


FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: GRIEVANCES		NUMBER: 311
	EFFECTIVE DATE: September 7, 2022	REVIEW: May 2025	
RESPONSIBLE ENTITY: INTERNAL AFFAIRS BUREAU			<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Replaces: GO 310.3 <input type="checkbox"/> Revised
ACCREDITATION STANDARDS:	CALEA 22.4.1, 22.4.2, 26.1.6	VLEPSC PER. 08.01, 08.02, 08.03, 08.04, PER.09.02	

I. PURPOSE

The purpose of this General Order is to establish guidelines and procedures to all eligible sworn and non-sworn Department employees for grievances or appeals.

II. POLICY

It is the policy of the Fairfax County Police Department (FCPD) to provide fair, equitable, and clearly defined means for the resolution of grievances. Eligible employees and their supervisors shall be afforded reasonable opportunities to present all facts relevant to a grievance, as well as exercise all rights set forth in this General Order.

III. GRIEVANCE ELIGIBILITY

A. **Eligible Employees:** All regular, permanent employees (sworn and non-sworn) in the competitive service of the County are eligible to file grievances under [Chapter 17 of the Fairfax County Personnel Regulations](#).

B. **Non-Eligible Employees:** The following Department employees are **not** eligible to participate in grievance procedures:

1. Temporary and exempt employees.
2. Employees serving their initial probationary periods, unless the complaint includes an allegation of discrimination.
3. Sworn employees who have elected to proceed under the procedures set forth in FCPD General Order 310, Discipline and Appeals.
4. Volunteers in Police Service (VIPS) and Auxiliary Police Officers (APO).

IV. TYPES OF GRIEVANCE COMPLAINTS

A. Employee grievance complaints shall be classified as one of the following:

1. **Grievable** – With a binding decision from a hearing panel of the Civil Service Commission.
2. **Non-Grievable but Eligible for a Hearing** – and an advisory decision from a hearing officer appointed by the Civil Service Commission.
3. **Non-Grievable with No Hearing.**

B. **Civil Service Commission Grievance Complaints:** Grievable complaints which receive binding decisions from the Civil Service Commission include:

1. Dismissals, unsatisfactory service separations, demotions, and suspensions.
2. The application of specific County personnel policies, procedures, rules, and regulations.
3. Acts of retaliation as a result of utilization of this procedure, or for participation in the grievance of another County employee.
4. Discrimination against an employee (including a probationary employee) on the basis of race, color, creed, religion, age, disability, national origin, sex (including gender-based conduct, pregnancy, sexual orientation, gender identity, and conduct of a sexual nature), political affiliation, marital status, union affiliation, genetic information, veteran status, or disabled veteran status.
5. Discrimination or retaliation against an employee, including a probationary employee, because of participation in political activities permitted under state law and County ordinance, or failure to participate in political activities, whether permitted or not by state law or County ordinance.

Note: For sub-sections 3-5 above, there shall be a presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

6. Acts of retaliation because the employee has:
 - a. Complied with any law of the United States or the Commonwealth.

- b. Reported any violation of such law to a governmental authority.
- c. Sought any change in law before the United States Congress or Virginia General Assembly.
- d. Reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors Audit Committee, the [Auditor to the Board](#), their Department head, or to any other federal, state, or County government authority, such as the Commonwealth's Attorney for the County of Fairfax, or U.S. Attorney for the Eastern District of Virginia.

C. Non-Grievable Complaints Eligible for Civil Service Commission

Advisory Decisions: Non-grievable complaints that are eligible to receive advisory decisions from a hearing officer appointed by the Civil Service Commission include:

- 1. The physical plant (i.e. facility).
- 2. The methods and conditions of the specific job.
- 3. Relations with fellow employees.
- 4. Performance appraisals.
- 5. Written reprimands.
- 6. 120-day Performance Improvement Plans (PIP).

D. Non-Grievable Complaints: Complaints deemed non-grievable include:

- 1. The establishment and revision of wages or salaries, position classification, employee benefits.
- 2. Oral reprimands.
- 3. Non-Disciplinary Corrective Actions.
- 4. The contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations.
- 5. Failure to promote, except where the employee contends that established promotional policies or procedures were not followed or applied unfairly.
- 6. Discharge, lay-off or suspension from duties because of lack of work or reduction-in-workforce, except where such actions affect an employee who has been reinstated within the previous six months by the Civil Service Commission as the result of the final determination of a grievance. In such cases, the Department must show that there was a valid business

reason for the action and that the employee was notified of such reason in writing prior to the effective date of the action.

7. Management of County employees, including the right to make personnel appointments in accordance with adopted selection policies and techniques, to establish rules and regulations governing work performance and performance evaluations, to transfer and assign employees within the County, to determine the need for shift operation and rotation of the workweek, to assign overtime, to determine job training and career development, and to determine duties or actions in emergency situations.
8. Decisions of a performance evaluation appeals panel, except in accordance with [Chapter 12 of the Fairfax County Personnel Regulations](#).
9. Appeals of position classification are handled in accordance with criteria set forth in [Section 3.6 of the Fairfax County Personnel Regulations](#).

V. GRIEVANCE PROCEDURES

A. **Procedural Steps:** After the initial complaint is made (as detailed in Step 1 below), parties to the grievance may, by mutual agreement, waive any and all intermediate steps or meetings with the exception of the initial complaint, reducing the complaint to writing and the request for [grievability determination](#) (Step 4). Upon request of the grievant, management shall waive the 1st and 2nd step grievance meetings in cases of termination, suspension or demotion.

1. **Step 1 (Immediate Supervisor):** An employee who has a complaint shall discuss the problem directly with their supervisor within twenty (20) business days of the date the employee should have reasonably gained knowledge of the event giving rise to the complaint. The complaint need not be reduced to writing until this step has been completed. A written reply by the supervisor shall be made during the discussion or within five (5) business days following the meeting.

Note: The term “business day” as used herein shall mean any Monday through Friday that is not a legal holiday.

2. **Step 2 (Station, Division, Bureau Commander or Deputy Chief):** If the complaint is not resolved after the first step meeting, the employee may reduce the complaint to writing on the [Complaint Form – Second Step](#) (all grievance forms are obtainable from the Department of Human Resources). The employee shall provide a statement of the grievance and information upon which it is based, specify the alleged wrongful act

and resultant harm, and specify the relief sought using this procedure. The fully completed [Complaint Form – Second Step](#) shall be delivered by the employee to the assigned commander hearing the second step appeal within five business days of the first step meeting or the supervisor’s reply, if given at a later date. The assigned commander shall meet with the employee within 5 business days of receipt of the [Complaint Form – Second Step](#). A written reply by the assigned commander shall be made to the employee within 5 business days following the meeting.

3. **Step 3 (Chief of Police):** If the reply from the second step meeting is not acceptable to the employee, or where no Division or Bureau Commander exists, the employee may appeal the last response to the Chief of Police. The [Complaint Form – Third Step](#) shall be completed by the employee wishing to avail themselves of Step Three grievance procedures and shall be directly emailed to FCPDStep3@fairfaxcounty.gov within 5 business days of receipt of the last response. The Chief of Police shall meet with the employee within 5 business days of receipt of the [Complaint Form – Third Step](#), and a written reply by the Chief of Police shall be made to the complaint within 5 business days following the meeting. When it is necessary for the Chief of Police to obtain relevant technical guidance from a centralized Department director (i.e. human resources, budget, procurement) in order to respond to a grievance, a written request for assistance will be made to the alternate Department head outlining the scope of the issue and assistance required. The Chief of Police retains responsibility for providing the written Step 3 response.
4. **Step 4 (Grievability Determination):** When a complaint cannot be satisfactorily resolved pursuant to Steps 1 through Step 3, the employee shall complete and send the [Request For Grievability Determination Form](#) to the County Executive within ten (10) business days of receipt of the [Department Response to Grievance Step 3 Form](#). The County Executive will determine if the complaint is grievable, and if so, based upon the criteria set forth in this General Order, establish whether the decision rendered by the [Fairfax County Civil Service Commission](#) shall be binding or advisory. Decisions of the County Executive shall be made within 10 calendar days of receipt of such requests.

Note: The term “calendar day” as used herein shall mean any day including Saturday, Sunday, or a legal holiday.

- a. The decision regarding grievability is appealable only to the Fairfax County Circuit Court. Such appeals shall be made by filing a [Notice of Appeal of Adverse Grievability Determination by the County Executive](#)

[Form](#) with the Office of the County Executive within 10 calendar days from the date of receipt of the decision. The Circuit Court shall have a hearing on the issue of grievability within thirty (30) days of receipt of the appeal. The court may affirm, reverse or modify the decision of the County Executive. An adverse decision of the Circuit Court is final and is not appealable. Procedures governing the review by the Circuit Court are found in the [Code of Virginia](#). In no case shall the County or Commonwealth's Attorney decide the issue of grievability.

5. **Step 5 (Appeal to the Civil Service Commission):** If the complaint has been determined to be grievable, as provided herein, the employee may file a request for a hearing on the [Step 5 Grievance Form](#) with the [Fairfax County Civil Service Commission](#). The employee shall file the request within 10 business days following the receipt of the determination that the complaint is grievable. Appeals shall be heard by the Commission as soon as possible after receipt of the employee's appeal request. The Commission shall notify the employee and the Chief of Police in writing of the time and place of the appeal hearing. The jurisdiction and authority of the Civil Service Commission shall be confined exclusively to those complaints previously determined to be grievable as provided herein. While the Commission has authority to determine the appropriate application of an existing rule or policy, the Commission does not have the authority to add to, detract from, alter, amend, or modify in any way County or Department policy or procedure and its findings shall be consistent with all applicable laws and ordinances. No member of the Civil Service Commission shall hear a grievance if they have a direct involvement with the grievance being heard by the Commission, or with the complaint or dispute giving rise to the grievance. See [Chapter 17 of the Fairfax County Personnel Regulations](#) for a listing of relatives prohibited from participating in the grievance process.
- B. The Personnel Resources Division (PRD) shall be responsible for the coordination of grievance procedures in cases that do not result from internal investigations or disciplinary actions.

VI. GRIEVANCE OF DISCIPLINE OR UNSATISFACTORY SERVICE SEPARATION

- A. **Dismissals, Unsatisfactory Service Separations, Demotions, and Suspensions:** The affected employee may request to review the administrative investigation and related documents prior to the second step of the grievance by following the procedures detailed in FCPD General Order 310, Discipline and Appeals. Additionally, sworn employees shall declare in writing to the Chief of Police their decision to proceed under the appeal

procedures of FCPD General Order 310, Discipline and Appeals, or to proceed with the grievance procedures under this policy within 5 business days of the Step 2 response. The employee may be assisted by counsel at their own expense. Failure to submit this declaration within the 5 business day period will waive an employee's right to appeal.

Note: For all sworn employees who elect to proceed with a grievance under the provisions of this policy and for all non-sworn employees, Step 3 through Step 5 shall remain the same as those detailed above.

- B. A sworn employee's decision to proceed under the provisions of this policy or to proceed with the appeals process under FCPD General Order 310, Discipline and Appeals is final and binding. Department employees shall not be permitted to use both procedures.
- C. The Internal Affairs Bureau (IAB) shall be responsible for the coordination of grievance procedures in cases that result from administrative investigations or disciplinary actions.

VII. REPRESENTATION

- A. **Representation:** In-person meetings shall be required at all steps. Where an employee desires representation, they shall indicate this request accordingly on the grievance form so that the Department has the opportunity to seek representation from the County Attorney's Office.
- B. **Witness Responsibilities:** Witnesses may be asked to provide information during all steps and may only be present in the hearing if providing testimony.
- C. **Discrimination Complaints:** At the request of any party to the grievance, the Director of the Office of Human Rights and Equity Programs (OHREP) may attend step meetings for any complaint involving a charge of discrimination.

VIII. RESOLUTION PRIOR TO HEARING

- A. Grievances shall be considered settled at the completion of any step where all parties are satisfied. Nothing in this provision shall be construed as limiting an employee's right to exhaust all remedies provided herein.

IX. GRIEVANT EXPENSES

- A. Grievants shall bear all costs involved in employing representation or in preparing or presenting their case.

- B. Whenever possible, grievances will be handled during the regularly scheduled work hours of the parties involved. Civil Service Commission hearings are held during the County's business day whenever possible.
- C. The Civil Service Commission has no authority to award legal fees or punitive damages.

X. TIME EXTENSIONS

- A. The parties to the grievance, by mutual agreement, or the County Executive upon the request of one of the parties and a showing of just cause, may extend any or all time periods established in this procedure.
- B. After the initial filing of a written complaint, failure of either the grievant or the respondent to comply with all substantial procedural requirements of the grievance procedure, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive.
- C. The term "workday" as used herein shall mean days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

XI. CIVIL SERVICE COMMISSION HEARINGS

- A. Civil Service Commission Hearings shall be conducted as described in [Addendum 1 to Chapter 17 of the Fairfax County Personnel Regulations](#).
- B. It should be noted that the Civil Service Commission Hearing Panel is a separate and distinct body and is not to be confused with the Police Department Hearing Panel. Employees may refer to FCPD General Order 310, Discipline and Appeals, for further guidance.
- C. Civil Service Commission Hearings shall be open to the public. However, upon request of either party, the hearing shall be private. The hearing officer, or the Civil Service Commission Hearing Panel, by majority vote, may close a hearing to the public if the testimony about to be presented might impugn the personal reputation of a party or witness to said hearing, or if the right to privacy of such party or witness requires that the hearing be closed. Parties and their representatives shall be allowed to attend the hearing at all times.

All witnesses shall be excluded from the hearing, except when testifying, at the request of either party.

- D. Failure of either party without just cause to comply with all substantial procedural requirements at the Civil Service Commission Hearing, shall result in a decision in favor of the other party.
- E. The decision of the Civil Service Commission shall be filed in writing by the Chairperson with the parties not later than 10 workdays after the completion of the hearing. Copies of the decision shall be transmitted to the County Director of Human Resources, the employee, the Chief of Police, and the County Executive.
- F. The majority decision of the Civil Service Commission Hearing Panel shall be final and shall be consistent with the provisions of law and written policies. The findings of the Commission shall be either binding or advisory to the County Executive based upon the classification of the grievance at Step 4 (General Order 311, Section V, Grievance Procedure).
- G. Either party may petition the Fairfax County Circuit Court for an order requiring implementation of a binding decision from the Commission.

XII. MAINTENANCE AND CONTROL OF GRIEVANCE RECORDS

- A. The County Department of Human Resources is the custodian of grievance records. The coordination with the Department of Human Resources is the responsibility of the Personnel Resources Division.
- B. After review by the Chief of Police, copies of all grievance records shall be forwarded to the Personnel Resources Division for distribution and filing.
- C. A copy of all grievance records alleging harassment, discrimination, or retaliation shall be forwarded to OHREP.
- D. Grievance records that are tied to administrative investigations shall also be forwarded to the IAB for inclusion in the case file.
- E. Grievance records shall be maintained and disposed of in accordance with the provisions outlined by the Library of Virginia, Records Retention and Disposal Schedule.

XIII. LEGAL REFERENCES

- A. [Va. Code Ann. § 9.1-501](#), Conduct of investigation, notice of charges.
- B. [Va. Code Ann. § 9.1-502](#), Notice of charges; response; election to proceed under grievance procedure of local governing body.
- C. [Va. Code Ann. § 9.1-504](#), Hearing; hearing panel recommendations.
- D. [Va. Code Ann. § 9.1-507](#), Chapter accords minimum rights.
- E. [Va. Code Ann. § 15.2-1506](#): Establishment of grievance procedure, personnel system and uniform pay plan for employees.
- F. [Va. Code Ann. § 15.2-1507](#): Provision of grievance procedure; training programs.
- G. Library of Virginia [Records Retention and Disposal Schedule, GS-17 Law Enforcement, Fire and Emergency Services.](#)
- H. [Fairfax County Code Chapter 3, Article 1, Personnel Administration.](#)
- I. [Fairfax County Code Section 3-1-10: County Civil Service Commission; responsibility and duties.](#)
- J. [Fairfax County Code Section 3-1-13](#): Probationary appointments, personnel actions and employee rights of appeal.
- K. [Chapter 12 of the Fairfax County Personnel Regulations.](#)
- L. [Chapter 17 of the Fairfax County Personnel Regulations.](#)

General Order 311 becomes effective on the above date and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:



Chief of Police



County Executive