



**PERSONNEL POLICIES AND PROCEDURES MANUAL**

**Dated – March 2014**

**Issued – August 2015**

**ARTICLE VIII  
GRIEVANCE HEARING PANEL**

**8.1 Panel Hearing**

- (1) The grievance panel shall consist of three members: one member appointed by the grievant, one member appointed by the Department Head and the third panel member selected by the other two panel members. Within five (5) work days, the two panel members shall select the third panel member. If the two panel members cannot agree on the selection of a third member an appointment will be made by the Chief Judge of Petersburg Circuit Court. The third person shall be the chairperson of the panel.
- (2) To insure an impartial panel, such panel shall not be composed of any person having 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 an attorney shall serve as a panel member.
- (3) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the panel hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel without being in violation of the provisions of § 54.1-3904, 1950 Code of Virginia, as amended. The decision of the panel shall be final and binding and shall be consistent with provisions of law and written policy.
- (4) The question of whether the relief granted by a panel is consistent with written policy shall be determined by the City Manager, or his or her designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Petersburg Commonwealth's Attorney.
- (5) Either party may petition the Petersburg Circuit Court for an order requiring implementation of the panel decision.
- (6) Rules for Panel Hearings
  - a. The panel does not have authority to formulate City policies, procedures, regulations or rules or to alter existing City policies, procedures, regulations or rules;
  - b. The panel has the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;
  - 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; and the grievant and his attorney, at least ten (10) days prior to the scheduled panel hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;



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- d. The panel has 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;

All evidence shall be presented in the presence of the panel and the parties, except by mutual consent of the parties;

- f. Documents, exhibits and lists of witnesses shall be exchanged between the parties in advance of the hearing;
- g. The majority decision of the panel, acting within the scope of its authority, shall be final, subject to existing policies, procedures and law;
- h. The panel decision shall be provided within five (5) work days to all parties; and
- i. Hearings are not intended to be conducted like proceedings in courts, and rules of evidence do not necessarily apply.

### **8.2 Conduct of the Hearings** – Unless otherwise decided, in disciplinary matters the City presents its evidence first. Accordingly, the hearing format is as follows:

- (1) The Chair shall be responsible for ensuring the hearing is conducted in an orderly, fair and equitable fashion pursuant to the provisions of the grievance procedure and that all decisions are made by the panel as a whole. The Chair shall have the authority to limit the introduction of redundant and repetitive evidence.
- (2) Opening statements shall be permitted with the City presenting first. After the opening statements, the City shall present their evidence and call witnesses first.
- (3) All witnesses may be examined and cross-examined. The Panel may question any witness at the conclusion of the questioning by both parties.
- (4) Closing statements by the parties is permissible with the City going first.
- (5) In non-disciplinary matters, the order is reversed and grievant presents first.
- (6) The panel may vary this order of presentation, but must give each party full and equal opportunity to present all relevant and material evidence.
- (7) Prior to the hearing, any matter requiring the attention of the panel shall be communicated through the Department of Human Resources. The Department of Human Resources will serve as the liaison between the parties and the panel and provide any needed communication between the parties and the panel.
- (8) The panel hearing is normally recorded, however, it is not required.

### **8.3 Cost of Representation** – The grievant shall bear any and all cost involved in employing representation or in preparing or presenting his or her case. The Panel has no authority to award legal fees or punitive damage.



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### **8.4 Remedies** – The Panel authority is as follows:

- (1) The panel may uphold, reverse, or modify the action being grieved by imposing a lesser disciplinary action and in appropriate circumstances, award back pay in the amount that is equitable.
- (2) Back pay shall not exceed pay for time actually lost due to suspension or dismissal.
- (3) The panel does not have the authority to formulate or alter City policies or procedures.
- (4) The panel does not have the authority to grant greater relief than that which the grievant has requested on the grievance form.
- (5) The panel does not have the authority to award the payment of damages or attorney's fees or costs.

### **8.5 Panel Decisions** – After the hearing the panel is to deliberate on the evidence presented and arrive at a decision. No other individual other than the panel members may be present during the panel's deliberations. The panel may decide to deliberate at the conclusion of the hearing or may decide to reconvene at a later date and time. However, all panel members must participate in the deliberations.

- (1) The decision of the panel is to be rendered within five (5) work days following the conclusion of the panel hearing. Cases must be decided on the substance of the issues presented and not on compliance matters occurring before or during the hearing.
- (2) The decision is made by a majority vote of the panel voting as a whole and is recorded on Grievance Form B. The issue statement on Form B should be as complete and detailed as possible. Each panel member must review and sign the form. The panel Chair shall inform the Director of Human Resources of its decision, in writing. The Director of Human Resources will send the panel decision to the grievant, grievant's attorney, Department Head, (City Attorney if representing the City) and the City Manager within five (5) work days from receipt of such decision.
- (3) The majority decision of the Panel, acting within its scope of authority shall be final and binding and shall be consistent with the provisions of law and written policy.
- (4) Either party may petition the City of Petersburg Circuit Court for an order requiring implementation of the official Panel decision.