

# General Order

## Houston Police Department



ISSUE DATE:

December 5, 2012

NO.

900-03

REFERENCE: This newly created General Order supersedes all prior conflicting Circulars, Directives, and General Orders

### SUBJECT: EMPLOYEE CONCERN RESOLUTION PROGRAM

#### POLICY

The department shall maintain the Employee Concern Resolution Program (ECRP) as outlined in this General Order to provide a process through which civilian employees may seek resolution of eligible concerns, problems, or disputes.

Although the ECRP may be utilized by only civilian employees, this General Order applies to all employees.

#### DEFINITIONS

**Alternative Dispute Resolution (ADR) Office.** The office that performs the administrative functions of the ECRP process.

**Departmental Union Representative (DUR).** A union representative as defined in the Houston Organization of Public Employees (HOPE) Meet and Confer Agreement with the City of Houston.

**ECRP Committee.** The ECRP Coordinator and other members appointed by the Chief of Police to review ECRP issues.

**ECRP Coordinator.** The assistant chief or executive assistant chief to which ADR is assigned.

**Initiating Party.** The civilian employee filing an ECRP issue.

#### 1 ELIGIBLE ISSUES

Civilian employees may seek review of reasonable concerns, problems, or disputes of a factual nature that can be resolved within the department. ECRP eligible issues may include, but are not limited to, supervisor conflicts, work assignments, or employee

performance evaluations with an overall rating of 3.0 or higher.

The ECRP Coordinator shall make the final determination regarding issues eligible for resolution via the ECRP process.

#### 2 INELIGIBLE ISSUES

The following issues are not eligible for ECRP review:

- a. Grievable issues.
- b. Discrimination or sexual harassment complaints.
- c. Retaliation as defined in General Orders 200-03, **Investigation of Employee Misconduct** or 300-11, **Discrimination, Harassment, and Other Prohibited Conduct**.
- d. "Whistle Blower" complaints.
- e. Matters that are subject to appeal to the Civil Service Commission including, but not limited to, appeals of indefinite suspension, removal, or demotion.
- f. Reviews of temporary suspensions.
- g. Performance improvement discussions.
- h. Salaries, pay raises, and performance incentive plans.
- i. Nonreferral complaints by job applicants.
- j. Job classification challenges.
- k. Actions related to motor vehicle assignment and use.

- l. Issues related to General Orders 300-17, **Employee Drug Testing** or 300-28, **Use of Intoxicants**.
- m. Salary continuation.
- n. Layoffs or reduction in workforce issues.
- o. Denial of Family Medical Leave Act (FMLA) issues.
- p. Terminations during probation.
- q. Class I complaints as defined in General Order 200-03, **Investigation of Employee Misconduct**.
- r. Any issue that was previously filed by the same employee and already addressed by the ECRP Committee.
- s. Any written City of Houston or Houston Police Department policy or directive.

Issues that are not eligible for ECRP review may be eligible for review under another department resolution or support process. See section 10 of this General Order.

### **3 INITIATING THE ECRP PROCESS**

Prior to submitting a formal ECRP issue, civilian employees shall attempt to resolve issues by discussing them with their supervisors.

Requests for ECRP review must be submitted to ADR within 15 *calendar* days following the date of the action or inaction giving rise to the issue. Requests shall be made using the *ECRP Issue* form. All ECRP related forms are available in the ADR office.

ADR shall review issues submitted to ECRP to ensure that they are eligible. Ineligible issues may be referred to any of the following:

- a. Another section of ADR.

- b. Another section of the department that may be able to assist with resolving the issue.
- c. The ECRP Coordinator for further review.

If an issue is not accepted in ECRP, a written notice explaining the rejection shall be provided to the initiating party within five *calendar* days after the issue was filed in ADR.

### **4 ECRP COMMITTEE MEETING**

The ECRP Committee shall meet to consider accepted ECRP issues within 30 *calendar* days following the date the employee files the *ECRP Issue* form in ADR.

The ECRP Committee meetings shall be conducted as follows:

- a. A minimum notice of two *calendar* days shall be given to the initiating party prior to any scheduled ECRP Committee meeting unless otherwise mutually agreed upon.
- b. The initiating party shall appear in person at the meeting. The burden of proof is on the initiating party.
- c. The initiating party may have a representative of his or her choosing present at the meeting. However, the representative may not be another City of Houston employee unless the representative is a certified or probationary departmental union representative (DUR).
- d. Meetings are not open to the public.
- e. Meetings shall not be recorded.
- f. Meetings shall not exceed one hour.
- g. The Committee shall make a written recommendation for resolving the issue

during or after the meeting. The Committee's written recommendation shall be provided to the initiating party within five *calendar* days following the conclusion of the Committee meeting.

## 5 RESPONSIBILITY OF PARTICIPANTS

The ECRP Committee, the initiating party, and any applicable witnesses shall meet in person to fully, candidly, and openly discuss the employee's concern in an effort to mutually resolve the issue before the Committee.

## 6 GENERAL PROVISIONS

- a. ECRP records shall not become part of an employee's personnel record.
- b. Disciplinary action is not affected in any manner by participation in ECRP.
- c. The initiating party shall be allowed reasonable time off from regular duties to file ECRP issues with ADR and to attend ECRP Committee meetings. Such activities shall be considered City business.
- d. Preparation, meeting with witnesses or representatives, drafting responses, or gathering evidence shall be done on the employee's own time and shall not be considered City business.
- e. After conclusion of the ECRP Committee meeting, the ECRP Coordinator shall ensure originals of the following documents are forwarded to ADR:
  1. *ECRP Issue* form.
  2. Written recommendation from the ECRP Committee.
  3. All other records that should become part of the department's ECRP records.

## 7 WITNESSES

The ECRP Committee may, at its discretion, allow witnesses to participate in the meeting. If the Committee decides to permit witnesses:

- a. Only factual witnesses shall be allowed to participate.
- b. A maximum of five factual witnesses may be allowed in limited circumstances, although a maximum of two witnesses is preferred.
- c. Authorized witnesses shall be considered on City business.

If the initiating party desires to have witnesses appear at the ECRP Committee meeting on his or her behalf, the names of these witnesses and the facts to which they will attest shall be indicated on the *ECRP Witness and Document* form available in ADR. This form shall be attached to the *ECRP Issue* form at the time the issue is filed in ADR.

## 8 ECRP ISSUE CONSOLIDATION

Multiple employees who have issues arising from the same or similar fact situations, or an employee who files more than one issue, may request to have the ECRP issues and meetings consolidated.

The ECRP Committee may, at its discretion, elect to either combine the issues or hear them separately.

## 9 EXPEDITED CLOSURE

The ECRP Coordinator, ECRP Committee, or Chief of Police may close any ECRP issue without resolution if it is determined that:

- a. The issue is ineligible for the ECRP.

- b. The initiating party voluntarily withdrew the issue by completing the *ECRP Issue Withdrawal* form available in ADR.
- c. The initiating party is no longer an employee of the City.

#### **10 ALTERNATIVE RESOLUTION PROCESSES**

ADR or the ECRP Committee may recommend that an issue be resolved using another department resolution or support process. Some examples of these processes are:

- a. Mediation.
- b. Employee Representative Council (ERC).
- c. Referral of issue to various levels of the initiating party's chain of command.
- d. Remedial training.
- e. Psychological Services.
- f. Employee Assistance Program (EAP).
- g. Administrative Personnel Concerns Program (APC).
- h. Personnel Concerns Program (PCP).

#### **11 APPEAL**

If the ECRP Committee's resolution does not resolve the initiating party's issue, he or she may file an appeal to the Chief of Police. The Chief of Police shall issue a written decision on all appeals. There is no further ECRP appeal.

To file an ECRP appeal, the initiating party shall submit a completed *ECRP Appeal* form to ADR. The *ECRP Appeal* form must be submitted to ADR within five *calendar* days following the date that the ECRP Committee's written recommendation was provided to the initiating party.

#### **12 RELATED GENERAL ORDERS AND REFERENCE MATERIAL**

- 200-03, Investigation of Employee Misconduct
- 300-11, Discrimination, Harassment, and Other Prohibited Conduct
- 300-12, Grievance Procedure
- 300-17, Employee Drug Testing
- 300-26, Employee Representative Council
- 300-28, Use of Intoxicants
- 300-32, Processing Complaints and Employee Issues
- 300-33, Mediation
- Meet and Confer Agreement (Civilian)

  
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