



Virginia Beach Department of Emergency Medical Services



HUMAN RESOURCES

GRIEVANCE POLICY FOR VOLUNTEER MEMBERS

PURPOSE: To provide a policy and procedures to resolve a member's grievance arising from concerns with his or her working environment.

APPLICABILITY: This policy shall apply to all volunteer members and supervising officers of the Department of Emergency Medical Services.

POLICY STATEMENT: The department promotes open communications between supervisors and employees for the resolution of grievances arising from employee concerns with his or her working environment.

DEFINITIONS

Grievance – A complaint or dispute by a member related to his or her employment, including, but not limited to, the following:

1. Disciplinary actions including: written reprimand, suspensions, demotion, decertification and dismissal.
2. The application of personnel policies, procedures, rules and regulations, if it can be shown that a particular policy, procedure, rule or regulation was misinterpreted or applied inconsistently and that the misinterpretation or inconsistent application affected the member filing the grievance;
3. Discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin or sex;
4. Acts of retaliation because the member has (i) used or participated in the grievance procedure; (ii) complied with any law of the United States or the Commonwealth, (iii) reported any violation of law to a governmental authority; (iv) sought any change in law before the Congress of the United States or the General Assembly, or (v) reported an incidence of fraud, abuse or gross mismanagement.

Open Door – A process of two-way verbal communication between a member and all levels of supervision within the chain of command.

ELIGIBILITY TO USE THE GRIEVANCE PROCESS

All Department volunteers who are classified as full members of the department as defined by Department policy are eligible to use all phases of the grievance procedure. Members who are employed on a *recruit or probationary* basis are eligible to use the grievance procedure only up to and including step 3, and only to address a grievable issue other than dismissal.

A member may not address the issue through the grievance procedure unless the member is or has been **personally** affected by the management decision or action that forms the basis for the grievance. This means the member has to have a personal stake in the matter because the member has been adversely affected by it.

GRIEVABILITY

Management retains the exclusive right to manage the affairs and operations of city government and the department. Accordingly, the follow complaints are not grievable:

- A. The establishment and revision of position classifications or general benefits;
- B. Work activity that (i) is accepted by a member as a condition of membership; (ii) is part of the job description; or (iii) may be reasonably expected to be a part of job content;
- C. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- D. Failure to promote, except where an member can show that established promotional policies or procedures were not followed or applied fairly;
- E. The methods, means and personnel by which work activities are to be performed;
- F. Termination, demotion, transfer, removal of appointed position or suspension from duty because of lack of work, reduction in work force, shift in department service delivery model or job abolition.
- G. A non-disciplinary oral counseling;
- H. The measurement and assessment of work activity through a performance feedback/evaluation; except where the member can show that the feedback/evaluation was arbitrary or capricious;
- I. The hiring, promotion, transfer, assignment and retention of members within the department;

- J. Administrative separation when member is unable to perform essential duties of their position or meet activity or procedural requirements for continued participation;
- K. Denial of the Operational Medical Director for a member to provide patient care under his/her medical direction at a particular certification level;
- L. The relief of members from their duties in the case of an emergency; and Management's rights as outlined.

If there is a question of grievability, either the grievant or management must contact the Division Chief of Administration immediately, in writing, to request a determination of grievability. The question of grievability may only be raised once the grievance has been placed in writing. The EMS Deputy Chief of Administration will make a decision regarding whether or not a matter is grievable within **ten (10) consecutive calendar days** of the receipt of the request in writing. The decision of the Deputy Chief as to grievability may be appealed to the Chief of EMS by filing a notice of appeal with the Division Chief of Administration within **ten (10) consecutive calendar days** of receipt of the decision. Within **twenty (20) consecutive calendar days** of the filing of the notice of appeal, the Chief of EMS will review the appeal. The EMS Chief may affirm, reverse, or modify the decision of the department. The decision of the EMS Chief, which is final, will be issued no later than fifteen (15) calendar days from the date of the review.

TIME LIMITS

The time limits set forth herein refer to **consecutive calendar days**. This means that the various consecutive calendar day periods referred to throughout this policy will include all leave days, holidays, and unauthorized absence time, as well as normal work days and weekend days for all members.

The time frames set forth in the grievance procedure may be extended by mutual agreement of the department and the grievant.

FAILURE TO MEET TIME LIMITS

If there are extenuating circumstances, the EMS Chief may alter the time limits. 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 party on any grievable issue, provided the party not in compliance fails to correct the non-compliance within five (5) consecutive working days of receipt of written notification from the director of human resources of the compliance violation. The initial written notification of non-compliance by the grievant or the department must be made to the Division Chief of Administration, who will notify the other party.

GENERAL GREIVANCE PROVISIONS

The immediate supervisor refers to the person who was responsible for providing immediate supervision to the member at the time the discipline or other action being grieved was imposed.

If, at any step of the grievance procedure, a reduction in the level of discipline originally imposed is offered to, but rejected by, the grievant, the grievance will proceed to the next step of the procedure with the original level of discipline in place. Any offer to reduce the discipline or otherwise reach a resolution will not be considered at the next step of appeal.

WAIVING STEPS IN THE GRIEVANCE PROCEDURE

The waiving of steps within the grievance procedure is prohibited. If a case of grievability is appealed to the EMS Chief for review, a determination of grievability by the Chief does not allow the waiving of the remaining steps in the grievance procedure.

USE OF OPEN DOOR POLICY AND GRIEVANCE PROCEDURE FOR THE SAME ISSUE IS NOT PERMISSIBLE

A member may not use the open door process and the Grievance Policy on the same issue; he or she must elect which procedure to use.

FREEDOM FROM REPRISAL

It is inappropriate for a member filing a grievance or participating in another member's grievance to be subject to reprisal solely for taking part in the grievance procedure.

MANAGEMENT RIGHTS

Nothing in this policy is intended to circumscribe or modify the existing rights of management to do the following:

1. Direct the work of its members;
2. Hire, promote, transfer, assign, and retain members' positions within the agency provided such action is not taken for disciplinary purposes;
3. Maintain the efficiency of governmental operations;
4. Relieve members from duties because of lack of work;
5. Take actions as may be necessary to carry out the duties of the agency in emergencies;
6. Determine the methods, means and personnel by which operations are to be performed, and

7. Establish medical control and certification guidelines

GRIEVANCE PROCEDURE

Step 1. The grievant must discuss the grievance with the immediate supervisor in person within **twenty (20) consecutive calendar days** from the date of its occurrence or knowledge of its occurrence. The immediate supervisor must verbally reply to the grievant within **ten (10) consecutive calendar days** of the date of this discussion.

Step 2. If the grievance is not settled in step 1, the grievant may, within **ten (10) consecutive calendar days** of the immediate supervisor's verbal reply, submit the grievance in writing to the same supervisor using a Virginia Beach Department of EMS Member Grievance Form. These forms can be obtained from the Division Chief of Administration or his designee. The immediate supervisor must reply in writing to the grievant on the form within **ten (10) consecutive calendar days** of receipt of the written grievance.

Step 3. If the grievance is not settled in step 2, the grievant may appeal the immediate supervisor's decision by forwarding the grievance form to the responsible Deputy Chief within **ten (10) consecutive calendar days** of the immediate supervisor's response. The Deputy Chief, or his/her designee, must meet with the grievant to discuss the grievance and the Deputy Chief, or a designee, must reply in writing to the grievant on the grievance form within **ten (10) consecutive calendar days** of the receipt of the written grievance. If the immediate supervisor is the EMS Chief, steps 2 and 3 are consolidated into a single step.

Step 4. If the grievance is not settled in step 3, the grievant may appeal the decision to the EMS Chief. The decision of the EMS Chief will be final and binding and must be consistent with law and written policy. The Member Grievance Form must be sent to the Chief of EMS within **ten (10) consecutive calendar days** of the Deputy Chief's response. Upon notification of the grievant's intent to appeal, the EMS Chief, or his/her designee, must arrange the time and place of a meeting and notify all affected parties of the time and place within fourteen (14) consecutive calendar days. The review will be scheduled, if possible, within thirty (30) consecutive calendar days from the end of the aforementioned fourteen (14) consecutive day period.

With the exception of Step 3, the only persons who may normally be present in the management steps are the grievant, the appropriate management representative at the level at which the grievance is being heard, and appropriate witnesses for each side. A witness may only be present while actually providing testimony. The member may choose to

be accompanied by their Squad Commander/Team Captain at their discretion.

ORDERED:



01/27/2017

EMS Chief

Date