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| <b>Policy Number and Title:</b>    | 109.03 Appeals                              |
| <b>Policy Section and Chapter:</b> | Human Resources – Discipline and Separation |
| <b>Policy Owner &amp; Contact:</b> | Human Resources – (940) 349-8355            |
| <b>Policy or Directive:</b>        | Policy                                      |
| <b>Last Revision Date:</b>         | 06/03/2025                                  |

## **POLICY STATEMENT**

The City of Denton provides employees an opportunity to appeal suspensions, involuntary demotions, and involuntary terminations under specific circumstances. The appeal process is intended to provide employees with a responsive and fair forum for review, ensuring decisions are made in the interest of fairness and good faith.

## **POLICY**

### **I. Applicability**

All regular full-time and regular part-time employees, as defined in the City’s Categories of Employment Policy (No. 103.01), that have successfully completed their one (1) year introductory period.

### **II. Appealable Actions**

#### **A. The following actions may be appealed:**

- a. Suspension
- b. Involuntary demotion
- c. Involuntary termination

#### **B. Bases for upholding appeal:**

An employment action may not be changed by the Appeal Committee or the City Manager unless it is shown by the employee that the employment action was arbitrary or capricious, meaning that the Appeal Committee is firmly convinced the action taken was completely unreasonable. The Appeal Committee is not in the position to substitute its view of the facts or evidence except where the connection between the facts and the determination made was not reasonable.

### **III. Requesting the Appeal**

- A. All appeal requests must be submitted in writing and filed with the Human Resources Department within ten (10) business days after receiving notification of an action taken.

- B. Employees requesting an appeal must inform the Human Resources Department in writing of their personal email address and telephone number. Failure to provide a personal email address and telephone number may result in the administrative closure of the appeal.
- C. The written request must clearly outline facts or evidence supporting the appeal, must list individuals with relevant knowledge regarding the facts or evidence, and specify the remedy or relief the employee seeks as an outcome.
- D. If an appeal request fails to comply with this Section, the Director of Human Resources or their designee reserves the right to deny the appeal without further action.

#### **IV. Appeal Committee Structure**

##### **A. Committee Members**

- 1. Appeals will be reviewed by a three-member Appeal Committee, composed of the following positions that are not in the employee's line of direct supervision:
  - a. At least one director, assistant director, or deputy director
  - b. At least one manager; and
  - c. At least one other member who is in a leadership position at least one level above the appellants within the organization.
- 2. The Committee will designate a chairperson responsible for managing procedural aspects of the review, including the organization of interviews, the gathering of information, and drafting the Committee's recommendation.
- 3. The appellant, their supervisor, or their department director may object to a Committee member's participation based on a potential conflict. A written objection must be submitted to the Director of Human Resources within two (2) business days of appellant receiving the Committee appointment notice. The objection must state specific facts supporting the objection. The Director of Human Resources, or their designee, will review the objection and issue a final decision within three (3) business days.

##### **B. Recusal**

- 1. Committee members must recuse themselves if they have a conflict of interest, including participating in the decision-making process related to the corrective action, or if they have or had a relationship with the appellant that could influence their decision.
- 2. Recusal is required if a committee member
  - a. Discussed the proposed corrective action with the employee or supervisor,
  - b. Approved or imposed the action,
  - c. Witnessed or has personal knowledge of the underlying events
  - d. Works in the same department as the employee appealing.

General knowledge of the corrective action does not constitute a conflict requiring recusal.

#### **V. Appeal Committee Review, Recommendation and Determination**

##### **A. Review**

- 1. The Appeal Committee will be provided the appeal request with the appellant's statements outlining the reasons for the appeal, any evidence provided by the appellant, the list of individual witnesses, and the requested remedy.

2. Human Resources will provide the Appeal Committee with any reports, statements, or other information relied upon for termination or the imposition of corrective action.
3. The Appeal Committee will review the employee's appeal documentation, review the relevant materials related to the corrective action, and may interview witnesses as necessary to make a recommendation. A face-to-face meeting with the employee or witnesses may be conducted at the Committee's discretion.
4. The Appeal Committee will complete its review within thirty (30) calendar days of receiving both the appeal request from the appellant and the responsive information from Human Resources. If additional time is required, the Appeal Committee may request an extension in writing to the Director of Human Resources citing the reasons for the extended review period. Failure of the Appeal Committee to complete review within the prescribed time period is not grounds for and does not result in overturning or otherwise modifying the action being appealed.
5. Decisions are based on the information reviewed during the Appeal Committee process. However, new claims or allegations not provided to Human Resources before the employment action was made may not be considered as part of the Appeal. New claims or allegations must be submitted to Human Resources as provided for in the City of Denton policies.

**B. Committee Recommendation**

1. The Appeal Committee will issue a written recommendation to the City Manager, including a summary of the findings and any dissenting opinion.

**C. Final Determination**

1. The City Manager may accept, reject, or modify, the Committee's recommendation. The City Manager's decision is final and will be communicated in writing through the Human Resources Department to the employee, their supervisor, and others in the reporting chain, within ten (10) business days of the decision. The City Manager's failure to render a decision within the prescribed time period is not grounds for, and does not result in, the overturning of the action being appealed.
2. A terminated employee who is reinstated as a result of an appeal may not appeal any corrective action that is issued as part of the appeal determination.
3. An employee whose corrective action is modified may not appeal a lower level of corrective action or an action of lesser consequence (such as fewer days of suspension without pay) that is issued as part of the appeal.

**D. Employment At Will**

All employees of the City of Denton are employed at-will, and this policy does not create a contract or a property interest, nor does it guarantee continued employment with the City.

## **VI. Exceptions**

- A. Written Reprimands as defined in Policy 109.01 – Corrective Action, are not subject to the appeal process described above. However, an employee may submit a written response to a Reprimand to the Human Resources Department within ten (10) business days of receipt. The employee's response will be placed in their personnel file alongside the Written Reprimand.
- B. If any components of the corrective action being appealed involves the Director of Human Resources or a Human Resources Department employee, the authority and committee oversight will escalate to the Deputy City Manager or their designee.
- C. Employees in their introductory period as defined in Policy 104.02 – Introductory Period, are not eligible to file an appeal for any corrective action or termination.
- D. Terminations resulting from a positive drug or alcohol test are not subject to this appeal process and must reference Policy 108.12 – Anti-Substance Abuse and Rehabilitation.
- E. Employees terminated for conduct involving threats, threatening behavior, or any other acts of aggression or violent behavior in the workplace as described in City Policy 108.05, Workplace Violence Prevention, are not eligible for an appeal. However, an employee may submit a written response to their Termination to the Human Resources Director by mail or email within ten (10) business days of such for review. If the Director agrees with the Termination, the employee's response will be placed in their personnel file alongside the Termination. The Human Resources Director may escalate the response to the Deputy City Manager if the Director was involved in the decision to terminate.
- F. City Council Appointees are exempt from any provisions in this policy. Corrective Action must be addressed utilizing Policy 109.05 – Complaint Review, Investigation, and Corrective Action against City Council Appointees.
- G. Employees entitled to civil service status under Chapter 143 of the Texas Local Government Code are exempt from any provisions in this policy that conflict with the disciplinary provisions in that Chapter, the Local Rules and Regulations of the Civil Service Commission, or in a Meet and Confer agreement in force at the time the employment action is taken. In such cases, the applicable statutory, civil service provisions, or agreement shall prevail.

## **REFERENCES**

Insert any applicable references to other City policies, federal, state, or local laws, and/or links to forms or other useful information.

- Policy 104.02 – Introductory Period
- Policy 108.12 – Anti-Substance Abuse and Retaliation
- Policy 109.01 – Corrective Action
- Policy 109.05 – Complaint Review, Investigation, and Corrective Action against City Council Appointees
- Texas Civil Service Laws, Texas Local Government Code §§143.001 et seq.
- Local Rules and Regulations of the Civil Service Commission
- Applicable Police or Fire Meet and Confer Agreement
- Categories of Employment Policy (No. 103.01)

**REVISION HISTORY**

| Revision Date | Policy Owner    | Summary                   |
|---------------|-----------------|---------------------------|
| 11/08/1996    | Human Resources | • Initial Policy Adoption |
| 11/19/2020    | Human Resources | • General Updates         |
| 06/03/2025    | Human Resources | • General Updates         |
|               |                 |                           |