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	SUBJECT		EFFECTIVE DATE
	<b>Virginia Beach Police Department General Order</b> <b>Chapter 2 – Personnel Information</b>		<b>07/14/2017</b>
			ORIGINATOR/REVIEW
DISTRIBUTION		CALEA: 22.4.1, 22.4.2, 22.4.3, 26.1.6	
ALL		Chief's Staff	
BY THE AUTHORITY OF THE CHIEF OF POLICE: <i>James A. Coonan</i>			

## Purpose

To convey and establish procedures to employees of the Virginia Beach Police Department for resolving disputes and grievances arising from work related concerns.

## Policy

The Virginia Beach Police Department is committed to providing a quality work life for all employees and resolving issues at the lowest level possible within the organization. The policies and programs that follow are alternatives for employees for resolving concerns relating to the work place and/or disputing disciplinary action taken by supervisors.

### Open Door Policy

The City of Virginia Beach [Open Door Policy, No. 4.05](#), is available to all employees of the Virginia Beach Police Department. The Open Door Policy encourages two-way verbal communication between employees and their supervisors. The Open Door Policy may also be utilized as a means to discuss and/or dispute disciplinary actions taken by supervisors, however an employee may not use the Open Door Policy and the Grievance Procedure on the same issue. Procedural details on the use of the Open Door Policy may be found on the HR Policies link Page on Beachnet.

### City of Virginia Beach Grievance Policy and Procedure (CALEA 22.4.1 A, B, C, D, E, F, 26.1.6)

The City of Virginia Beach [Grievance Policy and Procedure, No. 4.04](#), is available to all eligible employees of the Virginia Beach Police Department. The objective of the City of Virginia Beach Grievance Procedure is to obtain a complete understanding of employee concerns and to have them settled as soon as possible at the lowest possible supervisory level commensurate with a fair and equitable settlement. Details on the types of issues that may be addressed by the grievance procedure, eligibility requirements, and the procedural details of the policy may be found on the [HR Policies link](#) on Beachnet.

### Law Enforcement Officers Procedural Guarantees (CALEA 22.4.1 A, 22.4.2, 22.4.3)

The Law Enforcement Officers Procedural Guarantees are provided for by the Code of Virginia. All Department of Criminal Justice Services (DCJS) certified officers, with the exception of the Chief of Police, may select an internal hearing utilizing the Law Enforcement Officers Procedural Guarantees as an alternative to the City of Virginia Beach Grievance Policy and Procedure. The internal hearing utilizing the Law Enforcement Officers Procedural Guarantees is available when a DCJS certified officer is dismissed, demoted, suspended or transferred for punitive reasons.

Procedures for requesting and conducting an internal hearing utilizing the Law Enforcement Officers Procedural Guarantees are located in Appendix I attached to this document.

The Director of Human Resources for the City of Virginia Beach is responsible for the coordination of the grievance procedures existing or utilized under city policy. The Director of Human Resources, or his designee, maintains and controls access and dissemination of all records regarding the use of the grievances filed by Department personnel. The Commanding Officer of the Office of Internal Affairs shall coordinate the requests for a hearing pursuant to the Law Enforcement Officers Procedural Guarantees. Records generated from Law Enforcement Officers Procedural Guarantees hearings shall be maintained, and access and dissemination controlled by the Commanding Officer of the Office of Internal Affairs, with copies of the grievance and findings maintained in the officer's official Human Resources personnel file.

A documented annual analysis of all proceedings covered under this directive affecting Department of Police personnel will be conducted by the Commanding Officer of the Office of Internal Affairs, or designee, who will present this information for the previous year to the Chief of Police by February 15th of each year.

### **Appendix I**

#### **Procedure for Requesting an Internal Hearing (CALEA 22.4.1 B, C, D, E, F)**

Virginia Beach Police Department Form 4A (Five Day Letter) has been formulated to accompany the Memorandum of Charges provided to the officer prior to the imposition of any of the above disciplinary actions. If after the Notice of Disciplinary Action has been finalized and one of the above actions was imposed and the officer desires to appeal through the Law Enforcement Officers' Procedural Guarantees, then the following procedures shall be adhered to:

1. In accordance with the Code of Virginia, and as delineated in Police Department form 4A, the officer has five (5) days to request, in writing, a hearing. At the time of the request, the officer must submit the name of an employee within the Virginia Beach Police Department to serve on the three-member panel.
2. Precinct/bureau commanders are designated as representatives of the agency head to select, one member from within the agency of at least equal rank of the grievant but no more than two ranks above the grievant.
3. The third member of the panel shall be from within the agency to be selected by the other two members.
4. If the two selected panel members cannot agree on a third panel member, the Chief Judge of the Virginia Beach Circuit Court shall select the third panel member from within the agency.
5. The panel shall set the date, time, and location of the hearing. The hearing shall not be set later than fourteen (14) calendar days following the date of the request for hearing, unless a later date is agreed to by the officer (grievant) or his/her counsel.
6. The Commanding Officer of Internal Affairs shall coordinate the procedures, which lead up to a hearing under the Law Enforcement Officers Procedural Guarantees.
7. The grievant may, at his or her expense, be represented by legal counsel. If the grievant elects counsel then the department may also be represented by counsel.

**General Guidelines for Panel Members:**

1. Once a panel has been selected, the panel members shall select a chairman who will coordinate the activities of the hearing.
2. The panel shall request the officer (grievant) and department representative to submit a list of witnesses they wish present at the hearing. The panel shall then notify, in writing, such witnesses to appear at the proper date, time, and location. (The panel is authorized by the Chief's Office to issue a written notice to police personnel to appear as witnesses at a hearing. Such written notice shall be deemed a direct order from the Chief of Police.)
3. The panel shall coordinate, through the Office of Internal Affairs, the recording of the hearing to assist the panel in their deliberations.
4. The panel shall decide any request for continuances after the initial hearing date has been set.
5. The recommendation of the panel shall be transmitted in writing to the officer (grievant) or his/her counsel and to the Chief of Police. Such recommendation shall be advisory only.

**Guidelines for conducting an internal hearing**

This panel has been selected in accordance with the Code of Virginia concerning the Law Enforcement Officers Procedural Guarantees. The panel members have received a copy of the report and proposed disciplinary action.

1. Has the officer (grievant) received the Memorandum of Charges and the Notice of Disciplinary Action which sets forth the charges, the basis therefore, and the action which may be taken?
2. This is not a judicial hearing, but an administrative hearing on a disciplinary matter requested by the officer.
3. Strict rules of evidence will not be followed and the panel shall determine the admissibility and probative value of the evidence to be submitted.
4. Everyone who testifies shall testify under oath.
  - a. Administer oath or affirmation.
  - b. Oath can be administered by a notary under State Code provision.
5. The burden of proof shall be on the officer (grievant) to disprove the allegations or prove the disciplinary action proposed is unjust or unfair in some manner.
6. Procedure:
  - a. The officer (grievant) or counsel for the officer shall be allowed to make an opening statement.
  - b. The department representative or counsel may make a statement.
  - c. The officer (grievant) or his/her counsel shall present his/her case and call any witnesses to testify.
  - d. After each witness has testified, the department representative, counsel, or panel members shall be allowed to ask questions.

7. After the officer (grievant) or his/her counsel has completed his/her case, the department representative or counsel shall present the department's case.
  - a. After each witness has testified, the officer or his/her counsel and panel members shall be allowed to ask questions.
8. Closing statements may be made by the department representative or counsel and then by the officer (grievant) or his/her counsel.
9. Hearings shall be recorded.
10. The recommendation of the panel shall be transmitted in writing to the officer (grievant) or his/her counsel and to the Chief of Police. Such recommendation shall be advisory only, but shall be afforded significant weight.