statement will be the employee's explanation of what occurred, and must state specifically what relief is requested as a remedy. Such written grievance should be presented to the immediate supervisor within fifteen (15) calendar days of the supervisor's verbal reply or immediately thereafter when the supervisor fails to respond. The supervisor must then reply in writing within fifteen (15) calendar days.

Second Step: Senior Management Level

If a satisfactory resolution is not reached at the first step, the employee may so indicate on the grievance form and submit the grievance to the Department Head within (15) calendar days of the immediate supervisor's response. The Department Head receiving the grievance will meet with the employee face-to-face. The Department Head will render a written decision and comments on the form provided by the City and return it to the employee with copies to the Human Resources Manager within fifteen (15) calendar days after receiving the appeal.

Third Step: Executive Management Level

If a satisfactory resolution is not reached at the second step, the employee may submit the grievance to the City Manager or his designee. Submission to the third step must occur within fifteen (15) calendar days of the second step reply. Executive level management will meet with the employee within fifteen (15) calendar days or indicate an extension is necessary; such extension shall not exceed five (5) additional work days except by mutual agreement. The grievant may have a representative of their choice present as well as appropriate witnesses; if the grievant elects to have legal representation, the City Manager or designee may likewise do so. The grievant must notify the City Manager of the name of their attorney within five (5) calendar days of the scheduled meeting. The presence of attorneys shall not alter the fact that this is an administrative, informal, fact-finding process involving a meeting and discussion between a department and an employee. The City Manager or designee shall render a written reply to the grievance within fifteen (15) calendar days following the third step meeting.

Fourth Step: Panel Hearing

If the grievance is not settled, the employee may present their appeal in writing on the appropriate form provided by the City to the grievance panel via the Human Resources Manager. The notice by the employee of appeal to the panel must be received by the Human Resources Manager within fifteen (15) calendar days after receipt of the written decision of the City Manager or designee.

After receiving notification of the employee's intent to appeal, the Human Resources Manager shall begin processing the grievance panel selection. If represented by legal counsel, the grievant must notify the Human Resources Manager of the name of their attorney within five (5) calendar days of filing their intent to appeal.

A. Composition of Panel

Except as noted in this paragraph, all city employees, as a condition of city employment, shall serve on grievance panels if selected by the grievant, by management, or by the first two grievance panel members to serve as the chair. All employees from the following departments are excluded from serving: Human Resources and Risk Management and the City Manager's Office, including the Communications Manager. Deputies, assistants and employees of Constitutional Officers are eligible to be selected as grievance panel members if the Constitutional Officer who employs them has entered into a written agreement for grievance policy coverage.

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No person shall serve on a grievance panel unless he or she is a City employee. However, no person shall serve on a grievance panel if he or she has direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant, and the following relatives of a participant in the grievance process, or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of such attorney shall serve as a panel member.

B. Selection of Panel

The panel shall consist of three (3) City employees: one member appointed by the grievant, one member appointed by the City Manager or his designee, and a third member who shall serve as chairperson, selected by the other two members. The grievant may select any City employee as his/her appointee to the panel, in accordance with Section A above. The grievant will have ten (10) calendar days to make this selection. The City Manager or designee has ten (10) calendar days after the employee makes their selection, to make the Management selection. The panel members selected by the grievant and the City Manager or his/her designee will have ten (10) calendar days to select a third member who will be the panel's chairperson. When a selection cannot be agreed upon, the Human Resources Manager will request the Chief Judge of the Circuit Court of the County of Prince William to select a third City employee as a panel member and chairperson.

C. Panel Hearing Date

The full panel will set the date, time, and place for the hearing which shall be held within twenty (20) calendar days following date of the selection of the full panel.

D. Communication with Panel Members

The parties should not discuss the substance of any grievance or the problem giving rise to the grievance with any panel member prior to the hearing. All matters requiring the attention of the panel should be communicated in writing with copies to all parties.

E. Case Presentation

The grievant and the Department Head or representative shall be present at all panel hearings and may be represented by legal counsel or other representatives of their choice. Such representatives may examine, cross-examine, question, and present evidence on behalf of the grievant or the department to the panel.

The conduct of the hearing shall be as follows:

- a) The hearings are not intended to be conducted like proceedings in courts, and the rules of evidence do not necessarily apply. Panels have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing;
- b) In all grievances not involving discipline, the employee shall present first. In all grievances of employee discipline, management shall present first. The panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs;
- c) The City shall provide the panel with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel;
- d) The panel may, at the beginning of the hearing, ask for statements clarifying the issues involved;
- e) Panels have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;
- f) All evidence shall be presented in the presence of the panel and the parties, except by mutual consent of the parties;
- g) Documents, exhibits, and lists of witnesses shall be exchanged between the parties ten days in advance of the hearing;

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- h) The parties to the grievance, by mutual agreement, or the panel may extend any or all of the time periods established in this procedure.

The grievant must bear any cost involved in employing representation or in preparing or presenting his or her case.

F. Panel Decision

The panel shall render its decision on the appropriate City form and distribute copies to the grievant, Department Head, and the Human Resources Manager within fifteen (15) calendar days of the conclusion of the hearing. The reason for the panel decision will be noted on the form. The majority decision of the panel, acting within the scope of its authority, shall be final and binding and shall be consistent with the provisions of existing written and unwritten policies, procedures, and laws. The question of whether the relief granted by the panel is consistent with existing written and unwritten policies, procedures, and laws shall be determined by the Human Resources Manager unless such person has a direct personal involvement with the event(s), in which case the decision shall be made by the City Manager. The Human Resources Manager is responsible for ensuring that the panel decisions are implemented. Either party may petition the Circuit Court of the County of Prince William for implementation of the panel decision within thirty (30) days of the date of the non-implementation decision.

The panel has the responsibility to interpret the application of appropriate City policies and procedures in the case. It does not have the prerogative to formulate or to change policies or procedures.

Attachments: N/A

Indexed as: Appeals
Grievances
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References: N/A