

Egg Harbor Fire Department and First Responders Standard Operating Policy

SUBJECT: GRIEVANCE PROCEDURE

SOP 1213

PURPOSE: The purpose of this Policy is to set forth the procedure to be followed with respect to grievances by employees, union, and non-union. The terms of this Policy shall control unless another valid and enforceable grievance procedure exists in a collective bargaining agreement that applies to the matter.

SCOPE: This policy shall apply to all members of the Egg Harbor Fire Department.

DEFINITIONS.

A grievance is defined as a dispute or misunderstanding regarding the actions of Department officials with regard to the following:

- Employee termination

"Termination" includes an involuntary end to employment but excludes a voluntary quit; a layoff or failure to be recalled from layoff at the expiration of any recall period; retirement; job abandonment such as "no-call, no-show," or failure to report to work; any workforce reduction activities; job transfer; action taken for failure to meet the qualifications of a position; action taken pursuant to an ordinance other than an ordinance specifically addressing employee discharge; death; or the end of the employment of a temporary, contract or part-time employee.

- Employee discipline

"Discipline" includes verbal reprimands; written reprimands; and suspensions without pay. Discipline does not include action taken because of poor job performance, performance evaluations, performance improvement plans, or counseling (verbal or written) regarding job performance.

- Workplace safety

"Workplace safety" includes conditions of employment affecting an employee's physical health or safety, the safe operation of workplace equipment and tools, environmental hazards, safety of physical work environment, personal protective equipment, and workplace violence.

PRELIMINARY PROCEDURES.

A. Preliminary Grievance Steps.

Step 1: Prior to filing a written grievance, employees should discuss any problem or complaint with his/her Immediate Supervisor to determine if the grievance can be resolved.

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Original Issue Date: 2-1-12

Last Review Date: 2-1-12

Last Change Date: 2-1-12

Step 2: If the grievance cannot be resolved at Step 1, the employee must file a written grievance with the Department Chief no later than ten (10) calendar days from the date the employee first becomes aware of the termination, discipline, or workplace safety condition causing the grievance. The written grievance shall include: (1) a summary of the facts pertaining to the grievance; (2) a listing of all parties involved; (3) the remedy sought by the employee; and (4) the employee's signature. The Department Chief shall respond to the grievance in writing within seven (7) calendar days of receipt of the written grievance.

B. Appeal to Joint Fire Commission.

Step 3: If the grievance is not resolved at Step 2, the employee may appeal a denial by filing a written appeal of the grievance with the Joint Fire Commission within ten (10) calendar days from the Department Chief's decision. The Joint Fire Commission shall meet with the parties to discuss the matter. Within seven (7) calendar days of the meeting, the Joint Fire Commission shall issue a written decision sustaining or denying the grievance.

HEARING OFFICER PROCEEDINGS.

A. Appeal To Hearing Officer.

Step 4: If the grievance is not resolved at Step 3, the employee may appeal a denial by filing a written request for a hearing before a Hearing Officer. This request must be received by the Joint Fire Commission no later than fourteen (14) calendar days after the employee receives the Joint Fire Commission's written response.

On appeal, the Joint Fire Commission shall transmit the grievance, all grievance responses, and this Grievance Procedure to the Hearing Officer. As soon as is practicable thereafter, the Hearing Officer shall schedule a date for a hearing. The hearing shall be held at a mutually agreeable time in a public building and shall be open to the public unless the Hearing Officer otherwise directs.

B. Hearing Procedure.

The Hearing Officer shall have the authority to administer oaths and issue subpoenas at the request of the parties and shall be responsible for the fair and orderly conduct of the hearing and the preservation of the record. The hearing shall be conducted in accord with the hearing procedures of the American Arbitration Association. Any party requesting a subpoena from the Hearing Officer is responsible for the fees associated with the subpoena. All testimony shall be taken under oath and shall be recorded by a court reporter under the supervision and control of the Hearing Officer,

unless another method of recording is mutually agreed to by the parties and approved by the Hearing Officer. All costs associated with the court reporter and preparation of a transcript of the hearing shall be evenly split between the parties. The Hearing Officer may only overrule a disciplinary action if the action taken was arbitrary or capricious.

C. Hearing Officer Decision.

The Hearing Officer shall submit his or her decision affirming or reversing the action with the reasons therefore in writing to the Joint Fire Commission and the employee within thirty (30) calendar days of the close of the hearing or the submission of the parties' written briefs, if any, whichever is later, or on a later date mutually agreed upon by the parties.

TOWN & VILLAGE BOARD REVIEW.

A. Appeal to the Town & Village Boards.

Step 5: Within fourteen (14) calendar days of the date that the Hearing Officer's decision is mailed, either party may file with the Town & Village Boards a written notice of appeal of the Hearing Officer's determination to the Town & Village Boards. Any such appeal shall be on the written record, the preparation of which shall be the responsibility and at the cost of the party seeking the appeal. The appealing party shall supply a copy of the written record to the other party without charge. The written record shall be filed with the Town & Village Boards within twenty (20) calendar days of the notice of appeal. No formal hearing shall be held before the Town & Village Boards, The Boards shall receive no further evidence on the matter but may request additional written submittals of the parties on matters which were raised before the Hearing Officer or, at its discretion, meet with the parties to review the matter. The Town & Village Boards may retain outside counsel if necessary during the process.

B. Town & Village Boards' Decision.

Step 6: Within sixty (60) calendar days of the receipt of the written record, the Town & Village Boards shall make and file its written decision with the Town Clerk's office. The Clerk or designee shall, within five (5) calendar days, mail a copy of the decision to the last known address of the employee or the employee's representative and provide a copy of the decision to the Joint Fire Commission. The Hearing Officer's determination may be affirmed, modified, or reversed by a majority vote of the Town & Village Boards. The Town & Village Board's decision shall be final and binding on the parties. There shall be no subsequent right of appeal.

HEARING OFFICER SELECTION.

A. Qualifications/Selection.

The Town & Village Boards may contract with a Hearing Officer to hear and determine appeals at Step 4. Any Hearing Officer so engaged shall not be a Town or Village employee or receiving any compensation or benefits from the Town or Village other than those described below. The Town Clerk or designee shall create a panel of at least five (5) individuals when needed who have indicated a willingness to serve in the capacity of Hearing Officer and who are experienced in personnel matters and/or who are active or retired attorneys, retired members of the judiciary, retired administrative staff, or currently on the list of arbitrators or mediators for the Wisconsin Employment Relations Commission, the Federal Mediation and Conciliation Service, or the American Arbitration Association. The Hearing Officer selected to hear a matter shall be selected by a random drawing of one out of the three names, with the parties present when the drawing takes place unless otherwise agreed upon. A "flip" of a coin shall determine which party draws the first name. The party winning the "flip" may choose to draw or defer the draw to the other party.

B. Compensation.

The Hearing Officer shall be compensated at the Hearing Officer's regular rate for the hearing, travel time, and time spent preparing a written decision. The compensation for the Hearing Officer will be split evenly between the parties.

SETTLEMENT OF GRIEVANCE.

A grievance shall be considered waived if not filed or appealed within the designated grievance timelines. Dissatisfaction is implied in recourse from one step to the next step. A grievance shall be deemed settled and dismissed at the completion of any step in the grievance procedure if all parties concerned are mutually satisfied or the grievance has not been timely processed to the next level. All settlements shall be in writing and signed by the employee in question and the appropriate Town & Village official(s) involved at the step level that the grievance was settled.

REVISIONS/UPDATING.

This Policy may be revised, updated, or repealed by the Town & Village Boards at any time.