

State of Texas

County of Brazoria

City of Freeport-Civil Service Commission

BE IT REMEMBERED, that the Freeport Civil Service Commission of the City of Freeport, Texas met on Wednesday, March 18, 2026, at 6:00P.M. at the Freeport Council Chamber located at 430 North Brazosport Blvd., Freeport Texas for the purpose of considering the following agenda items:

Civil Service Commissioners: Tyrone Morrow, Chairman
Jose Hernandez, Vice Chairman
Kerry Moore

Staff: Danielle Kelly, DPA, City Manager,
Toby Cohen, IT Director
Jennifer Howell, Police Chief
Chris Motley, Fire Chief

Visitors:

Call to Order:

Chairman Morrow called the meeting of the Freeport Civil Service Commission to order at 6:04P.M. on March 18, 2026.

Invocation:

Vice Chairman Hernandez led the Invocation.

Pledge:

Chairman Morrow led the Pledge of Allegiance to the United States and the Pledge of Allegiance to the State of Texas.

Citizen Comments

There were no Citizen Comments.

Approval of Meeting Minutes for March 4, 2026.

A motion was made by Commissioner Moore to accept the meeting minutes as written, seconded by Vice Chairman Hernandez with all present and voting "Aye" 3-0. The Commission unanimously approved the motion.

Discussion and possible action regarding the review of Article III – Procedures and Rules of the Civil Service Commission Rules.

Article III – Procedures and Rules of the Commission

- **Section 3.01 – Commission Meeting**
- **Section 3.02 – Quorum**
- **Section 3.03 – Procedure**
- **Section 3.04 – Appeal to the Commission and Other Appearances**
- **Section 3.05 – Appeal of Commission Decisions to the District Court**

Discussion and possible action regarding the review of Article IV – Classification, Qualifications, and Appointment of the Civil Service Commission Rules.

Article IV – Classification, Qualifications, and Appointment

- **Section 4.01 – Classification of Police Officer and Firefighter**
- **Section 4.02 – Vacancies within Classified Positions (Police Officer & Firefighter)**
- **Section 4.03 – Minimum Age Requirement for Police and Fire**
- **Section 4.04 – General Requirements for the Position of Police and Fire**
- **Section 4.05 – Applications for Police Officer and Firefighter**
- **Section 4.06 – Refusal to Test (Police Officer & Firefighter)**
- **Section 4.07 – Background Investigation (Police Officer & Firefighter)**
- **Section 4.08 – Entrance Examination (Police Officer & Firefighter)**
- **Section 4.09 – Grading of the Entrance Examination (Police Officer & Firefighter)**
- **Section 4.10 – Physical Agility Test (Police Officer & Firefighter)**
- **Section 4.11 – Eligibility List (Police Officer & Firefighter)**
- **Section 4.12 – Removal from the Eligibility List (Police Officer & Firefighter)**
- **Section 4.13 – Appointment to Beginning Position: Medical and Psychiatric Examination (Police Officer & Firefighter)**
- **Section 4.14 – Probationary Period (Police Officer & Firefighter)**
- **Section 4.15 – Reappointment as a Police Officer or Firefighter after Voluntary Resignation**

Discussion with Fire Chief Chris Motley to discuss Civil Service matters including:

- **Entry-level hiring eligibility**
- **Promotional eligibility**
- **Seniority calculations**
- **Disciplinary actions and appeals**
- **Hearing process timelines**

Fire Chief Chris Motley presented the attached presentation titled “Exhibit A” and provided a comprehensive review of civil service matters affecting the Freeport Fire and EMS Department.

Discussion with Police Chief Jennifer Howell to discuss Civil Service matters including:

- **Entry-level hiring eligibility**
- **Promotional eligibility**
- **Seniority calculations**
- **Disciplinary actions and appeals**
- **Hearing process timelines**

Police Chief Jennifer Howell presented the attached presentation titled “Exhibit B” and provided an overview of policies and procedures governing the Freeport Police Department.

The Commission planned to review Article 5 (promotion eligibility) and Article 6 (compensation) at the next meeting.

Police Chief Jennifer Howell noted that the police department's current pay matrix would be changed for the next budget year, as council had directed a complete revision due to inadequate step increases that were sometimes less than one percent.

Fire Chief Chris Motley mentioned that the fire department had been removed from step raises, creating challenges when competing for candidates from agencies with collective bargaining agreements who know their future salary progression.

The Commission discussed establishing opportunities for individual police and fire department employees to address the commission. Police Chief Jennifer Howell explained the shift schedules, noting that police work on alternating red and blue shifts (days and nights) that rotate every other Wednesday.

The Commission recognized the importance of giving all employees the opportunity to be heard as civil service rules are developed. After discussion about logistics and scheduling challenges, they decided to establish a standing agenda item for employee input.

A motion was made by Chairman Morrow for the next 8 meetings to put a line item as part of the agenda for any public servant from police, fire, or EMS that wants to address the commission at the beginning of meetings, seconded by Commissioner Moore with all present and voting “Aye” 3-0. The Commission unanimously approved the motion.

The Commission agreed to develop a standard set of questions to ask employees, similar to those posed to the chiefs, covering topics like disciplinary processes, promotional procedures, and service credit policies. These questions would be prepared and included in future agendas so employees could be prepared.

Updates from City Manager Dr. Danielle Kelly on issues pertaining to the Civil Service Commission.

Updates from City Attorney Christopher Duncan regarding items referred for clarification from Civil Service attorney contacts, including:

- Alvin Policy – Article I, Section 1.04, Sentence #4 Clarification of the phrase “current illegal use of drugs” and consideration of including language referencing illicit drugs.
- Alvin Policy – Article II, Section 2.07, Sentence (a) Clarification regarding which ranks the provision applies to and interpretation of the policy language.

Adjourn:

A motion was made by Commissioner Moore to adjourn, seconded by Vice Chairman Hernandez.

Chairman Morrow adjourned the meeting at 7:23P.M.



Tyrone Morrow

Chairman, Freeport Civil Service Commission



**CITY OF FREEPORT
FREEPORT FIRE & EMS DEPARTMENT**

*131 East 4th Street
Freeport, Texas 77541
Phone (979) 233-2111
Fax (979) 233-4103*

Christopher Motley
Chief / EMC

Mike Praslicka
Deputy Chief

Paul Pennington
Fire Marshal

March 18, 2026

Dear Commissioners,

As we transition into a civil service agency, I have reviewed tonight's agenda items related to civil service matters, including entry-level hiring eligibility, promotional eligibility, seniority calculations, disciplinary actions and appeals, and hearing process timelines.

The Freeport Fire & EMS Department is a relatively small organization, currently staffed with a total of nineteen employees. The administrative division consists of the Fire Chief, two Deputy Chiefs (EMS Coordinator and Fire Marshal), and one administrative assistant. Our operations staff includes three Fire/EMS Lieutenants, three Driver/Operators, and nine Firefighter/EMTs. On an as-needed basis, the department utilizes six temporary part-time Firefighter/EMT positions and six temporary part-time EMS-only employees to backfill staffing shortages. Additionally, the department is in the process of adding three firefighter positions through a FEMA Assistance to Firefighters Grant (AFG).

Given the size and structure of our department, careful consideration should be given to how civil service rules and processes are implemented to ensure they are both effective and practical for an organization of our scale. Flexibility and clarity in these policies will be essential to maintaining operational efficiency while ensuring fairness and compliance.

In preparation for this meeting, I have compiled a review of a few fire and EMS agencies our size operating under civil service systems. Based on this research, I have developed written recommendations regarding entry-level hiring eligibility and promotional eligibility. In addition to these recommendations, I have included a policy currently utilized by the department that aligns with FEMA AFG compliance requirements for internal investigations. This document reflects the same processes used for internal investigations, in accordance with the Texas Local Government Code. EMS service and operational complaints or investigations are conducted under the direction of the Texas Department of Health and Human Services a part of the quality assurance program. Relevant sections of the City of Freeport Personnel Handbook were also referenced to support this discussion.

Regarding the agenda item on seniority calculations, a detailed analysis was not completed for this review; however, a recommended provision includes a minimum of two years of service prior to promotion eligibility. The agencies reviewed provided limited guidance in this area, and care was taken to avoid confusion with departments operating under collective bargaining agreements (CBA) or meet-and-confer agreements.

Visit us online at www.freeport.tx.us
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Additionally, I would like to see further agenda discussion on CSC Rules and Regulation on Firefighter Lateral Program, Non-classified firefighters: temporary part-time firefighter and EMS personnel, temporary leave line of duty illness or injury leave. As Commissioner develop the CSC rules & Regulations there will be more development addressing expectation of Freeport Civil Service.

I appreciate your time and consideration on these matters and look forward to continued discussion.

Respectfully

Christopher D. Motley
Fire Chief / EMC

Attachments:

- Physical Requirements and Examination
- Eligibility For beginning Position
 - Cause for rejection
 - Fire department Promotional examination
- Entrance Examination
 - Eligibility of child of fallen Firefighters
- Reappoint of Police Officers but include Firefighters
- Disciplinary Suspensions
- Disciplinary Actions and Appeals
- Hiring Process Timelines
- FFED SOP 139 Internal Investigation
- Fire Fighter Lateral Entry Program (example)
- City of Freeport: Application Process-revised 02/20/2024

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SECTION 143.022—PHYSICAL REQUIREMENTS AND EXAMINATION

See Section 143.022, Chapter 143

- A. **GENERAL REQUIREMENTS**—Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the respective Department Heads to be reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. An applicant who is not capable of performing the essential job functions with or without reasonable accommodation shall not be appointed.
- B. **ENTRY LEVEL APPEALS**—If an applicant is not appointed due to failure to successfully pass the medical or psychological examination, the applicant may appeal to the Civil Service Director within 120 hours of notification of rejection.
- C. **PROMOTIONAL REQUIREMENTS**— Any candidate for promotion shall successfully complete an appropriate medical/physical examination. An official Department examination taken within six (6) months of promotion test date may be used for this requirement. A promotional candidate who is on approved medical leave will be required to pass the physical/medical examination after receiving the appropriate release

SECTION 143.023—ELIGIBILITY FOR BEGINNING POSITION

See Section 143.023, Chapter 143

- A. **EMPLOYMENT STANDARDS**—To the extent that employment standards for an entry-level firefighter and police officer as provided in the Civil Service Classification Plan exceed the requirements of Chapter 143 and other applicable State laws, any of such entry-level employment requirements not prescribed by State laws may be waived by the Fire Chief or Police Chief with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department or Police Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City. Any changes under this Section shall be based on ~~each hiring process~~ a case by case review.
- B. MINIMUM QUALIFICATIONS FOR A CIVIL SERVICE ENTRY-LEVEL FIREFIGHTER ARE ESTABLISHED AS FOLLOWS:
1. Be at least 19 years of age and less than 36 years of age at time of hire (*Note: Need further discussion upper age limit. CSC Rules & Regulation have changed the upper age limit to 41 years old. Is this a local limit?*)
 2. Meet requirements for City employees as found in the City of Freeport Charter and personnel policies
 3. Be a citizen of the United States by birth or naturalization
 4. Be a graduate of an accredited high school or have an equivalency certificate
 5. Be able to read, write and speak English language.
 6. Be of good moral character.
 7. Achieve a minimum score of seventy (70) percent on the written examination.
 8. Successfully complete *the physical fitness and/or* physical ability test
 9. Pass oral interviews
 10. Pass a background investigation.
 11. Successfully complete a post-job offer psychological examination and medical examination that includes passing a visual acuity test, and physician certification that the applicant is not dependent on and does not use illegal drugs
 12. **Agree to, sign, and comply with the City of Freeport Fire & EMS Department Conditions of Employment Training Agreement related to successful completion of paramedic training.**
 13. Possess at least, a valid Texas Class C and be able to obtain a Texas Class B exempt driver's license from the Texas Department of Public Safety within six (6) months of the date of hire.
 14. Possess a certification as a basic firefighter, as established by the Texas Commission on Fire Protection, or may become certified at the time of appointment. At or before the time of entrance examination, applicants shall provide either (1) evidence of certification issued by the Texas Commission on Fire Protection; or (2) evidence of current enrollment in a basic recruit fire training academy approved by the Texas Commission on Fire Protection;

Possess a certification from the Texas Department of State Health Services (TDSHS) as an EMT-Basic or higher. At or before the time of entrance examination, applicants shall provide either (1) an EMT Certificate issued by the TDSHS, or (2) evidence of current enrollment in an EMT course approved by the TDSHS. (this certification will not be allowed to lapse during employment);

15. If requested by the Fire Chief, and with the concurrence of the Civil Service Commission at the time it approves the eligibility list, applicants who possess both firefighter and paramedic certifications on the eligibility list may be given preference, regardless of their list positions.
16. Applicants shall provide evidence of dual certification at the time they take the test, or no later than the time the eligibility list is approved, if they seek to demonstrate eligibility for preference.
17. If preference is given, applicants who possess both certifications shall be considered in the order of their test scores on the entrance examination. After all dual certified applicants have been considered, those with a single certification will be considered in order of their test scores on the entrance examination.
 - a. If requested by the Fire Chief, and with the concurrence of the Civil Service Commission at the time it approves the eligibility list, applicants who possess certifications on the eligibility list may be given preference, regardless of their list positions in the following order: 1) dual-certified fire fighter/paramedic candidates, 2) paramedic candidates, and 3) firefighter/EMT candidates.
 - b. Applicants shall provide evidence of certification at the time they take the test, if they seek to demonstrate eligibility for preference. NOTE: Out of state applicants must determine their Texas Certification ability with the Texas Commission on Fire Protection and the Texas Department of State Health Services.

C. MINIMUM ELIGIBILITY REQUIREMENTS FOR CIVIL SERVICE ENTRY-LEVEL POLICE OFFICERS ARE ESTABLISHED AS FOLLOWS

Left Blank for Law Enforcement

Need further research into the Deputy Chief – Fire Marshal eligibility.

If requested by the Fire Chief, and with the concurrence of the Civil Service Commission at the time it approves the eligibility list, applicants who possess TCOLE certification who are on the eligibility list may be given preference, regardless of their position on the list. Applicants shall provide evidence of TCOLE certification at the time they take the test, or no later than the time the eligibility list is approved, if they seek to demonstrate eligibility for preference.

If preference is given, applicants who possess TCOLE certification shall be considered in the order of their final test scores on the entrance examination. After all certified applicants have been considered, the non-certified applicants will be considered, in order of their final test scores on the entrance examination.

SECTION 143.023—ELIGIBILITY FOR BEGINNING POSITION

See Section 143.023, Chapter 143

CAUSE FOR REJECTION FOR FIREFIGHTERS AND POLICE OFFICERS

1. Prior to the time that a vacancy may be filled from an eligibility list, the Department Heads of the respective Departments shall be entitled to inquire into the backgrounds of the successful applicants. Such inquiry may include a background investigation, criminal record check and such other inquiries that the Head of the respective Departments desires to make prior to appointment.
2. Applicant fails to pass any part of the entrance examinations.
3. Applicant fails to make application in the manner prescribed in the notice of examination, and/or fails to file the application with the Director within the time limits prescribed in the notice of examination.
4. Applicant fails to meet minimum standards for Initial Licensure as set forth by Texas Commission on Law Enforcement for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for firefighter candidates.
5. Applicant is not a citizen of the United States of America by birth or naturalization. The applicant shall be considered disqualified until citizenship is obtained in compliance with federal laws.
6. Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant shall be disqualified until the deficiency is corrected.
7. Applicant is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation.
8. Applicant has been convicted of or admitted to conduct which constitutes a felony under state or federal law, to include UCMJ. Conviction of or admission to conduct that constitutes a felony shall result in permanent disqualification.

Conviction of or admission to conduct that constitutes a Class A or Class B Misdemeanor shall result in a temporary rejection. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency.

This subsection does not apply to admission of conduct which constitutes the use of illicit substances, the use of intoxicants, or the abuse/misuse of prescription medications, as these admissions are addressed by a separate subsection;

- a) Applicant has made any false statement in any material fact; withheld information, practiced or attempted to practice any deception or fraud in his/her application, examination or appointment. Depending on the variables involved, rejection may be either permanent or temporary;
- b) Applicant fails to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify the department of changes in address or telephone numbers, failure to properly complete any or all applications materials, or who otherwise fails to complete application process.

- c) Applicant fails to satisfactorily complete the oral interview process. An applicant shall be disqualified for failure to verbally communicate effectively and appropriately; failure to demonstrate an understanding of the roles and responsibilities of a fire fighter or police officer; failure to present the maturity expected of a fire fighter or police officer; or failure to accurately and precisely respond to the questions of the interviewers;
- d) Applicant has used illicit substances as indicated by the following guidelines:

An applicant may be temporarily or permanently disqualified if it has been determined by the City that the applicant has participated/admitted in conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants. Conduct involving excessive and/or recent use of illicit substance(s) or excessive use of intoxicants shall be considered on a case-by case basis with consideration given to circumstances and recency.

An applicant may be temporarily or permanently disqualified if it has been determined by the City that the applicant has participated in conduct which constitutes abuse of legally obtained prescription medications, or illegal use of the prescription medications of another person. Conduct involving the abuse and/or misuse of prescription medications shall be considered on a case-by-case basis with consideration given to circumstances and recency.

- e) Applicant has been convicted of, admitted to, received deferred adjudication or pre-trial diversion for DWI/BWI/FWI/DUI within the past two (2) years **(Note: The department is seeing probation prior to judgement)** or violations exceeding three (3) events (moving violations or preventable accidents) within the preceding thirty-six months. An applicant shall be temporarily disqualified until he/she can meet the above standards.

Lesser, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City shall be temporary disqualifications. Reapplication shall be permitted when the applicant can meet the above standards;

- f) Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent;
- g) Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in requalification;

- h) Applicant has exercised poor judgment skills within the past three (3) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed;
- i) Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; a history of employment in an illegal occupation. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a three (3) year period. Due to the variables involved, each situation shall be considered on a case-by-case basis.
- j) Applicant has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Law Enforcement or the Texas Commission on Fire Protection and/or the Texas Department of State Health Services. Rejection for this cause shall be temporary until applicant can meet those standards. Rejection for this cause shall be temporary until applicant can meet those standards;
- k) Applicant has been discharged from any military service under less than honorable conditions, including specifically:
 - i. Under other than honorable conditions;
 - ii. Bad conduct;
 - iii. Dishonorable; or
 - iv. Any other characterization of service indicating bad character;
- l) Applicant fails to return a completed Personal History Statement at a time designated by the Department Head; **Is this an existing document in the process**
- m) The Director or designee shall provide written notification to each applicant of his/her rejection during the testing process.

(Review between several CSC Rules & regulation on recommendations).

- 9. Applicant has been convicted of or admitted to conduct which constitutes a felony under state or federal law, to include the UCMJ. Conviction of or admission to conduct that constitutes a felony shall result in permanent disqualification. (See 11a for application to marijuana usage).
- 10. An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation for any offense.

11. An applicant shall be permanently disqualified if it has been determined by the City that the applicant has admitted to, conduct that constitutes illegal use of felony grade substances as defined in the Texas Penal Code.
 - a. Use of marijuana or related marijuana substances are covered by the below guidelines:
 - b. An applicant may be temporarily or permanently disqualified if it has been determined by the City that the applicant has admitted to conduct which constitutes excessive and/or recent use of marijuana or related marijuana substances within the last twenty-four (24) months prior to application. Conduct involving excessive and/or recent use of marijuana or related marijuana substances shall be considered on a case-by-case basis with consideration given to circumstances and recency.
 - c. An applicant may be temporarily or permanently disqualified if it has been determined by the City that the applicant has admitted to conduct which constitutes an abuse of legally obtained marijuana or related marijuana substance medication(s) or illegal use of the prescribed marijuana medication(s) of another person. Conduct involving the abuse and/or misuse of medicinal marijuana and/or related marijuana substances shall be considered on a case-by case basis with consideration given to circumstances and recency.
12. The applicant's entire driving record will be examined on a case-by-case basis, but these facts will result in automatic disqualification: no more than three (3) moving violations within the past 24 months; no DWI/DUI convictions within the past five (5) years; more than two (2) at-fault accidents within the past 24 months; a driver's license that is currently suspended, revoked, or expired; hit and run (leaving the scene of an accident) within the last 10 years; a suspension of the driver's license for any reason within the last five (5) years, a conviction for failing to maintain financial responsibility within the last 12 months (disqualifies applicant for three (3) years from the date of conviction), currently on probation for any traffic offense.
13. Applicant fails post-offer physical and/or psychological examinations.

Section 143.030 Eligibility for Fire Department Promotional Examination

See Section 143.030, Chapter 143

1. The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Fire Department.
2. A fire fighter's prior service with the City does not count toward meeting the two (2) year requirement established in 143.030(b) and (e). A fire fighter rehired is not given credit for prior service to determine eligibility to take a promotional examination. **(Note: Returning firefighter to the department who left on good terms, receiving credit for previous years of service with this department be counted.**
3. Any person who has been demoted to a lower rank is not eligible to take a promotional examination for a period of two (2) years from the date of demotion. Section 143.031.
4. For purposes of determining years of service as they relate to eligibility for promotion and seniority, only complete years worked in the appropriate Department by a member of the Fire Department for the City shall be considered in computing eligibility and seniority

SECTION 143.025—ENTRANCE EXAMINATIONS

See Section 143.025, Chapter 143

Application for employment shall be made to the Director on the appropriate application forms

E. ELIGIBILITY OF CHILD OF FALLEN FIREFIGHTER

1. Each applicant who is either a natural born or adopted child of a firefighter who previously suffered a line of duty death while serving as a Civil Service employee covered by Chapter 143 of the Local Government Code shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam. The deceased firefighter's applicant child must otherwise satisfy all of the requirements for eligibility for a beginning position in the Fire Department as contained in Chapter 143, these Rules, or in the Rules and Regulations of the Fire Department.
2. The Director shall include appropriate questions on the City's entry-level application for firefighters to ascertain whether or not an applicant is eligible for the preferred ranking as specified herein.

SECTION 143.0251—REAPPOINTMENT OF POLICE OFFICERS FIRE FIGHTERS

See Section 143.0251, Chapter 143

- A. A firefighter ~~police officer~~ who has voluntarily resigned in good standing from the City of Freeport Fire & EMS ~~Forney Police~~ Department may be reappointed as a fire fighter ~~Police Officer~~ with the Department without taking another entrance examination or being placed on an Eligibility List.
- i. The former fire fighter ~~officer~~ shall submit a written request to be reappointed at any point in time from the date of separation to the Fire Chief ~~Police Chief~~, who makes the final recommendation to the City Manager for reappointment. A candidate for reappointment shall not be considered unless recommended by the Fire Chief ~~Police Chief~~. A candidate for reappointment may not appeal his/her rejection.
 - ii. Prior to recommending the reappointment of a former classified employee to the Department, the Fire Chief ~~Police Chief~~ may review past performance records of the fire fighter, conduct a background investigation, require appropriate alcohol and drug tests and require any other portion of the employment process he/she deems appropriate.
 - iii. Successfully complete the physical fitness and/or physical ability test.
 - iv. Upon receiving an offer of reappointment, the fire fighter ~~Police Officer~~ shall pass a physical and psychological examination prescribed by the City.
 - v. A candidate for reappointment shall fully meet the requirements of the Texas Commission on Fire Protection and Texas department of Health ~~Law Enforcement~~.
 - vi. A candidate for reappointment may be appointed regardless of the availability of a list of eligible applicants. A candidate for reappointment has priority over candidates on a list of eligible applicants.
 - vii. In addition to the reasons for rejection listed in Section 143.023, a candidate for reappointment may be rejected for reasons related to previous work performance as a fire fighter ~~Police Officer~~.
 - viii. Any candidate reappointed to the Fire/EMS ~~Police~~
 - ix. -Department shall serve a one (1) year probationary period, and prior service shall not count towards eligibility for a promotional examination.
 - x. The candidate's years of prior service may be counted to determine placement in the salary step system and shall retain Civil Service seniority that existed at the time of resignation.
 - xi. The candidate's years of prior service shall not count for determining vacation eligibility and rate.
 - xii. Age limitations, as provided under Section 143.023, do not apply to reappointments.
 - xiii. Reappointment candidates' years of prior service shall not count for determining longevity pay.

DISCIPLINARY ACTIONS

Section 143.051 - Cause for Removal or Suspension

See Section 143.051, Chapter 143

- A. The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Freeport:
1. Indictment, deferred adjudication or other deferred disposition, or conviction of a felony, State Class A or B misdemeanor, federal misdemeanor, or other crime involving moral turpitude;
 2. Violation of the provisions of the Charter of the City of Freeport
 3. Acts of incompetency;
 4. Neglect of duty;
 5. Discourtesy by said employee to the public or to fellow employees;
 6. Acts of said employee showing a lack of good moral character; as defined in Departmental Rules;
 7. Drinking of intoxicants while on duty or intoxication while off duty;
 8. Conduct prejudicial to good order;
 9. Refusal or neglect to pay just debts;
 10. Absence without leave;
 11. Shirking duties;
 12. Cowardice;
 13. Violation of any of the rules and regulations of the Fire Department or General Orders of the Police Department; or of special orders as applicable; or of these Rules and Regulations; or of any of the City Personnel Policies; or of any other City Ordinance or Policy applicable to Police and Fire/EMS Department employees;
 14. Insubordination;
 15. Dishonesty;
 16. Failure to gain and maintain licensing and certification by the Texas Commission on Law Enforcement for Police Officers and as required by the Texas Commission of Fire Protection Personnel Standards and Education for Firefighters.
- B. All Firefighters and Police Officers are required to sign for receipt of a copy of the Rules and Regulations of their Department. The Department Heads shall maintain all electronically and/or printed format receipts.
- C. Ignorance of the Rules and Regulations or special orders of the Fire Department or the Police Department is not an excuse for their violation.

SECTION 143.052—DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

- A. For a suspension, a determination of what constitutes “cause” is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her Department, who is also mindful of the responsibilities and needs of his/her Department and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should not have done) under similar circumstances.
- B. Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline, if in the opinion of the Department Head, the employee’s misconduct warrants more severe disciplinary action.

1. WORKING OFF SUSPENDED TIME

- a) A classified employee in the Police or Fire Department who is suspended up to 40 hours in the Police Department or up to 72 hours in the Fire Department may, upon agreement between the employee and the respective Department Head, forfeit vacation or holiday leave for a period equal to the time of the suspension.
- b) The employee shall be required to work on the forfeited days. The provisions of this Section shall apply solely to a suspension which is agreed to by the employee and no appeal to the Commission, to a Hearing Examiner, or to a court of competent jurisdiction may be instituted on a suspension where the employee has agreed to the suspended time.

Remaining pages behind this page address:

Disciplinary actions and appeals

Hearing process timelines

and/or printed format receipts.

- C. Ignorance of the Rules and Regulations or special orders of the Fire Department or the Police Department is not an excuse for their violation.

SECTION 143.052—DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

- A. For a suspension, a determination of what constitutes “cause” is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her Department, who is also mindful of the responsibilities and needs of his/her Department and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should not have done) under similar circumstances.
- B. Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline, if in the opinion of the Department Head, the employee’s misconduct warrants more severe disciplinary action.

1. WORKING OFF SUSPENDED TIME

- a. A classified employee in the Police or Fire Department who is suspended up to 40 hours in the Police Department or up to 72 hours in the Fire Department may, upon agreement between the employee and the respective Department Head, forfeit vacation or holiday leave for a period equal to the time of the suspension.
- b. The employee shall be required to work on the forfeited days. The provisions of this Section shall apply solely to a suspension which is agreed to by the employee and no appeal to the Commission, to a Hearing Examiner, or to a court of competent jurisdiction may be instituted on a suspension where the employee has agreed to the suspended time.

SECTION 143.053—APPEAL OF DISCIPLINARY SUSPENSION

See Section 143.053, Chapter 143

- A. **SCOPE OF MATTERS SUBJECT TO APPEAL**—The following disciplinary matters are subject to appeal:

1. indefinite suspension;
 2. temporary suspension;
 3. restored to the person's former position or status I the department's classified
 4. demotion; and/or
 5. promotional pass over.
 - a. Employee dissatisfaction because of transfer, reassignment, discretionary policy decisions or policy matters is not and shall not constitute a basis for appeal to the Commission.
 - b. Letters of reprimand are not subject to appeal to the Commission.
 - c. If an employee wishes to appeal an action that is subject to appeal, the employee shall give written notice to the Director as provided under §143.010. If the appeal is timely and valid, the Director shall arrange to have an appeal hearing placed on the Commission's agenda or obtain a panel of qualified and neutral third-party hearing examiners, as provided by §143.057. The Commission does not have jurisdiction to hear any disciplinary matter unless the employee timely files a notice of appeal.
 - d. An employee who has voluntarily resigned or retired from his/her position forfeits all rights to utilize the disciplinary appeal processes.
 - e. An employee may voluntarily enter a written agreement with the Fire Chief or Police Chief that expressly evidences his/her intent finally to resolve the issue(s) of any type of disciplinary action imposed, and that agreement may be referred to as a Last Chance Agreement. The agreement shall also include a statement that the employee waives all rights to appeal.
- B. OPTIONS FOR DISCIPLINARY HEARINGS**—At any time after filing the original notice of appeal but before either party has incurred Hearing Examiner expenses, an employee may withdraw the original request for the Hearing Examiner and either completely waive his/her right to appeal or submit the appeal to a hearing before the Commission. The election shall be made in writing and filed with the Director.
- C. DIRECTOR TO COORDINATE ALL MATTERS**—The location and accommodations for a hearing or appeal shall be arranged by the Director.
1. All subsequent matters raised by the appealing employee or the Department ("the parties") regarding attendance, scheduling, requests for subpoenas, requests for continuance, etc., shall be coordinated through the Director. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or

representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated by an outside agency, that agency shall also provide coordination services between the parties and the Hearing Examiner in conjunction with the Director.

2. The Chairperson of the Civil Service Commission is authorized to act on behalf of the Commission in issuing subpoenas for appeals.
 3. The Commission or any hearing examiner may receive a request for a continuance of a matter pending before the tribunal. Any request for a continuance must be filed with the Director or the Hearing Examiner at least three (3) business days before the date of the hearing. The Commission or any hearing examiner may or may not grant such request. The Commission or any hearing examiner is not required to grant any request for continuance; however, the granting of such a request shall never operate to divest the tribunal of jurisdiction because of the passage of time.
- D. EXPENSE AND COSTS**—The appropriate amount, as well as payment of all costs and expenses, may be determined and collected by the Director. An employee may receive an estimate of anticipated costs upon written request to the Director. All costs charged by the court reporter shall be split equally between the parties.
1. When applicable, the State law governing the doctrine of “mitigation of damages” shall be applied in computing reimbursements or an offset from an award of back pay.
- E. FAILURE TO ATTEND SCHEDULED HEARING**—The Commission or Hearing Examiner shall treat the appealing employee’s failure to attend a scheduled appeal hearing or to file a timely request for a continuance as a request to withdraw the appeal. The failure of a party to appear and timely attend a scheduled appeal hearing shall not prevent the Commission from proceeding to convene the hearing, receive evidence and conclude the hearing by resolving the issues on appeal.
- F. EMPLOYEE AND DEPARTMENT REPRESENTATIVES**—The hearing process shall recognize the right of the employee, as well as the Department, to be represented throughout the appeal. However, only one representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.
1. An employee or Department representative shall use his/her best efforts to conclude all proceedings smoothly, expediently, and as fairly as possible to all concerned.
 2. The function of the representative shall be to articulate the best interests of the employee or the Department represented and to make his/her presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.
 3. A representative or an employee who represents him/herself shall become familiar with

and follow these Rules and Regulations at all times during the disciplinary appeal process.

4. A problem or concern regarding the manner in which the opposing party or his/her representative is handling a particular disciplinary appeal should be brought to the attention of the Director. The difficulty shall be expeditiously addressed.
- G. LIMITED DISCOVERY**—The Texas Rules of Evidence, and all other Texas Rules of Procedure, whether civil or criminal, regarding what is commonly known as “discovery” shall not apply to any Civil Service proceedings. Mediation and arbitration rules and processes do not apply to any Civil Service hearings.
1. Items from Departmental policies, rules and regulations manuals may be photocopied. Items such as Accident Review Board recommendations, time and attendance records, duty status forms and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.
 2. An employee and his/her representative may obtain copies of documents contained in the employee’s own personnel files after the employee has signed the appropriate release form(s). If information is contained in the department head’s confidential personnel file, the parties must execute a Protective Order.
- H.** If the Rules of Procedure do not address an issue, then the Commission shall rely upon the provisions of Chapter 143. If the issue remains unresolved, the Commission may adopt such procedures as deemed necessary, in the sole discretion of the Commission, to resolve the disputed matter. These Rules shall also apply in the event a hearing examiner is selected to hear the appeal provided that in no event may a hearing examiner adopt any rule or procedure without the express written concurrence of the Commission.
- I.** The parties shall promptly provide all information intended to be used by each party and witness lists to each other three (3) calendar days prior to the hearing. The failure to provide such information may operate to bar the party proffering from using the evidence or the witness, unless good cause for failure to comply with this Rule is presented. The Commission shall determine whether good cause exists.
- J. FORMAT OF APPEAL HEARINGS**—The format for an appeals hearing before the Commission shall be as follows:
1. City’s opening statement
 2. Employee’s opening statement
 3. The City’s (Department’s) case:
 - a. Direct testimony of witness

- b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 4. Employee's response:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 5. Rebuttal by the City, if any:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 6. City's closing argument
- 7. Employee's closing argument
- 8. City's rebuttal
- 9. Deliberation by the Commission in Executive Session
- 10. Decision

K. HEARING PROCEDURES

- 1. At the scheduled time and place, the hearing shall be called to order. The Chairperson of the Commission shall preside over all hearings.
- 2. Each party shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. Each party shall bring at least six (6) copies of all

documents or exhibits to be considered by the Commission at the hearing, if the appeal is before the Commission. A fewer number is required if before a hearing examiner.

3. A record of the public proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.
4. After being called to order, but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests or jurisdictional matters as submitted by either party. The parties shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may "carry" such pre-hearing motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.
5. Upon request by either party, the hearing process shall utilize what is commonly known as "the Rule" concerning oral testimony, meaning that a person who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when he/she is actually testifying as a witness. "The Rule" may be used to ensure one witness' testimony is not influenced by another's testimony. While under "the Rule," a potential witness shall not discuss any aspect of the appeal or hearing except with the attorneys or the representatives involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement between the parties.
6. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.
7. The City shall make the first presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her own evidence, witnesses or testimony. Thereafter, the City may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as possible. Throughout the proceedings, a Commission member may also ask questions as needed in order to aid his/her consideration of the testimony or evidence.
8. A witness may be sworn and his/her testimony taken under oath or affirmation. A witness is subject to reasonable and relevant cross-examination by the opposing party.
9. The Chairperson shall exercise reasonable control over the questioning of a witness and the presentation of evidence so as to:
 - a. effectively ascertain the truth;
 - b. keep such presentations relevant to the issues to be determined; and

- c. avoid the needless consumption of time and expense.
- 10. A party and his/her representative shall cooperate in keeping all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission may establish equal time limits for presentation of each side of the case.
- 11. The Commission shall exercise control over the proceedings to be sure that an effective assessment of the truth is made of only the issues before the Commission in as brief a manner as possible and without the harassment or undue embarrassment of any witness. Only evidence relevant to the issues before the Commission shall be heard. The Commission shall control the length of time expended during the hearing, when such hearing shall commence, recess and adjourn.
- 12. A hearing shall remain business-like and focus upon resolution of factual matters. A hearing shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting that deteriorates into a "shouting match" or where fruitful dialogue ceases.
- 13. Before adjourning, the Commission may adjourn to Executive Session to deliberate. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, vote upon its decision. Thereafter, a written Order containing the Decision shall be prepared and signed by the Commissioners prior to adjourning the hearing.

L. RULES OF EVIDENCE

- 1. Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Evidence, and all other Texas Rules of Procedure, whether civil or criminal, shall not apply nor govern any aspect of any Civil Service proceeding.
- 2. The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters material and probative to the statement of charges as set forth in the Department's written statement, the employee's notice of appeal and the employee's previous employment record with the Department.
- 3. Either party may offer such material and probative evidence as he/she may desire to aid in the determination of disputed issues.
- 4. It shall be the province of the Commission to determine:
 - a. The admissibility of any particular evidence or testimony;
 - b. The materiality or probative value, of any evidence or testimony; and
 - c. The weight to be given to any particular evidence or testimony.

5. Subject to limited exceptions for compelling reasons shown by a party, the Commission shall refuse to hear or consider any testimony or item of evidence after the hearing has been closed.
6. On-site inspections are discouraged and shall be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.
7. All evidence and testimony shall be presented and received into the record while in open session.

M. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

1. Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:
 - a. Did cause exist to support the imposing of some form of disciplinary action as to the employee?
 - b. Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? And
 - c. Has the hearing process developed matters that justify or compel modification of the Department Head's disciplinary action?
2. The Department Head shall establish the violation(s) by a preponderance of evidence standard.
3. It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action. However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Department Head's decision to proceed directly to the appropriate level of discipline if the employee's misconduct warrants such disciplinary action, including indefinite suspension. Progressive discipline need not always apply and the seriousness of a single offense may negate a previously unblemished record. The past practices of the Department shall not be controlling as to any future actions. Such pattern by the Department may be considered, if at all, only as mitigation or justification.
4. The hearing shall provide the employee a reasonable opportunity to produce objective evidence and/or testimony to demonstrate:
 - a. That the employee did not commit the misconduct as alleged, i.e., "the allegations are not true"; or

- b. That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or
 - c. That even if the employee committed actionable misconduct, the degree of discipline imposed is too harsh or severe, i.e., the disciplinary action imposed was “unreasonable, arbitrary or capricious”; or
 - d. A combination of any of these matters would justify or compel modification of the Department Head’s action.
- 5. An employee’s mere disagreement or difference in opinion in regard to the Department Head’s actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.
 - 6. If the Commission determines one valid charge of misconduct is supported by evidence sufficient to establish its truth, the Commission shall sustain that charge even if the evidence at the hearing does not support other charges in the letter of disciplinary action.
 - 7. The Commission will consider only evidence that is directly relevant to the disputed items. This evaluation of the evidence shall be the sole province of the Commission (or hearing examiner).The Commission shall base its decision solely on evidence presented at the hearing.

N. FINDINGS AND ORDERS OF THE COMMISSION

- 1. On the basis of the evidence and testimony presented at the hearing, the Commission shall vote in open session and issue a decision on the matter via a written Order finding the truth of the specific charge(s) against the employee, or a written Order finding that the specific charge(s) against the employee is not true.
- 2. The Commission’s decision may be made by the majority vote of two of the three Commissioners present. If only two Commissioners are present, the final decision shall be made unanimously.
- 3. In the event that the charge(s) of misconduct against the employee is found to be “not true,” then the final written Order shall be promptly issued to restore the employee to the employee’s proper position or status.
- 4. In the event that the charge(s) of misconduct against the employee is found to be “true,” then the written final Order shall clearly state whether the employee is:
 - a. Permanently dismissed from the Fire or Police Department;

- b. Temporarily suspended from the respective Department and shall then set forth the definite time period and conditions of suspension which shall be imposed;
 - c. Demoted (See Section 143.054);
 - d. Bypassed for promotion; (See Section 143.036(f); or
 - e. Restored to the former position or status.
5. The final Order on a disciplinary appeal shall also include such other matters as to resolve the issues under consideration, particularly:
 - a. The employee's resulting employment status;
 - b. Back pay and other employment benefits; and/or
 - c. Mitigation of damages.
6. A copy of the Order will be served on both parties and filed with the Director. The Order will indicate any reason for modification of the Department Head's action.
7. If modifying the disciplinary action of the Department, the Order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the Department, it shall be presumed to be for the same reasons and facts as presented by the Department unless otherwise indicated.
8. The Commission may consider evidence of facts or events during the disciplinary appeal process that are outside the scope of the Department's statement of charges or the employee's notice of appeal to the extent permitted by law.
9. A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, a copy of the exhibits submitted together with a copy of the final Order shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations.

SECTION 143.054—DEMOTIONS

See Section 143.054, Chapter 143

- A. The Commission's consideration of whether there is probable cause to support the Department Head's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Commission's letter to the employee shall include the Hearing Examiner option under

Chapter 143.

- B. After the Commission has determined that probable cause exists for a requested demotion and has provided the employee with a written Notice as per Chapter 143, the action for appeal of the demotion may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143.

SECTION 143.055—UNCOMPENSATED DUTY OF POLICE OFFICERS

See Section 143.055, Chapter 143

SECTION 143.056—PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

See Section 143.056, Chapter 143

- A. A member of the Fire or Police Department who is formally charged with a criminal offense shall be subject to discipline by the Department Head. The provisions of § 143.056 shall be employed, if the need arises, to delay the proceedings under these Rules.
- B. If an employee is indicted for a felony or formally charged with a Class A or B misdemeanor, that act by an outside agency refresh, or restarts the 180 days for a department head to take disciplinary action. A department head may take disciplinary action during the pendency of criminal charges without having to wait until the resolution of the criminal charges.
- C. If an employee is indicted for a felony, the employee shall not be entitled to back pay during the pendency of the indictment.
- D. Conviction or deferred adjudication of a felony shall result in the employee being terminated from his/her position. No hearing before the Commission or a Hearing Examiner shall be provided.

SECTION 143.057—HEARING EXAMINERS

See Section 143.057, Chapter 143

- A. The rule-making power and authority of the Commission is not conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.

- B. In a disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the “same duties and powers” as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.
- C. A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee’s election of appeal to a Hearing Examiner shall not constitute a right or an agreement to submit the appeal to arbitration or arbitration processes.
- D. The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules and Regulations. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing.
- E. A hearing conducted by a Hearing Examiner shall also be recorded so as to be capable of clear and accurate reproduction or transcription.
- F. If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict of interest, etc., and the situation is not provided for Chapter 143 or in these Rules and Regulations, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement, the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within its own processes.
- G. If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the entity sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner and thereafter provide a new list, or it shall provide a written statement of reasons why the Hearing Examiner was not excused.
- H. In all instances where the employee appeals to a hearing examiner, the employee filing the appeal shall make the first strike.

(Sections 143.058-143.070 reserved for expansion)

SUBCHAPTER E.—LEAVES

SECTION 143.071—LEAVES OF ABSENCE; RESTRICTION PROHIBITED

See Section 143.071, Chapter 143

SECTION 143.072—MILITARY LEAVE OF ABSENCE

See Section 143.072, Chapter 143

SECTION 143.073—LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Section 143.073, Chapter 143

- A. "Temporary leave" under this section shall not exceed one (1) year.
- B. In order for an employee to claim that an injury or illness is "work-related," he or she must have complied with City policies regarding workers' compensation. Stated another way, the City is not responsible for determining "cause" of an injury or illness, accordingly, the employee must comply with all workers' compensation requirements.

SECTION 143.074—REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Section 143.074, Chapter 143


SECTION 143.075—MILITARY LEAVE TIME ACCOUNTS

See Section 143.075, Chapter 143

(Sections 143.076 - 143.080 reserved for expansion)

SUBCHAPTER F.—MISCELLANEOUS PROVISIONS

SECTION 143.081—DETERMINATION OF PHYSICAL OR MENTAL FITNESS

	STANDARD OPERATING PROCEDURE		NO. 139
	Internal Investigations		
	Effective Date: 09/12/2023	Revised Date: 09/12/2025	
	Approved by: Christopher D. Motley, Fire Chief		

Purpose

To define a process for investigations conducted in response to allegations, knowledge, or reports of misconduct, and/or deviations from policy or procedure in a fair and consistent manner.

Policy

INTERNAL INVESTIGATIONS

1. The Department is proud of the men and women it has recruited and hired as employees. Selection of the finest employees is the first step in providing professional services to the public. Supervisors within the Department are responsible for ensuring the appropriate behavior and conduct of the firefighters and employees assigned under them. Complaints may arise internally or externally to the Department.
2. The Department is responsible for responding to all allegations of misconduct against the agency and/or any of its members. A thorough and objective investigation of complaints of misconduct is critical to the integrity of the Department and the trust of the general public.
3. Allegations requiring an investigation range from minor infractions of policy or procedures to serious allegations of criminal conduct. All investigations will be conducted in a professional manner.
4. The purpose of the investigation is to obtain information to make factual findings and to determine whether disciplinary action is warranted. Disciplinary action up to and including involuntary termination may result.
5. Employees are required to fully cooperate during an investigation and to answer questions fully and truthfully. Employees who are untruthful and/or uncooperative are subject to disciplinary action up to and including involuntary termination.
6. The goal of the Department’s disciplinary process is to provide a positive and effective means of formally communicating expectations and improving employee performance.
7. In all instances, it is assumed Fire Department employees are familiar with applicable administrative directives, policies, procedures, and/or laws.

Progressive Discipline

1. **Purpose of Discipline.** Departmental discipline emphasizes employees' responsibility for the consequences of their own behavior, with a focus on communicating expectations for changes in behavior and needed improvement. In other words, discipline is a tool for supervisors to use to ensure that employees know both what is expected of them and the consequences if they fail to meet those expectations. While the primary purpose of discipline is to correct and prevent the recurrence of unacceptable conduct and/or job performance, in some cases termination of employment is the appropriate response.
2. **Disciplinary Records/Documentation.** All discipline must be documented in writing. All discipline must be approved by the Fire Chief, or designee. The documentation will set out the unacceptable conduct and/or performance and, except in the case of discharge, future expectations and consequences if expectations are not met. If applicable, employees will be advised of their appeal rights. All documentation must be signed by the appropriate supervisor(s) and the employee. A copy will be given to the employee. Discipline records will be maintained in the employee's Departmental file, with a copy to Human Resources. All discipline will be recorded in the Department's Complaint Log.
3. **Written Complaint.** In accordance with §§614.021-.023 of the Texas Government Code, a written complaint is required before any coaching, reprimand or discipline can be taken against a firefighter. The person making the complaint, whether internal or external to the Department or Town, must sign the complaint and a copy must be given to the firefighter within a reasonable time after it is filed. The firefighter cannot be discharged until after the complaint is investigated and evidence exists to prove the allegation of misconduct.
4. **Fact Gathering/Investigation.** Before disciplinary action is taken, the Department will review and/or investigate the employee's conduct/performance and gather relevant facts. The Fire Chief may request input and/or recommendations regarding discipline.
5. **Unpaid Suspension, Demotion, or Discharge.** If the Department is considering an unpaid suspension of one day (or one shift) or more, demotion, and/or discharge, the employee will normally be given an opportunity to respond to the allegations prior to disciplinary action being taken. See Town's Disciplinary Action policy. If an employee is to be terminated, the Fire Chief will consult with the Director of Human Resources before the termination occurs.
6. **Administrative Leave.** When a disciplinary decision is pending, including during the time a Departmental investigation is being conducted, an employee may be placed on administrative leave by the Fire Chief (or designee). The leave may be with or without pay.
7. **Civil or Criminal Proceedings.** Employees must immediately (no later than 24 hours) notify their supervisor and the Fire Chief if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony. In most cases, the Department will conduct its own investigation and take appropriate action. In rare cases, however, the employee may be placed on administrative leave, with or without pay, until the civil or criminal matter is resolved. See Town's Employee Conduct and Work Rules/Disciplinary Policy.

RECEIPT OF COMPLAINTS

1. All complaints against the Department or one of its employees will be accepted and reviewed, so long as the facts surrounding an allegation may be corroborated.
2. All supervisors are responsible for accepting any and all complaints, whether internal or external, and forwarding them to Fire Administration as soon as possible. All complaints, regardless of nature, can be filed in person, by mail, by email, or by phone at any time.
3. Supervisory personnel may conduct an immediate preliminary inquiry to determine if grounds exist to conduct an internal investigation. If the preliminary inquiry finds that applicable policies, procedures, and law have been followed and that there is no misconduct, the supervisor will normally be the Departmental representative who will explain the findings to the complainant. If appropriate, the supervisor may explain Departmental policies and procedures, a misunderstanding of which may have precipitated the complaint.
4. Supervisors who receive a complaint will immediately notify their chain of command to ensure that the Fire Chief receives timely notification. The Fire Chief must be notified immediately, through the chain of command, upon receipt of all Formal complaints and of Administrative complaints that have (or are likely to have) public or media involvement. The Fire Chief must be notified of all other complaints by the next work day; if, however, a member of the chain of command is not immediately available, the Fire Chief must be notified directly.

COMPLAINT CLASSIFICATION

1. The Department will review complaints to determine the appropriate response. In some cases, after a preliminary inquiry, no further action is required. In cases requiring further investigation, the complaint will be classified as Formal or Administrative, depending upon the type and severity of the allegation(s).
2. The employee's chain of command normally makes a recommendation as to the classification of the complaint and the final determination is made by the Chief (or designee).
3. Complaints are classified as one of the following:
 - a. **Formal Complaint** – Formal complaints are normally those alleging violations of Town policy involving unlawful harassment, violations of constitutional rights, federal or state laws, physical abuse, and/or other serious misconduct.
 - b. **Administrative Complaint** – Administrative complaints are normally those alleging minor infractions of Departmental and/or Town policies, procedures, or directives that are either not directly observed, or that are directly observed but still require some level of investigation.
 - c. **Minor Complaints** – Complaints alleging minor infractions that are directly observed or documented; eg, audio or video recordings, CAD records, time entries etc. where no further investigation is required, are to be addressed by the immediate supervisor. These usually result in verbal/written coaching.

- D. **No Further Action Needed** –A determination that no further action is needed is based on a preliminary review of video, audio, witness and/or complainant statements, which clearly show that no misconduct or other inappropriate behavior occurred. Often, these types of allegations can be resolved by explaining to the complainant applicable Departmental practice, policy, procedure, or law.
- 4. The classification of a complaint as Formal or Administrative determines the level of investigation that will be initiated. As facts are developed during the course of the investigation, the complaint classification and/or level of investigation may be changed.
- 5. Supervisors who receive a complaint from an external source should document receipt via email to the Fire Chief through the chain of command.

COMPLAINT LOG

Upon receipt by the Department, all complaints resulting in excess of written coaching are recorded in the Department's *Complaint Log*, which is maintained by the Fire Administration Supervisor. A complaint number is assigned to each complaint and recorded in the log, along with its classification as either Formal or Administrative; the date the complaint was received; the complainant's name; a brief summary of the allegation(s); the supervisor assigned to investigate; the date the investigation was completed; the disposition; the disciplinary or other action taken.

COMMUNICATIONS & NOTIFICATION TO EXTERNAL COMPLAINANTS

- 1. Complainants external to the Department must be notified of the Department's receipt of their complaint and kept apprised throughout the investigation process.
- 2. The investigator should contact the complainant within 24 hours of the investigator being assigned the complaint and will provide an overview of the process.
- 3. Within ten days after the investigation is finalized, the complainant will be notified of the outcome. This final notification will be provided by the Fire Chief or designee.

RESPONSIBILITY FOR INVESTIGATING COMPLAINTS

- 1. **Assignment of Investigator.** The Fire Chief (or designee) will assign the investigation of complaints based on the following:
 - a. **Formal Complaints** – Formal complaints will be investigated by a supervisor assigned by the Fire Chief.
 - b. **Administrative Complaints** – Administrative complaints will be investigated by a supervisor assigned by the Deputy Fire Chief. These investigations will typically be assigned to the employee's immediate supervisor.

2. **Criminal Allegations.** If a criminal offense is alleged, two separate investigations will normally be conducted, a criminal investigation and an internal investigation. If, during an internal investigation, it is discovered that a criminal offense may have been committed, the investigator must immediately notify the Fire Chief, via the chain of command. The criminal investigation will be referred to either the Police Department or an outside agency. The internal investigation will determine compliance with policy, procedure, and directives. The criminal investigation will normally be handled first, so as not to interfere with the criminal investigation. In accordance with *Garrity* protections, the internal investigation may obtain evidence from the criminal investigation, but the criminal investigation cannot obtain information from the internal investigation which was the result of an interview or interrogation of the subject employee.
3. **Deadlines.** Complaints should be assigned for investigation as soon as possible to facilitate collection of relevant evidence, including statements if appropriate. Complaints should be investigated and concluded as quickly as possible, normally within 90 days from the date the complaint is received. Any resulting disciplinary or other action should be issued within 20 working days after the investigation is completed. If additional time is needed, a request must be made to and approved by the Chief.

WRITTEN COMPLAINT

1. In accordance with Sections 614.021-.023 of the Texas Government Code, a written complaint is required before any discipline can be taken against a firefighter. Because the Department normally follows the same guidelines for both sworn and civilian employees, the person making the complaint, whether internal or external to the Department or Town, must sign the complaint and a copy must be given to the employee within a reasonable time after it is filed.
2. A written complaint will be issued to the employee for all Formal and Administrative investigations. The written complaint will be timely issued to the employee in writing as a notice of complaint & investigation. As part of the written complaint, the employee will be provided with a summary of the factual allegations and the policies and procedures alleged to have been violated.
3. The “victim” of alleged misconduct will not always be the complainant. In some cases, the complaint will be made by a member of the Department based upon concerns or allegations initially raised by a third party. If a supervisor receives a complaint from someone external to the Department, the supervisor should document the allegations in writing and submit it to his/her chain of command.
4. If additional information during the investigation gives rise to an additional allegation(s) of misconduct that would likely result in disciplinary action, then the initial written complaint will normally be amended, or a new complaint issued to address the additional allegation(s).
5. The Department will not involuntarily terminate an employee unless the complaint is investigated and there is evidence to prove the allegation(s) of misconduct set out in the written complaint.

INVESTIGATION PROCESS - GENERAL

1. All investigations, whether classified as Formal or Administrative, must be conducted in a thorough and professional manner.
2. Administrative investigations are typically conducted by the employee's immediate supervisor and may be done without taking any written statements. The investigator may, however, require that the employee and/or other witnesses provide a written statement or description of an event.
3. The investigator will confirm that the employee has been provided all required documentation, will discuss the allegations in the complaint with the employee, and may request his/her explanation in writing.
4. The investigator will investigate each allegation in a complaint, make findings, and then prepare a written report. The investigator will review all available relevant evidence, which may include witness statements, documents, video and/or audio recordings, other recorded images, etc.
5. Administrative investigations may develop into Formal investigations based on information obtained during the investigation. The Fire Chief will be alerted to any information that indicates the incident is any more serious than first believed. If the Fire Chief reassigns the complaint as a Formal investigation, the Chief may leave the original supervisor as the investigator or assign the investigation to another supervisor. The Complaint Log number will normally be reassigned as a Formal investigation and issued a new Complaint Log number.
6. For Formal and Administrative investigations, a complete investigation is conducted and a summary report is prepared.
7. With approval from the Fire Chief, the investigator may request that the complainant take a polygraph.

EMPLOYEE SAFEGUARDS

1. **Investigations - Interviews.**
 - a. Unless approved otherwise by the Chief, the investigator will not formally interview the employee under investigation until the employee has been issued a written complaint. The investigator will normally gather information and physical evidence and obtain statements from the complainant and witnesses, if any, prior to interviewing the employee under investigation.
 - b. The Department will make a reasonable effort to schedule interviews at a time agreed to by the employee, unless the seriousness of the investigation is such that an immediate interview is required. The employee will be considered on duty at the time of the interview and may have his/her schedule adjusted. Overtime will be paid when required by law.
2. **Garrity Warning.** In Formal investigations, in addition to a signed written complaint, the employee under investigation will receive a written *Garrity* warning even if no criminal conduct is alleged. *Garrity* warnings are not usually provided in Administrative investigations unless specifically requested by the employee under investigation. *Garrity* warnings are not provided to employee witnesses unless they specifically request that one be issued.

3. **Civilian Employees.** Complaints and investigations involving civilian employees will follow guidelines set forth in the City of Freeport Employee Handbook.
4. **Periodic Updates.** As soon as practical and/or appropriate after being assigned an investigation, the investigator will contact the employee and advise him/her that the investigation has been assigned. The investigator should contact the employee at least once every three weeks and provide an update on the status of the investigation. Once the investigation report is completed and submitted to Fire Administration for review, the Deputy Chief should contact the employee at least once every two weeks and provide an update on the status of the investigation. These updates can be accomplished via email, written letter, phone call, or text message (if appropriate for the type of complaint).
5. **False Complaints.** Consideration will be given to filing False Report to Police or Perjury charges if sufficient evidence exists to support such a charge. If the investigator finds sufficient evidence to support such a charge, he/she must obtain the Fire Chief's approval to initiate a criminal investigation. Further, false or exaggerated complaints may be grounds for disciplinary action up to and including termination.

INVESTIGATIONS - REPORT AND FINDINGS

1. Upon completion of the investigation, the investigator will make factual findings and conclusions for each allegation set out in the complaint(s). The conclusion will be one of the following:
 - a. **Unfounded** - The allegation is false.
 - b. **Exonerated** - The allegation is true, but the actions were proper and lawful.
 - c. **Not Sustained** - Sufficient evidence does not exist to either prove or disprove the allegation.
 - d. **Sustained** - Sufficient evidence exists to prove the allegation is true and the conduct was a violation of law and/or a violation of Departmental or Town policies, procedures, and/or directives.
 - e. **Policy Change or Training Need Indicated** - There is no violation of existing policy or procedure, but training or adoption of a new policy or procedure is recommended.
2. The investigator's final report will be reviewed by the Fire Chief, who may send the report back for further investigation, reject some or all of the investigator's findings and/or conclusions, or concur with the investigator's findings and conclusions. The Fire Chief may consult with the firefighter's chain of command as well. The Fire Chief will make a final determination as to the findings and conclusions.

INVESTIGATIVE TOOLS AND RESOURCES

1. In addition to interviews of the employee under investigation and any witnesses, the Fire Chief may authorize additional investigation methods, including those set out below.

2. **Drug and Alcohol Testing.** If reasonable suspicion exists to believe that an employee is under the influence of drugs and/or alcohol, he/she may be required to submit to drug and/or alcohol testing. The employee will normally be placed on administrative leave until the results of the test(s) are known. An employee who refuses to be tested or who attempts to alter or tamper with a sample or any other part of the testing process will be subject to disciplinary action for failing to cooperate in an internal investigation and may also be immediately relieved of duty and placed on administrative leave. The Chief (or designee) must authorize the testing in advance. See the City of Freeport's Drug and Alcohol Testing Policy for additional requirements.
3. **Searches.** The Department may conduct searches or inspections of work sites, including but not limited to Town property used by employees such as files, lockers, file cabinets, desks, offices, vehicles, cell phones, cameras, computers, and electronic data and files, whether secured, unsecured or secured by a lock or password provided by the employee. The Department may also seek to conduct searches or inspections of an employee's personal property located on City premises, including vehicles parked in Town parking lots. This will normally be accomplished pursuant to a search warrant or the consent of the employee.
4. **Photos.** Photographs or other recorded images of employees may be required by the Department and may be taken or used, with or without their consent, for the purpose of internal investigations if they are suspected of misconduct.
5. **Polygraphs.** If related to the firefighter's duties and/or job performance, the Fire Chief may order a polygraph. The results of a polygraph will not be used as the sole basis for disciplinary action against an employee. However, refusal to submit to a polygraph, refusal to answer all questions, and/or taking evasive measures will likely result in disciplinary action up to and including involuntary termination.

SECURITY OF INVESTIGATIVE RECORDS

1. The investigator will keep all documentation and information related to the investigation of a complaint in the strictest confidence, both during and after the investigation. Information will be provided only to those persons who have a "need to know." Any person taking the initial complaint will ensure that the information, and any related documentation, remains confidential to the extent permitted by law and that it is timely forwarded to the appropriate investigator or the office of the Fire Chief.
2. Internal investigative files must be stored in a secure manner for the duration of the investigation. These files will be maintained separately from the personnel records within the Department's administrative office and shall only be accessed by authorized personnel. Completed investigations are forwarded to the Human Resources Department.

INVESTIGATION DOCUMENTATION

1. **Garrity Warning.** While the provisions of *Garrity* apply in any internal investigation, the Department will normally issue a *Garrity* warning to the employee charged with misconduct in a Formal investigation.
 - a. *Garrity* warnings will not usually be provided in Administrative investigations unless specifically requested by the employee under investigation.
 - b. *Garrity* warnings are not usually provided to employees who are simply witnesses in an investigation unless specifically requested by the witness employee.

2. **Confidentiality Order.** This documentation is used to ensure confidentiality and integrity of investigation.
3. **Notice of Administrative Leave.** This documentation is used to notify an employee who is being placed on administrative leave.
4. **Notice of Proposed Discipline.** This document will be used by the Department to inform the employee of the investigation findings and proposed discipline, when the discipline being considered is an unpaid suspension, demotion, or involuntary termination.
5. **Notice of Disciplinary Action.** This will be used by the Department to document the disciplinary action taken.

Fire Fighter Lateral Entry Program

The Lateral Entry Program will help recruit qualified dual certified Firefighter/EMT Basic (or higher). As a part of the hiring process, the Fire Chief will meet with the background investigator to confirm that the applicant meets the criteria to take advantage of this program.

A. Eligibility Requirements - Applicants must:

1. Be dual certified: Firefighter (TCFP) and EMT Basic (or higher) (National Registry or DSHS Certification).
2. Have at least one (1) year prior full-time work experience with similar duties in a comparable fire and/or EMS agency; one year of experience will qualify for advancing one step to a maximum of 8 steps (Step 19.08).
3. Must not have had a break in service as a Firefighter and/or EMT Basic (or higher) of more than 180 days prior to the applicant's conditional job offer.

B. Guidelines:

1. The lateral entry program is for pay purposes only and actual work experience in another fire and/or EMS Agency will not be considered for promotional eligibility requirements.
2. The Fire Chief's determination, following review with the Association President, of whether an applicant meets the criteria of the lateral entry program shall be final and non-appealable to the Civil Service Commission or to any court.
3. If an applicant is placed up above the minimum starting, up to step 19.08 of the pay schedules, they will progress through the remaining steps as they complete each year of service.
4. Longevity pay will be calculated in the same manner as all Firefighters. No credit will be given to **completed years of service in other agencies.**
5. Entry-level firefighters placed up to Step 19.08 of the pay schedule, as per the lateral entry program, must also complete a new hire probationary period.

C. Non-classified firefighter:

The chief may appoint part-time firefighters, for limited purposes, excluding assignments to operations, which will not be members of the classified service at appointment and will not have the protections of civil service at employment or for the duration of employment. Part-time firefighters shall not work more than 1,000 hours per year and not more than 30 hours in any week unless approved by the Director of Human Resources, or their designee, in writing.

D. Statutory Preemption:

To the extent that any of these provisions are in conflict with the TLGC Chapter 141, 142 and 143, this provision shall prevail.

3.03 Application Process – REVISED 02/20/2024

When a vacancy occurs in a City position, the Department Director shall notify the Human Resource Department of such vacancy by submitting a “Vacancy Verification Form”. The Human Resource Department will acquire the signature of the City Manager on the “Vacancy Verification Form” before announcing the vacancy and seeking qualified applicants. Once a vacancy is announced, any current City employee interested in the vacancy may apply by submitting a letter of interest to the Human Resources Director. If no current City employee applies for the position within 5 business days from date of announcement, or if no current City employees meet the minimum qualifications, applications will be accepted until the closing date specified by the Human Resource Department (typically two (2) weeks). Announcement process is as follows, advertised to City employees for 5 business days, then advertised in the local paper, and posted on the city’s website and other social media as appropriate. Department Directors may review and interview applicants prior to the closing date, but no final decision shall be made until after the closing date for accepting applications.

If, after reviewing and interviewing, the Department Director feels an appointment recommendation is warranted, he/she shall submit to the Human Resources Department a completed applicant package including Background Investigation signed by the Department Director and Human Resources Screening and Authorization Form signed by the Department Director. After reviewing the Background Investigation, the Human Resource Department will forward the applicant package to the City Manager with a recommendation. Once the City Manager has approved the applicant package, the Human Resource Department will contact the applicant to arrange for a pre-employment drug screen and physical. If the Human Resource Department and/or the City Manager do not recommend or approve the application package, the Department Director will be notified. However, if, the Department Director feels an additional search for qualified applicants is warranted, he/she shall notify the Human Resource Department, which shall reinstate the announcement process.

Any vacancy announcement shall state the City's commitment as an Equal Employment Opportunity Employer and shall specify the position title, required and preferential qualifications, and the deadline for and method of application. Such announcement shall also specify the location of a written job description for applicants.

Applications for employment with the City of Freeport shall be provided by the Human Resource Department and should be submitted to the Human Resource Department. Resumes may be utilized for initial screening of applicants. However, no person shall be employed by the City of Freeport without having a formal application on file with the City of Freeport.

As required by law, all solicited applications will be kept on file at City Hall for two (2) years.

All applicants will be required to meet the qualifications listed in the job description for the position they seek. Additionally, applicants may be required to furnish information that demonstrates compliance with the standards for employment prescribed in the job descriptions.

Freeport Fire & EMS Department - Probationary Employee Policy

Purpose of Probation

The probationary period serves as an opportunity for the probationary employee to adjust to their new job responsibilities within the Freeport Fire & EMS Department. This period allows supervisors to evaluate the employee's ability to fulfill job duties effectively, with emphasis on the skills and attitudes demonstrated during the selection process. Supervisors will provide guidance and address any areas for improvement during this time to ensure that the employee meets departmental expectations.

Length of Probation

The probationary period for all new, rehire, or promoted employees of the Freeport Fire & EMS Department shall last for one-year (twelve (12) months), beginning from the date of hire, rehire, or promotion.

- The probationary period may be extended at the discretion of the Fire Chief or Department Director based on the employee's performance
- If the probationary employee's performance does not meet the department's expectations during this period, the probationary period may be extended or the employee may be removed from their position.

Completion of Probation

- **Three-Month Evaluation:** A formal evaluation of the probationary employee's performance will be conducted at the three-month mark.
- **FTO Completion Evaluation:** Upon successful completion of the Employee Training Officer (FTO) program, an evaluation will be performed to assess the employee's readiness for regular duties and overall performance during the FTO training period.
- **Six-Month Evaluation:** An evaluation will take place at the end of the six-month probationary period. The purpose of this evaluation is to assess whether the employee has met the necessary qualifications to continue.
- **12-Month Evaluation:** Prior to the end of the probationary period, a comprehensive annual evaluation will be performed to assess the employee's overall performance and progress throughout the probationary year. This evaluation will consider all training, skills, and abilities demonstrated during the probationary period. It will also consider whether the employee has successfully met the qualifications for regular status and if any further training or development is required. This includes completion of any required training by job descriptions or outline training required to hold the employee position.

Upon completion of the probationary period, the employee's supervisor will make a recommendation to the Fire Chief regarding the employee's performance and readiness to be appointed to regular status. The Fire Chief will then decide whether to:

- Appoint the employee to regular status, confirming the employee's successful completion of the probationary period; or
- Remove the employee from employment with the Freeport Fire & EMS Department.

It is important to note that an appointment to regular status does not guarantee permanent employment with the Freeport Fire & EMS Department, as all employees are considered "at-will" and may be terminated at any time, with or without cause, by the City. Likewise, an employee has the right to resign from their position at any time.


Removal During Probation

- **Original or Rehire Probation:** The Fire Chief or Department Director may remove the probationary employee from their position at any time during the twelve-month probationary period.
- **Promotional Probation:** In the case of an employee promoted to a new position, the Fire Chief or Department Director has the authority to remove the individual from their new position at any time during the twelve-month probationary period. The individual may or may not be reinstated to their previous position. All decisions regarding removals and reinstatements are subject to approval by the Fire Chief.

The Fire & EMS Department reserves the right to evaluate each employee on an ongoing basis and adjust the probationary status as necessary to ensure the success and safety of the department and the community it serves.

This will be placed in the foot note section:

This policy is designed to align with the Freeport Fire & EMS Department Employee Handbook, Section 4.01 – 4.04, regarding the probationary period for employees and Section 12.03, department policies.

	FREEPORT POLICE DEPARTMENT	
	Policy 4.1 Hiring and Selection	
	Effective Date: 9/1/2023	Replaces: 10/1/2014
	Approved: <u>Jennifer Howell</u> Chief of Police	
	Reference: 2.23, 3.17, 4.01, 4.02, 4.03, and 4.04.	

I. POLICY

The Freeport Police Department strives to obtain the best law-enforcement officers possible to help achieve the department's policing goals. To that end, the department shall practice a regimented, rigorous selection procedure while simultaneously affording equal opportunity to everyone regardless of race, creed, color, sex, national origin, sexual orientation, or age. The department does not discriminate against people with disabilities and affords them the same access to employment provided to all other persons. All personnel who participate in screening and hiring applicants shall be guided by fairness, equal opportunity, and consistency in applying the procedures set forth in this order.

II. PURPOSE

The purpose of this policy is to outline the minimum hiring requirements and the selection process for police officers and non-sworn members of the department.

III. DEFINITIONS

- A. Disability: A physical or mental impairment that substantially limits one or more of the major life activities.
- B. Good moral character: The attributes of a prospective employee that enhance his or her value to the department and the goals of community-oriented policing, among which are honesty, integrity, truthfulness, obedience to the oath of office and the department's code of ethics, respect for authority, and respect for the rights of others.

IV. QUALIFICATIONS FOR EMPLOYMENT

- A. The minimum qualifications that all applicants for the position of police officer must meet include the following:
 - 1. Age of 21.
 - 2. High school graduation or GED completion.
 - 3. Pass a written examination. (The written exam includes a comprehensive reading/writing component. The applicant must achieve a score of not less than the minimum score established for the test. The department shall maintain examination results.)

4. Pass a background investigation that could include but not limited to the following:
 - a. Personal and family history
 - b. Credit history, including current creditors
 - c. Education, including all schools attended and degrees or certificates obtained
 - d. All residences for the past ten years
 - e. Comprehensive employment history
 - f. A fingerprint-based criminal history search, including all arrests, locations, dates, and dispositions
 - g. Traffic summonses and accidents
 - h. An inquiry of family, friends, and associates as to character and reputation, plus an informal interview with the applicant's spouse or "significant other," as well as any ex-spouse.
5. Pass a physical agility test.
6. Pass an oral interview.
7. Pass a physical examination, psychological screening, and a drug test.
8. Be of good moral character.

NOTE: Good moral character is determined by a favorable report following the comprehensive background investigation. Also, the interview shall be employed to help evaluate good moral character. Good moral character ensures compatibility with the department's community-oriented policing goals.

9. Any other standards set by law or by policy of the Texas Commission on Law Enforcement.

V. DISQUALIFIERS FOR EMPLOYMENT

The following are absolute disqualifiers for employment as a sworn officer:

- A. Conviction or admission of any felony, or a conviction of a Class A misdemeanor.
- B. Conviction of any Class B misdemeanor in the past ten years.
- C. Conviction or admission of marijuana use within the past two years, or of any other illegal drug within the past five years.
- D. Conviction of family violence.
- E. Dishonorable discharge from the military.

VI. APPLICATION PROCESS FOR SWORN OFFICERS

- A. The applicant must do the following:

1. Complete a written city application and a personal history statement, and submit them to the Chief of Police.
2. Submit a copy of each of the following documents:
 - a. Birth certificate
 - b. Driver's license
 - c. High school diploma or transcript, or GED certificate
 - d. Any college transcripts
 - e. Copy of military discharge papers, if any.
3. Arrange with the Chief of Police or designee to take the written test and to appear for other steps in the selection process.

VII. SELECTION PROCESS FOR SWORN OFFICERS (TBP: 4.01)

- A. The Chief of Police or designee will review the application and documents for basic qualifications. If basic qualifications appear to be met and an opening exists, the Chief assigns personnel to conduct a preliminary review of the candidate and schedules appropriate testing. If no opening exists, the application will be placed in a file to await an opening. When an opening occurs, the applicant will be contacted to determine if he/she is still interested in the position.
- B. An employee will be assigned to conduct a preliminary review of the applicant. He/she shall perform the following:
 1. Obtain the applicant's driving record from DPS.
 2. Have the applicant sign information release forms.
 3. If the applicant has recently lived outside the county, request records checks through agencies in the applicant's previous communities.
 4. Obtain an NCIC/TCIC criminal history check.
 5. Administer the physical agility test (pass/fail).
 6. Administer the written examination.
 7. The interview board consists of, at minimum, a supervisor and two other departmental members. The candidate is graded on an applicant interview sheet and either passes or fails the interview.
 8. Those passing the interview will then be considered for conditional offers of employment. The applicant's packages will be forwarded for backgrounds.
- D. After the testing and interviews are conducted, the officer assigned to conduct the background investigation may question the applicant regarding his or her prior medical problems, including any worker's compensation claims and conditions. The officer will then conduct a detailed background investigation in accordance with the Background Investigation Manual. He/she shall also schedule the applicant for any further testing. (TBP: 4.03)
- E. The officer conducting the background investigation shall have had training in conducting background investigations or shall conduct the background in compliance with the Background Investigation Manual.
- F. The polygraph examination will be conducted by an operator certified and licensed by the State of Texas to conduct polygraph examinations. (TBP: 4.02)

G. Upon completion of all testing and the background investigation, the applicant's file will be returned to the Chief of Police for the final decision.

C. The Chief of Police will meet with the applicant who best meets the needs of the department and conduct a detailed interview with the candidate. The Chief of Police shall consider the applicant's appearance (for neatness and cleanliness), mannerisms, judgment, maturity, resourcefulness, and compatibility with departmental goals. If the Chief approves, he/she will issue the candidate a conditional offer of employment. The offer of employment is conditional upon the candidate passing the following:

1. A written and physical test
2. A panel interview board
3. A polygraph examination, which may or may not be required.
4. An in-depth background investigation. NOTE: The background check shall specifically include contact with all former law enforcement employers. (TBP: 3.17)
5. A physical exam
6. A drug screen
7. A psychological screen.

H. Following a medical examination, an offer of employment may be withdrawn if the applicant is incapable of performing the core job functions for the position or poses a "direct threat" in the workplace (per EEOC guidelines, "a significant risk of substantial harm to the individual or others that cannot be eliminated or reduced . . . through reasonable accommodation"). The Chief must base the threat on medical knowledge, not just speculation.

I. If the individual is approved for hire, the Chief or designee will make all the necessary arrangements for processing a new employee. If the individual is not selected, a letter will be sent to the applicant advising him or her that the Conditional Offer of Employment has been withdrawn and the reason stated plainly.

J. Unsuccessful applicants who do not have permanent disqualifiers may re-apply after one year from the date of the last application if a vacancy exists.

K. Lateral entry.

1. A licensed officer from another Texas agency must meet the same criteria set forth above.
2. The employee assigned to investigate the applicant shall ensure that an applicant with prior law-enforcement experience has not had his or her licenses suspended or revoked. A query will be made to the Texas Commission on Law Enforcement to determine all other agencies where the licensee has worked. These agencies will be contacted before completion of the background to determine work history and any significant details of their employment.

VIII. APPLICATION PROCESS FOR NON-SWORN PERSONNEL

- A. The applicant must do the following for all positions within the police department:
 1. Complete a written city application and personal history statement and submit them to the Chief of Police.
 2. Copies of the following documents will also be submitted:
 - a. Birth certificate
 - b. Driver's license
 - c. High school diploma or transcript, or GED certificate
 - d. Any college transcripts
 - e. Copy of military discharge papers, if any.
 3. Arrange with the Chief of Police or designee to take any written test if required and to appear for other selection process steps.

IX. SELECTION PROCESS FOR NON-SWORN PERSONNEL (TBP: 4.01)

- A. The Chief of Police or designee will review the application and documents for basic qualifications. If basic qualifications appear to be met and an opening exists, the Chief assigns an officer to conduct a preliminary review of the candidate. If no opening exists, the application will be placed in a file until there is an opening. When an opening occurs, the applicant may be contacted to determine if he/she is still interested in the position.
- B. The employee assigned to conduct a preliminary review of the applicant shall perform the following:
 1. Obtain the applicant's driving record from DPS
 2. Have the applicant sign information release forms
 3. If the applicant has recently lived outside the county, request records checks through agencies in the applicant's previous communities
 4. Obtain an NCIC/TCIC criminal history check
 5. Conduct any job-specific testing required, such as a typing test for communications.
- C. After testing and interviews are conducted, the officer assigned to conduct the background investigation may gain additional information from the applicant regarding his or her prior medical problems including any worker's compensation claims and conditions. The officer will then conduct a detailed background investigation in accordance with the Background Investigation Manual. He/she shall also schedule the applicant for the necessary medical testing. (TBP: 4.03)
- D. The officer conducting the background investigation shall have had training in conducting background investigations or shall conduct the background in compliance with the Background Investigation Manual. (TBP: 3.17)
- E. Upon completion of all testing and the background investigation, the applicant's file will be returned to the Chief of Police for the final decision.

F. The Chief of Police will meet with the applicant who best meets the needs of the department and conduct a detailed interview with the candidate. During the interview, the Chief of Police shall consider the applicant's appearance (for neatness and cleanliness), mannerisms, judgment, maturity, resourcefulness, and compatibility with departmental goals. If the Chief approves, he/she will issue the candidate a conditional offer of employment. The offer of employment is conditional upon the candidate passing:

1. A typing test
2. A panel interview board
3. A polygraph examination, which may or may not be required.
4. An in-depth background investigation. NOTE: The background check shall specifically include contact with all former law enforcement employers. (TBP: 3.17)
5. A physical exam
6. A drug screen
7. A psychological screen.

G. Following a medical examination, an offer of employment may be withdrawn if the applicant cannot perform the core job functions or poses a "direct threat" in the workplace (per EEOC guidelines, "a significant risk of substantial harm to the individual or others that cannot be eliminated or reduced . . . through reasonable accommodation"). The Chief must base the threat on medical knowledge, not just speculation.

H. If the individual is approved for hire, the Chief or designee will make all the necessary arrangements for processing a new employee. If the individual is not selected, a letter will be sent to the applicant advising him or her that the Conditional Offer of Employment has been withdrawn and the reason stated plainly.


X. PERSONNEL RECORDS

A. For each employee, the department maintains a personnel file. This file contains the background investigation package, a copy of all forms completed during the hiring process, all evaluations, disciplinary action amounting to a written reprimand or higher, leave/attendance record, and assignments. The original of the officer's background investigation and all selection materials are sealed in an envelope in this file, which is confidential. All TCOLE required documents are maintained in this file and must be secured with access limited to designated personnel. (TBP: 2.23, 4.04)

B. The Chief of Police and their Administrative Assistant/Office Manager maintains and controls all personnel records. The department complies with the records retention schedule set by state law and city policy. (TBP: 4.04)

C. Employees may review their records at any reasonable time upon request. The Chief may release a copy of a record from file upon obtaining a signed authorization from the employee.

- D. All personnel records are considered confidential. Supervisory or investigative personnel who have a need to review sensitive information may do so only with the express approval of the Chief of Police.
- E. If the Chief deems it necessary to include derogatory information in a personnel file, he/she shall notify the employee of the fact in writing. The employee may protest the inclusion of such information in writing to the Chief. Probationary employees have no right of protest in such matters.
- F. Personnel records are the permanent property of the department.
- G. Officers from the department may terminate employment and seek a lateral hire with another agency. Requests for employment information on these officers shall be referred to the Chief. The Chief shall disclose the employee's performance record consistent with current law.
- H. All records of unsuccessful applicants shall be maintained, including all test results, in a confidential file by the Chief of Police. These records can be released to other law enforcement agencies when requested and a properly executed release form is obtained from the subject of the records. (TBP: 4.04)
- I. Photographs of sworn officers shall not be released by the department to any organization or media outlet, unless the officer has given his or her consent or signed a release to that effect. Exceptions to this prohibition include:
 - 1. If the officer is charged by indictment or information.
 - 2. If the officer is a party in an arbitration process.
 - 3. If the officer's photograph is introduced in judicial proceedings.NOTE: Photographs displayed on officer's identification cards are not considered released as they are intended for internal use or to properly identify an officer if required.

	FREEPORT POLICE DEPARTMENT	
	Policy 4.3 Career Development, Promotions, and Transfers	
	Effective Date: 11/15/2024	Replaces: 9/1/2023
	Approved: <u>Jennifer Howell</u> Chief of Police	
Reference: 4.06 and 4.07		

I. POLICY

The department encourages employees to seek opportunities to develop their knowledge, skills, and abilities. Promotions are based on performance, longevity, and the growth of skills through training and experience. Although in a small department promotion opportunity are rare, the department promotion process is fair and equitable.

II. PURPOSE

The purpose of this policy is to establish guidelines for career development of employees, which includes training and promotions.

III. PROCEDURES

A. Responsibilities of the Chief of Police

1. Annually, the Chief of Police, or designee, will meet with each employee for career counseling. This counseling shall occur at the same time as the employee's annual performance evaluation. The counseling shall include an examination of the following:
 - a. The employee's performance record
 - b. A review of the training programs applicable to the employee's duties.
2. The Chief shall ensure that at least one department employee:
 - a. Achieves and maintains certification as a firearms instructor
 - b. Receives advanced instruction in the techniques of evidence collection.
3. All officers shall maintain current first aid/cardiopulmonary resuscitation certifications.
4. The Chief shall ensure the availability of a trained armorer, either through the training of a department employee, contracting with an armorer in another jurisdiction, or contracting with a private armorer. The armorer shall inspect all firearms and ammunition at least annually for safety, reliability, and function. The armorer shall also repair broken or malfunctioning weapons.

5. The Chief of Police shall ensure that any employee who receives a promotion or a new assignment receives training specific to that position within 12 months of assignment.

B. Promotions (TBP: 4.06)

1. When a vacancy exists for any of the below positions, the Chief shall post an advertisement of the position, the qualifications required, and a description of the selection process to be used. This advertisement must run for a minimum of two weeks prior to any selection process. During that time, staff may request, in writing, consideration for the position.
 - a. Corporal
 - b. Sergeant
 - c. Lieutenant
 - d. Detective
 - e. Dispatch Supervisor/Assistant Supervisor
 - f. Code Enforcement Supervisor

C. Eligibility for Promotion. An employee must meet the minimum requirements as listed below to be eligible for promotion to a higher level of responsibility and increased compensation:

1. Patrol Corporal: In order to compete for corporal an employee must have a minimum of two years police experience.
2. Patrol Sergeant: In order to compete for sergeant, a candidate must have a minimum of three years police experience.
3. Detective: In order to compete for detective, a candidate must have a minimum of five years police experience.
4. Detective Corporal: In order to compete for corporal an employee must have a minimum of two years investigation experience and currently assigned to CID.
5. Detective Sergeant: In order to compete for sergeant, a candidate must have a minimum of three years investigation experience and currently assigned to CID.
6. Lieutenant: In order to compete for lieutenant a candidate must have a minimum of ten years of police experience, and one year full time supervisory experience.
7. Dispatch Supervisor: In order to compete for Dispatch Supervisor, a candidate must be a licensed telecommunicator with at least three years of experience as a dispatcher.
8. Dispatch Assistant Supervisor: In order to compete for Dispatch Assistant Supervisor, a candidate must be a licensed telecommunicator with at least two years of experience as a dispatcher.
9. Code Enforcement Supervisor: In order to complete for Code Enforcement Supervisor a candidate must have previous code enforcement and/or law enforcement experience.
10. All candidates: Their overall performance evaluation score must be at least satisfactory for the 12 months prior to the promotional examination process. No disciplinaries of a written reprimand or higher in the previous 12 months prior to the promotional process. Candidates must have

- completed original city probation.
12. Each candidate must submit a "letter of intent" that requests participation and consideration in the promotional selection process.
 13. All positions will be posted outside the department as well per city policy.

D. Process for Promotions.

1. Corporal, Sergeant, Detective, Dispatch Supervisor/Assistant, Code Enforcement Supervisor:
 - a. Meet eligibility
 - b. Submit "letter of intent"
 - c. Pass written examination.
 - d. Oral review board
 - i. A panel of at least three personnel, who can be sworn and/or non-sworn personnel, will comprise the oral board. A minimum of one member will be from this police department. The remaining members can be supervisors from this department, other police departments, other city personnel or within the community.
 - ii. The oral review board will conduct a structured interview. Role playing and scenarios may also be included in this process. The board will rank each candidate.
 - e. Final ranking
 - i. Any written exam results and the oral board results will be ranked and an eligibility list of overall scores will be made and forwarded to the Chief.
 - ii. In the event of a tie, tiebreakers will be used such as time in grade, time with the department and higher score on written exam.
 - f. Review by Chief of Police
 - ii. The "rule of three" shall apply. As promotions become available, the top three names will be sent to the Chief for consideration. The Chief shall promote candidates in order unless there is justification to pass over a candidate.
 - iii. The Chief of Police may pass over any person on the list if there is a compelling reason to do so, such as poor evaluations or extensive discipline.
 - g. The eligibility list will be valid for 90 days from the date of the written test. (TBP: 4.07)
2. Lieutenant
 - a. Meet eligibility.
 - b. Submit "letter of intent."
 - c. Pass written examination.
 - d. The police department will run an assessment center and may request the human resource to assist or take over. The assessment center may be made up of employees from this department, other departments in the city and personnel from other police agencies. The assessment center will score all applicants and forward the results to the Chief of Police.
 - e. Final ranking

- i. Any written exam results and the oral board results will ranked and an eligibility list of overall scores will be made and forwarded to the Chief.
 - ii. In the event of a tie, tiebreakers will be used such as time in grade, time with the department and higher score on written exam.
 - f. Review by Chief of Police
 - i. The “rule of three” shall apply. As promotions become available the top three names will be sent to the Chief for consideration. The Chief shall promote candidates in order from the list unless there is justification to pass over a candidate.
 - ii. The Chief of Police may pass over any person on the list if there is a compelling reason to do so, such as poor evaluations or extensive discipline.
 - g. The eligibility list will be valid for 90 days from the date of the written test. (TBP: 4.07)

3. Captain/Deputy Chief/Assistant Chief

These positions can be an appointed position or assessment centers and the Chief has latitude in how these positions are selected.

E. Promotional Announcement and Probation

The Chief of Police or designee will announce promotions and the effective dates. All promotions are conditional in that the employee must satisfactorily complete a six-month probation period.

F. Transfers

1. The Chief may assign or transfer any employee to a different duty when he/she deems that such action will be in the best interests of the department.
2. Any employee may request a transfer by writing a memorandum to the Chief.
3. Occasionally, some job assignments require minimum assignment periods so that the department may sufficiently benefit from investments in specialized training or education. Minimum periods of assignment shall be determined by the Chief and specified in a departmental order. The Chief reserves the right to establish minimum and maximum terms of service for selected duty assignments when he/she deems it to be in the best interest of the department.
4. Officers engaged in undercover assignments are subject to rotation after a period of three years, although they may continue to perform investigative work.

Canidate:

SGT Promotion Process Scale

Per/Each Written Exercises

Question missed	-1
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External Board

First	10
Second	7
Third	5

Internal Board

First	10
Second	7
Third	5

Peer & Sgt Total

Peer	1
Sergeant	1

Productivity Top 5

Traffic	5
Arrest/Cases	5

Total Service

2-3 years	1
3-4 years	2
4-5 years	3
5-7 years	4
7-10 years	5
10 years +	7

FPD Service Time

1-3 years	1
3-4 years	2
4-5 years	3
5-7 years	4
7-10 years	5
10 years +	7

Time in Supervision

1-3 years	1
3-5 years	2
5-7 years	3
7-10 years	4
10 years +	5

TCOLE Proficiency

Intermediate	1
Advanced	3
Master	5

College Hours

20-60	1
61-120	2
121 +	3

Degrees

Associate	1
Bachelor	3
Master	5
Doctorate	10

Leadership Training

SGT Academy	1
TPCA (each)	1
LCC (each)	1
FBI NA/TRIL (each)	1
	1
	1
	1


Additional Non-Paid Task

Firearms	1
SRT	1
TPCA	1
FTO Cord/Supv	1
Marine Officer	1
K9	1
	1
	1

Additional Notes:

TOTAL:

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	FREEPORT POLICE DEPARTMENT	
	Policy 2.5 Employee Disciplinary Process	
	Effective Date: 11/15/2024	Replaces: 9/1/2023
	Approved: <u>Jennifer Howell</u> Chief of Police	
Reference: 2.08		

I. POLICY

It is the department's policy to impose any necessary disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure that the rights of employees are protected.

Discipline is the process of taking specific actions that will help train, develop, or modify the inappropriate actions of an employee, preferably through positive rather than negative measures.

Discipline in the department takes two approaches: (1) rewarding employees for excellence and positive actions and (2) training, counseling, and in some cases sanctioning for inappropriate actions or behavior.

II. PURPOSE

The purpose of this policy is to establish procedures concerning informal and formal disciplinary practices within the department.

III. DEFINITIONS

A. Days: The term "days," as used herein, means "work days provided"; however, if the last day of any time period mentioned is a Saturday, Sunday, or holiday, the time period shall be extended to the next working day.

B. Moral turpitude: An intentional act or behavior displayed in words or actions that violates public morals or the common sense of the community involving but not limited to intent to defraud, intentional dishonesty for personal gain, lying, perjury, subornation of perjury, cheating, bribery, unlawful possession of controlled substances, sexual harassment, unlawful sexual conduct, or excessive use of force.

C. Misconduct: Violations of federal or state laws or local ordinances and alleged conduct including: use of excessive force, untruthfulness, unlawful search, unlawful arrest, civil rights violations, racially motivated police actions, discrimination, sexual harassment, or any conduct that seriously degrades the integrity or good order of the

organization. For purposes of this policy, allegations of untruthfulness shall include false, untrue, or misleading statements, either by overt means or by omission. Misconduct does not include minor rule violations of a less serious nature.

D. Relief from duty: An administrative action by a superior whereby a subordinate officer is temporarily relieved from performing his or her duties.

E. Discipline: The taking of specific actions intended to help train, develop, or modify the actions of an employee. Discipline may be positive (awards and training) or negative (punishment).

F. Personnel File:

1. Defined by TCOLE as a file containing the following:
 - a. Any Letter, memorandum, or document relating to a commendation, congratulation, or honor bestowed on the license holder by a member of the public or by this agency for an action, duty or activity that relates to the license holder's official duties
 - b. Any misconduct by the license holder if the letter, memorandum, or document is from the employing agency and resulted in disciplinary action
 - c. The periodic evaluation of the license holder by a supervisor

G. Department File

1. Defined by TCOLE as a file containing the following:
 - a. Any information not included in the definition of "Personnel File" as above.

IV. PROCEDURES (TBP: 2.08)

A. Positive Reinforcement

1. Positive discipline seeks voluntary compliance with established policies, procedures, and orders. Methods of positive discipline include:
 - a. Recognition of excellent job performance through rewards or awards.
 - b. When people outside the department compliment an employee's performance, the person who receives the information shall make a record of the comments and pass them to the employee's supervisor. Copies of the person's statement and the chief's response shall be sent to the officer involved and the supervisor. A copy of all correspondence shall be placed in the employee's personnel file.
 - c. Truly exceptional acts shall be clearly and promptly identified to the Chief of Police. These acts may be the basis for special awards or for special recognition by community groups or media coverage.
2. Discussion and counseling

3. Training

B. Consistency in discipline

1. The department abides by the philosophy that discipline must be applied consistently and uniformly.
2. The department provides employees with descriptions of prohibited behavior in the "Rules of Conduct Policy" and elsewhere in these orders. No list, however, can be all-inclusive. Employees are expected to have a reasonable perception of what constitutes proper behavior, based on training and experience.

C. Relief from duty

1. An employee may be relieved from duty whenever a supervisor, whether the Chief of Police, captain, lieutenant, sergeant, or corporal, questions an employee's physical or psychological fitness for duty. An internal investigation may follow. See policy 2.9 for further details regarding Fitness for Duty Examinations
2. The sergeant or corporal has authority to relieve an employee from duty, but must promptly report this action to the Chief of Police, accompanied by a written report setting forth details and circumstances.
3. If the necessity to relieve from duty is not immediate, the behavior or actions of the employee shall be deemed a matter for internal investigation. In an internal investigation, only the Chief of Police may relieve an employee from duty. Only the Chief of Police, in consultation with the city manager and human resources, may suspend an officer without pay.
4. An officer who refuses to obey a direct order in conformance with the department's orders may be relieved from duty by the sergeant or corporal, who may recommend suspension to the Chief of Police. The chief, in consultation with the city manager and human resources, may then suspend without pay.

D. Penalties: Documented oral reprimand, counseling, and/or training.

1. Oral reprimands resulting from improper actions, while informal, require documentation with an employee's acknowledgment of such record.
2. Oral reprimand/counseling may involve remedial training. This training may be deemed necessary to rectify the improper behavior. Remedial training may include attendance at academy classes, in-service, or other training specially created to help the employee correct or modify his or her behavior. Remedial training is reasonably offered until the employee can demonstrate proficiency in the correct behavior. All training shall be documented.
3. Supervisors are expected to informally counsel employees regularly without waiting on instances of poor performance. Most counseling is informal, positive, supportive, and often undocumented in the employee's file,

however can be documented between the supervisor and employee with a follow up email.

4. Supervisors are responsible for counseling employees concerning job-related matters within their capabilities. Since many things can affect the job and an employee's performance, job-related counseling may involve family and other individual, personal subjects. Counseling may include identification of unacceptable behaviors or actions, specifically what was done wrong and the desired or acceptable performance. Counseling can attempt to determine the reason for the particular behavior, determine and recommend how to correct or improve performance or to solve the problem.

E. Written reprimand. A written reprimand may become a permanent part of the officer's file. An employee may appeal a written reprimand in accordance with policy 4.7 and the City Policy, Chapter 7 Grievances.

1. A written reprimand, issued by the Chief of Police or their designee:
 - a. Cautions an employee about poor behavior,
 - b. Sets forth the corrected or modified behavior mandated by the department,
 - c. Specifies the penalty in case of recurrent poor behavior.
2. The reprimanding supervisor shall prepare a memorandum for the personnel record that contains the following information:
 - a. Employee's name
 - b. Date of reprimand/counseling
 - c. Summary of reasons for reprimand/counseling
 - d. Summary of employee's response
 - e. Suggestions for improvement or specific actions suggested
 - f. Name and signature of counselor
 - g. The employee shall sign and date the form on which the statement appears.
3. If the employee's actions did not result in a formal internal investigation and employee has not behaved improperly following counseling for one year, the record of counseling may be expunged from the employee's personnel file at their written request.

F. Demotion or suspension without pay

1. If the situation warrants, the Chief of Police, in consultation with the city manager and human resources, may demote an employee, suspend without pay, or take other measures normally considered equivalent, such as the forfeiture of vacation or compensatory time.
2. Suspensions without pay will normally apply to a period of up to 15 days, as determined by the Chief of Police and city manager.
3. If an employee becomes a candidate for suspension a second time within one year after the first suspension, the employee may be dismissed.

4. Suspensions resulting from the arrest or criminal investigation of an employee may be indefinite or result in termination.
 - a. Should an employee be arrested or identified as a suspect in any felony, misdemeanor involving violence or moral turpitude, family violence or DWI, he/she shall immediately be placed on administrative leave and an internal investigation shall commence. At the conclusion of the internal investigation the Chief of Police may take appropriate disciplinary action based on the results of the internal investigation, including indefinite suspension or termination.
 - b. An employee who is acquitted of criminal charges may yet be disciplined at the discretion of the Chief of Police or reinstated with full or partial back pay.
5. Any employee suspended for a period five days or longer shall return all department-owned property. On any suspension, the officer must return to department custody his or her badge, identification card, and issued firearm.
6. During a suspension, the employee shall not undertake any official duties.
7. Demotion shall be to the next lowest rank. Demotion shall apply only to the lieutenant, sergeant or corporal.
8. An employee may appeal a suspension in accordance with policy 4.7 and the City Policy, Chapter 7 Grievance. An employee may appeal a suspension through the Chief of Police, to the city manager, whose decision is final. (TBP: 2.08)

G. Termination

1. Terminations are made in cases of extreme misfeasance, malfeasance, or nonfeasance of duty. A complete record of the circumstances of the misbehavior shall be made by all persons having knowledge of the misbehavior.
2. An employee may appeal a dismissal in accordance with policy 4.7 and the City Policy, Chapter 7 Grievances.

H. Reporting arrests

Any employee arrested for, charged with, or convicted of any crime, or required to appear as a defendant in any criminal or civil proceedings must so inform the Chief of Police in writing as soon as possible. Employees do not have to report parking tickets. Employees must report summonses or arrests for reckless driving, DWI, or any other hazardous or moving- traffic offenses. Failure to notify the department of the foregoing shall be cause for dismissal.


V. PROGRESSIVE DISCIPLINE

- A. Except for gross breaches of discipline, moral turpitude, or serious violations of law or conduct, the department generally follows the principles of progressive discipline.

- B. Probationary employees shall be dismissed, suspended, or otherwise disciplined according to the foregoing. The only difference is that a probationary employee has no right of appeal. In the case of a dismissed probationary employee, the official record shall merely indicate that the person was dismissed during probationary employment.

VI. ADMINISTRATION OF SUSPENSIONS, DEMOTIONS, OR DISMISSALS

- A. After an appropriate investigation, should the investigation sustain the allegation and determine that the discipline may be a suspension, demotion, or termination, the Chief may request review of the investigation by the officer's chain of command to obtain their recommendations for disciplinary action.
- B. The Chief of Police may meet with the employee and allow the employee to make any additional statement or comments regarding the evidence or investigation, and review any written statement provided by the employee. The Chief of Police will then have the employee report back after a period of time determined by the Chief.
- C. The Chief of Police will again review the investigation, considering the employee's input and may then decide on the discipline or send the investigation back for further investigation.
- D. The Chief will meet with the employee to inform him or her of his/her decision. The Chief will present the employee with a letter outlining the discipline, the effective date of the discipline, the reason for the discipline, and the employee's appeal rights.
- E. Copies of all investigation reports that indicate disciplinary action and all other disciplinary paperwork will be filed in the employee's personnel file. A copy of the investigation report will be maintained in the internal investigation files.

	FREEPORT POLICE DEPARTMENT	
	Policy 4.7 Grievance Procedure	
	Effective Date: 11/15/2024	Replaces: 9/1/2023
	Approved: <u>Jennifer Howell</u> Chief of Police	
Reference: 2.08		

I. POLICY

The department's goal is to provide fair, equitable, and clearly defined means for the resolution of grievances, to ensure that employees and their supervisors are accorded reasonable opportunity to present the facts bearing on a grievance, and to guarantee the opportunity to exercise the rights set forth in this order. Every employee has the right to fair treatment in all matters arising from employment and to this end each employee has the right to be heard whenever he or she alleges mistreatment. A grievance process that affords employees the opportunity to air a complaint helps reduce dissatisfaction, identifies organizational problems, and improves morale.

The department retains the right under applicable laws and regulations to direct employees in the performance of their duties; to take the necessary means to achieve the proper ends under emergency situations; and to hire, promote, transfer, and assign employees as well as to suspend, demote, discharge, or take disciplinary action against employees when there is just cause.

II. PURPOSE

The purpose of this order is to establish grievance procedures for departmental employees to resolve disputes or complaints concerning the terms or conditions of employment.

III. APPLICABILITY

A. Included

All permanent full-time employees and part-time employees who work at least 20 hours weekly and have been employed continuously for at least one year.

B. Excluded

1. Probationary employees.
2. An employee who has voluntarily resigned may not have access to the grievance procedure after the effective date of the resignation.
3. An employee who has been removed from employment shall not have access to the grievance procedure except to grieve a removal resulting from a formal discipline, unsatisfactory job performance, or other involuntary

separation. NOTE: This grievance must be filed within accordance of City of Freeport Policy Chapter 7.

IV. WHAT IS GRIEVABLE

A grievance is a complaint or dispute of an employee relating to employment, including but not necessarily limited to the following:

- A. Disciplinary actions, including terminations (whether resulting from formal discipline, unsatisfactory job performance, or any other involuntary separation), demotions, and suspensions. (TBP: 2.08)
- B. The improper application of personnel policies, procedures, rules and regulations, and ordinances and statutes.
- C. Acts of reprisal as a result of the use of the grievance procedure or of participation in the grievance of another employee.
- D. Complaints of discrimination on the basis of race, color, creed, political affiliation, age, handicap, national origin, or sex.
- E. Intimidation because of participation or failure to participate in political activities.

V. WHAT IS NOT GRIEVABLE

Management reserves the exclusive right to manage the affairs and operations of the department. Accordingly, the following complaints are not grievable under this order:

- A. Establishment and revision of wages or salaries, position classifications, or general benefits.
- B. Work activity accepted by the employee as a condition of employment, or work activity that may reasonably be expected to be a part of the job content.
- C. The measurement and assessment of work through a performance evaluation except where the employee can show that the evaluation was arbitrary or capricious.
- D. The contents of established personnel policies, orders, and statutes.
- E. Failure to be promoted except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
- F. The methods, means, and personnel by which work activities are to be carried on.
- G. Dismissal, layoff, demotion, or suspension from duties because of lack of work, reduction in the work force, or job abolition.
- H. The non-disciplinary hiring, transfer, assignment, and retention of employees within the agency.

- I. The relief of employees from duties during emergencies.
- J. The city's financial, budgetary, accounting, compensation, and organizational policies and procedures.
- K. Oral reprimands, warnings, or written reprimands.
- L. Management of city employees, including the right to determine the duties to be included in a job classification
- M. The right of management to make personnel appointments in accordance with adopted selection policies and techniques.
- N. The right of management to determine the number of persons to be employed or retained as employees, including the right to lay off employees whenever it is deemed to be in the best interest of efficiency or productivity or when necessitated by lack of funds or reduced workload.
- O. The right of management to establish rules and regulations governing work performance and conduct of performance evaluations
- P. The right of management to transfer and assign employees within the department; to determine the need for shift operation and rotation of the work week; to assign overtime; to determine job training and career development; and to determine duties or actions in emergencies.

VI. PROCEDURES

A. Nature of the grievance

The grievance should include the following:

- 1. Specifically, factually, and clearly detail the allegation and the harm done.
- 2. State that the harm arose from an act, commission, or omission that directly affects the employee's working conditions or employment relationship.
- 3. State the relief sought that is within the department's power to grant.

B. First management step

- 1. The employee shall identify the grievance in writing to the Chief of Police within five calendar days after the event or action that is the basis for the grievance.
 - a. A grievance alleging discrimination or retaliation by the Chief of Police, shall go directly to the human resources director.
- 2. The Chief of Police will schedule within five work days a meeting regarding the employee's grievance.
- 3. If the employee desires the presence of legal counsel, the Chief may have legal counsel present as well.

4. Once the meeting has occurred, the Chief of Police, in turn, shall give the employee a written response within five work days of receipt of the employee's memorandum.

C. Second management step

1. If the employee is not satisfied with the response to the grievance or disagrees with the Chief's decision that the issue is not grievable, the employee can submit the grievance to the city manager. It must be made within five work days following receipt of the Chief's reply.
2. The city manager will then follow the City of Freeport Policy Chapter 7.
3. The city manger is the final decision.

CHAPTER

SIX

DISCIPLINE PROCESS

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CHAPTER SIX

DISCIPLINE PROCESS

6.01 General Provisions

It is an objective of the City of Freeport to maintain an effective and productive work force in order to deliver quality services. Each employee is responsible for performing their job in a safe, productive, and effective way and within the instructions and standards established by their supervisor. In addition, employees are expected to maintain acceptable standards of conduct in their employment. Supervisors are charged with assisting employees in correcting unsatisfactory performance and unsatisfactory conduct through disciplinary procedures up to and including termination.

When taking disciplinary action, the City will adhere to the following general guidelines:

- Employees will be treated fairly and equitable. Action will be taken in an objective and professional manner and shall not be based on the personal feelings of the individual administering the disciplinary action.
- The decision to take disciplinary action shall be based on a careful assessment of the circumstances of each case. Factors to consider in the assessment are: the prior disciplinary record of the employee, and the potential effect of the violation on other personnel and/or the City organization.
- All disciplinary action shall be documented and forwarded to the employee's personnel file.

6.02 Reasons for Disciplinary Action

The following list of actions are intended to serve only as a guide to the types of problems for which disciplinary action may be appropriate. The list is not intended to be all-inclusive.

- Incompetence.
- Absenteeism.
- Absence without approved leave.
- Tardiness.
- Lying.
- Misuse of break periods.
- Inappropriate attire.
- Violation of departmental and city policies.
- Careless, negligent, or improper use of City property or equipment.
- Discourteous treatment of the public or other employee.

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- Neglect or carelessness in the performance of duties.
- Failure to meet or maintain specified conditions of employment, such as failure to obtain or maintain a license or certificate required as a condition for performing a job.
- Theft of, aiding in, or encouraging the theft of any property, public or private.
- Destroying City records without authorization.
- Falsifying information on City records, including his/her application for employment, medical information or other information concerning his/her employment status.
- Willful damage of public property or willful waste of public supplies, service, or equipment.
- Insubordination.
- Illegal use and/or possession of drugs.
- Physical assault committed on the job, upon a City employee, member of the public or City official.
- Using an official position or office for economic gain or soliciting favors or gratuities for performing services required by the employee's position.
- Disclosing confidential information.
- Unauthorized use or possession of City funds.
- Unlawful possession or use of dangerous weapons, such as firearms or knives on the job.
- Making threats against another employee or a member of the public.
- Engaging in any employment activity or enterprise that constitutes a conflict of interest.
- Using City property or equipment without authorization.
- Violating the City drug and alcohol abuse policy.
- Using abusive language toward employees, supervisor, or the public.
- Unnecessarily disrupting the work of other employees.
- Operating or conducting gambling on the job or on City property.
- Violating safety rules or practices which endanger the employee or others or damages City property or equipment.
- Playing tricks or jokes or engaging in horseplay on the job.
- Violating the City's sexual harassment or other harassment policies.
- Engaging in personal business while on duty without authorization of his/her supervisor.
- Failure to report damage to City property, equipment, or property of others.
- Unofficial use of City information.
- Sleeping on the job.
- Falsely reporting illness or injury, or otherwise attempting to deceive any official of the City as to a health or medical condition.
- Conviction of a felony or misdemeanor involving moral turpitude.
- Repeated conviction of a misdemeanor, whether or not involving moral turpitude.
- Unnecessary rudeness.
- Failure to meet credit obligations.
- Embezzlement.

CHAPTER

SEVEN

GRIEVANCE PROCESS

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CHAPTER SEVEN

GRIEVANCE PROCESS

7.01 Right to Grievance

Any employee of the City of Freeport, who feels that they have been improperly or unfairly treated in their work relationship with the City, shall have the right to file a grievance (complaint). Employees are encouraged to use the following grievance procedure and will not be discouraged from submitting a grievance.

7.02 Grievance Procedure

Any employee who has a grievance may submit, within five (5) days, a written statement, with all pertinent details of the grievance, to his/her Department Director. Within five (5) days of receiving the grievance, the Department Director will meet with the employee to discuss the grievance and decide what action, if any, to take regarding the grievance and the employee's right of appeal to the City Manager. The Department Director will have five (5) days to render his/her decision concerning the grievance. If a satisfactory adjustment of the grievance is not reached, the employee may appeal, in writing, to the City Manager for an adjustment of the grievance. Such appeal must be made within five (5) days of the decision of the Department Director.

When an appeal is made, the City Manager shall be given a copy of the grievance, the result of the meeting with the Department Director, and the reason for the appeal. Within five (5) days of receiving the appealed grievance, the City Manager shall meet with the employee to discuss the grievance and decide what action, if any, to take regarding the grievance. The City Manager shall have ten (10) days to decide what action, if any, to take regarding the grievance and notify the employee in writing of the decision. The decision of the City Manager, regarding any action on the grievance, is final.