

	KANSAS CITY, MO POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	PERSONNEL POLICY	03/05/2020	03/05/2020	301-6
SUBJECT			AMENDS	
Policy Series 300: Employee Relations 301 – Grievance Review Process & Board Appeals				
REFERENCE		RESCINDS		
RSMo. 84.500 & 84.600-610 PPBM 418 "Overtime/Court Time Policy" 543 "Transfer of Members"		PPBM 301-5		

I. INTRODUCTION

- *A. This written directive provides guidelines for the grievance review process and appeals to the Board of Police Commissioners (Board).
- B. The grievance review process provides an opportunity for an objective review of facts, at the member's request, to determine if a grievable disciplinary action or administrative action was unfair, unequitable, or inconsistent through the Department.

*II. TERMINOLOGY

- A. **Administrative Action** – A direct action which personally affects a member that creates dissatisfaction and resentment and generally can be classified in the broad areas of:
 1. Arbitrary actions for example, but not limited to, inconsistent scheduling of leave. Injury days, sick days, and limited duty do not qualify.
 2. Double Standards – A single decision maker reviewing similar facts and circumstances makes a decision or practice that reaches a different outcome for one member as opposed to another member/group.
 3. Favoritism – Unfair treatment of a member that results in more than minimal inequity and is demonstrated by preferential or advantageous treatment of another similarly situated member or member(s).
 4. Involuntary Transfer – A change in unit of assignment not requested by a member that is made due to a reduction in force, a vacancy within a unit, member misconduct, etc. For further information regarding transfers, members should refer to the current written directive entitled, "Transfer of Members."

- B. **Corrective Action** – An action administered in the form of instructional interview and/or training.
- C. **Grievable Disciplinary Action** - Disciplinary actions which are eligible for the grievance review process are:
 - 1. Disciplinary Counseling.
 - 2. Letter of Reprimand.
 - 3. Suspension Days (less than 15 days).

III. **POLICY**

- A. A member may submit an individual grievance free from restraint, interference, discrimination, or reprisal.
- B. No member will delay or interfere with the processing of grievances under the procedures herein.
- C. The following are not subject to the grievance review process:
 - 1. Disciplinary actions resulting in termination, demotion, or suspension of 15 days or more. These actions may be appealed to the Board (RSMo 84.500 & 84.610). For further information regarding Board Appeals, refer to Section VI of this written directive.
 - 2. Rulings by the Office of Citizen Complaints.
 - 3. Member evaluations.
 - *4. Corrective actions.
- D. Any incident resulting in a hearing before the Board will not be processed as a grievance. When a previously filed grievance is considered in a Board hearing, the decision of the Board will supersede the decision of the Grievance Committee.
- E. When a member requests a grievance review by the Chief of Police and receives a written response from or personally discusses the grievance with the Chief of Police, the grievance may not be resubmitted to the Grievance Committee.
- F. A complaint of unfair administrative action will be supported by tangible evidence.

- G. The Human Resources Division (HRD) Director or their designee will be the Grievance Coordinator.
- H. The Chief of Police has final authority on the disposition of all grievances. Grievance results may not be grieved.

IV. PROCEDURE

A. Grievable Disciplinary Action

1. On receipt of notification of grievable disciplinary action the member has seven (7) calendar days to prepare and submit a request for a grievance review.
2. The request will clearly indicate the rationale for requesting a grievance review by citing specific Department rules, written directives, orders, or conditions for which the member believes apply to the situation.

B. Administrative Action

- *1. The member has seven (7) calendar days of having notice of a qualifying personally affected action to prepare and submit a request for a grievance review.
2. The member will document the actions which caused dissatisfaction.
3. The request, with the recommendation to minimize and/or resolve the issues or actions, will be submitted through the chain of command to the bureau commander.
 - a. If the grievance can be resolved with mutual satisfaction at any level within the chain of command
 - (1) the resolution will be documented by the member resolving the problem, and
 - (2) acknowledged by the aggrieved member, then forwarded through the chain of command to the Grievance Coordinator for filing.
 - b. If the grievance cannot be satisfactorily resolved, the member will be notified by the bureau office. If the member desires, a request for a grievance review can be submitted.

C. Requesting a Grievance Review

- *1. The member may be assisted in the presentation or request of a grievance by any willing Department member or bargaining unit representative, with the exception of any member of the Office of General Counsel or the Chief of Police, to include the Executive Officer, Operations Sergeant, and the Officer assigned within.
- *2. A member wishing to submit a grievance review request will:
 - a. Submit a written memorandum directly to the Grievance Coordinator detailing the rationale for the request and include any supporting documentation. No copies of the memorandum will be made.
 - b. Email the request, details, and supporting documentation to [REDACTED] from an identifiable email account to allow the Grievance Coordinator or designee to follow up on the request. This email account will be checked on a daily basis during normal business hours by the Grievance Coordinator or designee.
- 3. If the member believes the decision and/or actions involved are based on inaccurate or incomplete information, the request will include;
 - a. why the member believes there are discrepancies, and
 - b. a report or written statement from any member/individual who can verify the member's beliefs.
- 4. The member will clearly indicate within their request one (1) of the two (2) following options for processing of their grievance, i.e., "I have chosen Option _____ for the processing of my grievance."
 - a. Option One (1) – Review by Grievance Committee
 - *(1) The written request is submitted directly to the Grievance Coordinator who will forward a copy to the Chief of Police.
 - (2) If a grievance is being processed under this option, the member will not, in any manner, seek the attention of the Chief of Police.

b. Option Two (2) – Review by the Chief of Police

- (1) The written request will be submitted directly to the Chief of Police with a copy to the Grievance Coordinator.
- (2) The Chief of Police will:
 - (a) Review the request and meet as appropriate to determine all available information surrounding the incident.
 - (b) Consider all relevant information.
 - * (c) Notify them of the decision regarding the grievance as soon as practical.
 - (d) Forward the decision regarding the grievance in writing to the member.

D. Grievance Coordinator Responsibilities

- *1. Receive and review submitted grievance requests within 10 calendar days to ensure:
 - a. Grievances are submitted within specified time limits and may be heard by the grievance committee.
 - b. If more documentation is required, the request will be returned to the member for completion within five (5) calendar days.
- *2. Within 14 calendar days, notify the aggrieved member's chain of command that a grievance has been filed in response to either an administrative action or a disciplinary action.
3. Mediate a grievance when the action taken is mutually acceptable to all affected members.
4. The Grievance Committee will have 30 calendar days to:
 - a. Review the randomly selected members to ensure the committee has proper composition.
 - b. Notify the committee members in writing of their selection.
 - c. Schedule committee meetings and preside as chairperson and non-voting member of the meetings.

- d. Ensure minority reports are developed when there is a dissenting opinion from that of the majority of the committee.
- 5. Grievance Review Report, Form 71 P.D.:
 - a. Once completed by the Grievance Committee, forward the form to the Chief of Police for final disposition and return to the Grievance Coordinator.
 - b. Once the form is received from the Chief of Police with the final disposition, notify all concerned members of the disposition.
 - *c. Forward copies of the form with the final disposition to the aggrieved member, the member's bureau, and the Grievance Coordinator.
- 6. Prepare and submit to the Chief of Police an annual report of grievances received and notate any significant problems which occurred during the last year.
- *7. Maintain all original documentation in accordance with the Missouri Local Records Retention Schedule.

V. Grievance Committee

- *A. The committee will consist of five (5) members to include:
 - 1. One (1) captain/commander/manager
 - 2. One (1) sergeant/supervisor
 - 3. One (1) non-sworn member
 - 4. One (1) sworn member of the rank of police officer/detective or one (1) non-sworn member, at the preference of the member.
 - 5. The remaining member will be of the same rank as the subject member.
- B. Selection of Members
 - 1. Members of the Committee will be randomly selected through the computer.

2. A selected member who does not wish to serve on a Committee will submit an Interdepartment Communication, Form 191 P.D., through the chain of command to the Grievance Coordinator.
 3. Committee members may not have been involved in the incident being reviewed, assigned within the same division as the subject member or where the incident occurred, or be a relative of the subject member.
 - *4. The aggrieved member will be allowed one (1) peremptory challenge of a Committee member for good cause of a conflict of interest, presented to the Grievance Coordinator.
 5. Another member of the same rank as the challenged member will be randomly selected through the computer.
- C. Investigative and internal files prepared within the department will be made available to the aggrieved member and the Grievance Committee unless, in the discretion of the Chief of Police, such disclosure would be contrary to the provisions of RSMo. 84.610 or contrary to good order and discipline within the Department.
- D. The Grievance Committee Responsibilities
1. Review the member's grievance request, the investigative file, the testimony of the aggrieved member and/or representative, and interview any member/individual who can verify relevant information not included in the investigative file.
 2. Committee members will maintain the confidentiality of all grievances submitted.
 - *3. No portion of the proceeding will be transcribed or recorded by any member of the Committee.
 - a. Committee members may take notes for their final analysis.
 - b. Any notes taken by Committee members will be given to the Grievance Coordinator once the Committee has adjourned for the final decision by the Chief of Police.
 4. After all facts pertaining to the incident are collected and analyzed, determine whether:
 - a. The investigation of the incident was adequate to document the event or violation occurred.

- *b. The member's violation/deficiency was clearly documented and the member's treatment was fair, equitable, and consistent through the Department.
 - c. The aggrieved member responded to the allegations by either a memorandum or statement.
 - d. The action taken/recommended, when compared with the totality of circumstances, was:
 - (1) Appropriate.
 - (2) Inappropriate. Provide an explanation.
5. Provide a recommendation(s) with supporting documentation to the Chief of Police for final consideration. The Committee has the authority and responsibility to recommend any or all of the following:
- a. Further investigation.
 - b. Revision of recommended action.
 - c. Policy or procedure modifications.
6. Complete the Grievance Review Report, Form 71 P.D., documenting the findings and recommendations to be considered in the final determination of disciplinary action by the Chief of Police.

E. Overtime

- 1. Committee members will be eligible for overtime compensation in accordance with the current written directive entitled, "Overtime / Court Time Policy."
- 2. The aggrieved member and the representative will **not** be compensated for overtime incurred in the presentation of a grievance.

***VI. BOARD APPEALS**

- A. Disciplinary action resulting in termination, demotion, or suspension of 15 days or more may be appealed to the Board by requesting a public hearing (board hearing) regarding the action. RSMo. 84.600-610

- B. The member will file a written appeal by submitting a letter or email to the Office of General Counsel Board Assistant (Board Assistant) within 10 business days after the effective date of such action.
 - 1. No extension of the 10 day period will be allowed.
 - 2. The member, member's attorney, or representative will provide a courtesy copy of the appeal to the Chief of Police or their designee at the time the appeal is filed.
- C. The Board will grant a board hearing within 15 calendar days after filing of the appeal, unless the date of the hearing falls on a legal holiday or weekend, in which case the following business day will be used.
- D. The Chief of Police or their designee, or member, or both, may request an extension of the 15 day time period by filing a written motion for an extension of time with the Board's Assistant.
 - 1. A motion for an extension of time will indicate, at a minimum, the following information:
 - a. If the member has previously requested an extension of time for the board hearing.
 - b. The reason for the request of extension.
 - c. If the member has conferred with the other party(s) and whether the other party(s) agrees or disagree with the request.
 - 2. Any such motion that does not contain the above information will not be considered by the Board's Attorney/Secretary.
 - 3. The Board's Assistant will forward the motion to the Board's Secretary/Attorney for disposition.
 - 4. A courtesy copy of the motion will be provided to the other party(s) at the time of filing.
 - 5. The Board's Attorney/Secretary will review and consider such motion and issue a written order on behalf of the Board sustaining or overruling the motion.
- E. The parties to the Board Appeal will follow the Board's Hearing Procedures established by the Board's Secretary/Attorney.
- F. Failure to comply with the Hearing Procedures, without good cause, may result in dismissal of a member's Board Appeal.

- G. The Board may:
1. Affirm the disciplinary action.
 2. Reverse the disciplinary action.
 3. Modify the disciplinary action.
- H. The Board will report all decisions in writing to the Chief of Police or their designee and the member.

Richard C. Smith
Chief of Police

Adopted by the Board of Police Commissioners this _____day of
_____, 20__.

Nathan Garrett
Board President

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