



Subject: Grievance Policy
Effective Date: 10/18/2016
Department: Human Resources
Revised Date: [Policy Revised Date]

Revision: 1
Policy Number: HRM-323
Rescinded Date: [Policy Rescinded Date]

A handwritten signature in black ink, appearing to read "Roman Benfield".

City Manager

To All City Employees:

I. Purpose

The purpose of this policy is to describe the City of Durham’s grievance policy and procedures. This policy does not negate an employee’s ability to engage in discussions with various levels of departmental leadership on topics of concern.

II. Policy

It is the policy of the City of Durham to provide a timely, equitable and orderly process that allows for the resolution of employee grievances. This policy applies to all regular full-time employees who have six months or more of full-time service with the City of Durham. Employees in the new hire probationary period, part-time employees, Department Directors, Deputy City Managers, and the City Manager are not covered under this policy.

The following disciplinary actions require a pre-disciplinary conference, and can be grieved under this policy:

- Demotions
- Suspensions
- Terminations

For details about the pre-disciplinary conference refer to HRM-322. If the employee’s Department Director did not physically participate in the pre-disciplinary conference, the employee must first file a departmental appeal and obtain a complete review by the Department Director before the action can be appealed to a grievance hearing panel.

The employee must request the departmental appeal within five (5) business days of receiving the Employee Notice Form (ENF). To request a departmental appeal the employee must complete the appropriate section of the Employee Notice Form (ENF), and submit a copy to the Department Director. The Department Director or designee shall meet with the employee within three (3) business days of receiving the request to conduct the departmental review. The Department Director shall notify the employee of the final disposition of the appeal via memo within 10 calendar days of the departmental review. A copy of the memo from the Department Director and the updated Employee Notice Form shall be sent to the Human Resources Department.

If the employee is not satisfied by the departmental review, the employee may initiate the grievance process by submitting a completed a Grievance Form along with a copy of the Employee Notice Form (ENF) and Director's final disposition memo to the Human Resources Department within 10 calendar days of receiving the final decision from the Department Director.

If the employee's Department Director physically participated in the pre-disciplinary conference, the employee can immediately begin the grievance process by submitting a completed grievance form with a copy of the ENF to Human Resources within 10 calendar days of receiving the ENF.

The following items cannot be grieved under this policy

- Coaching and Counseling
- Employee Driver's License Violations
- Pay
- Performance Evaluations
- Reduction In Force
- Substance Abuse Policy Violations
- Working Hours
- Written Reprimands

Discrimination, harassment and retaliation complaints cannot be grieved under this policy. Please refer to HRM 708 Anti-harassment policy for the correct procedures to address those types of complaints.

All grievance hearings must be held within 30 days of filing the appropriate forms with the Human Resources Department.

III. Definitions

Chief Hearing Officer – The hearing officer that will preside over the grievance hearing.

Departmental Appeal – The formal appeals process that the employee initiates at the Department level. This process is initiated only when the Department Director was not an active participant in the pre-disciplinary conference and the outcome of the discipline was a suspension, demotion, or termination. The Department Director has 10 business days to issue a Final Disposition Memo to the employee following the appeal request.

Final Disposition Memo – This memo explains the outcome of the departmental review and should include a summary of the appeal, any witness statements, and the final decision of the Department Director.

Grievance Form – The form that the employee completes to start the formal grievance process. The form contains the issues to be discussed in the grievance and the resolution the employee desires.

Grievance Hearing – An administrative hearing where a City of Durham employee can present evidence and testimony in an attempt to overturn or amend a demotion, suspension or termination disciplinary action.

Grievant – A City of Durham employee who initiates a grievance due to a suspension, demotion or termination disciplinary action.

Hearing Officer – A trained City of Durham employee who listens to employee grievances and provides a recommendation to the City Manager.

Disciplinary Action – For the purpose of this policy, disciplinary action is considered to be a suspension, demotion, and/or termination.

Letter of Determination – A letter signed by the City Manager that describes the final decision in the employee grievance. This marks the final step in the employee grievance process.

Pre-disciplinary Notice Form – The form that is given to the employee by the department that explains the proposed disciplinary action, summary of the incident, and date of the pre-disciplinary conference.

Support Person – A current City of Durham employee that can assist the grievant in preparing for the grievance while providing moral support.

IV. Procedure

A. Filing a Grievance

In order to grieve a disciplinary action, an employee must provide written notice via the Grievance Form, to Human Resources of the desire to appeal within 10 calendar days after receiving the ENF or, in the case of a disciplinary action requiring departmental appeal to the Department Director, within 10 calendar days of receiving the final disposition memo from the Department Director.

The Grievance Form and all required backup must be submitted to the Employee Relations Analyst in the Human Resources Department. The Employee Relations Analyst will notify the department within one (1) business day of receipt of the filed grievance. If the employee does not file a grievance within 10 calendar days as outlined above, he or she will have waived the right to appeal.

The grievance hearing must occur within 30 calendar days following the receipt of Grievance Form. Exceptions to the time limitations will be considered by Human Resources on a case by case basis.

B. Modified Grievance Procedure for Benefits Eligibility Grievances

Employees who receive discipline as a result of the Dependent Verification Audit retain their rights to have a grievance; however the following modified process will be utilized:

1. The employee will have 10 calendar days to file for a grievance.
2. The Deputy City Managers (DCM) will serve as hearing officers.
3. Employees will be allowed to have a support person in the hearing.

4. The Deputy City Managers will have 5 business days to issue a recommendation to the City Manager.
5. The City Manager will issue a letter of determination within 10 business days. This ends the grievance process.
6. Section IV, A.

C. Modified Grievance Procedure for Sworn Police Personnel except Chief of Police

1. Any sworn law enforcement officer who wishes to grieve a suspension, demotion, or termination action taken after the investigation and issuance of findings by the Professional Standards Division of the Police Department, and the action is confirmed by the Police Chief shall have a right of appeal only to a panel consisting of Deputy City Managers (DCM). The employee and the department shall not have the right to choose or substitute other hearing officers.
2. The timeframe for filing a grievance is the same for all employees as noted in Section IV, A.

D. Disciplinary Appeals Procedures for City Manager Direct Reports, Department Directors, and Chief of Police

1. Department Directors, Deputy City Managers and all other direct reports of the City Manager may appeal any disciplinary action defined in this policy directly to the City Manager. This is the only option for administrative appeals for these employees. The timeframe for filing is the same for all employees as noted in Section IV, A.

E. Grievance Hearing

The grievance hearing is an administrative process, not a legal process. While the employee may have a support person present in the hearing, attorneys are not allowed to serve as representatives for employees.

Each grievance hearing shall be heard by a three-member panel of hearing officers, who shall be chosen from a list of pre-certified and trained hearing officers as follows:

- The employee selects one individual from the list
- The department selects one individual from the list
- Human Resources will select the third individual

The three designated hearing officers shall select from among themselves one individual who will serve as the Chief Hearing Officer to preside over the grievance hearing.

The Employee Relations Analyst will coordinate and audio record the hearing. The hearing shall last no more than four (4) hours and witnesses will be capped at no more than three (3) each for the employee who is filing the grievance and the Department responding to the grievance. Written statements will be allowed for consideration if the witness list exceeds three or for a witness that cannot be available for the hearing.

Three (3) business days prior to the hearing, both the employee and the department will provide all documentation that will be presented during to the hearing to the Employee Relations Analyst. Documents, statements, and exhibits that are not provided in advance will not be allowed as evidence during the hearing.

The hearing panel will hear statements and evidence from the employee and the department and will make a recommendation to either:

- Uphold the department's action;
- Overturn the department's action; or
- Recommend a different disciplinary action

The hearing panel must submit their final recommendation within five (5) business days of the hearing to Human Resources. Human Resources will submit the panel's recommendation to the City Manager within one (1) business day of receipt.

The panel recommendation will be reviewed by the City Manager. The City Manager may uphold, revise or overturn the panel's recommendation. The City Manager will make a final determination within five (5) business days after receipt of the panel's recommendation. The City Manager will send a letter of determination by certified mail to the employee. The letter of determination will represent the final step in the grievance process.

V. Other

No employee will be retaliated against for use of the grievance/appeal process or for deciding to participate as a witness or support person for another employee in any pre-disciplinary conference or grievance hearing.

The City Manager's decision is the final administrative decision for the organization.

This policy rescinds and replaces the Grievance Policy section of HRM-322. All policies and portions thereof in conflict with this policy are hereby rescinded.

VI. Attachments

[Flow Chart - Grievance Process.pdf](#)

[Grievance Form.pdf](#)

[Grievance Guidelines.pdf](#)