


<b>Subject: Employee Concerns Resolution Program</b>	<b>Departmental Policy No. 3-36</b>	
	<b>Effective: Upon Approval</b>	
<p><b>1.0 PURPOSE</b></p> <p>To provide a process to address and resolve concerns described in Article 14.02 of the Meet and Confer Agreement between HOPE and the City of Houston.</p> <p><b>2.0 POLICY BASIS</b></p> <p>Section 14-50 and the Meet and Confer Agreement between HOPE and the City of Houston.</p> <p><b>3.0 SCOPE</b></p> <p>This policy applies to all HPW employees regardless of civil service status protection (e.g. probationary, part time, appointed, executive, etc.) and supersedes all former HPW policies, procedures and directives related to the Employee Concerns Resolution Program (ECRP).</p> <p><b>4.0 POLICY</b></p> <p>4.1 Any employee of the department who has an employment related concern may initiate this program by meeting with the Employee Concerns Coordinator for their service line. An employee may seek review of reasonable concerns, problems, and disputes of a factual nature that can be resolved within the department. This may include, but is not limited to, supervisor conflicts, Employee Performance Evaluations (or the equivalent) with an overall rating of acceptable or above, and/or work assignment and other issues.</p> <p>4.2 Prior to submitting a formal ECRP concern, the employee shall discuss his/her concern with his/her supervisor to attempt to resolve the issue.</p> <p>4.3 An employee wishing to file an ECRP must obtain the appropriate form(s) from the ECRP Coordinator for his or her service line. The completed form should clearly and succinctly describe in detail the nature of the concern and the proposed resolution. The resolution should be stated in terms of recommended action for management to take. Resolutions that include request for other employees to receive Positive Corrective Action or termination would be inappropriate. Such authority remains with the chain of command and not the committee. If the resolution is "to bring X to the Director's attention" or "to discuss an issue," the Employee Concerns Resolution Program is probably not the appropriate forum for dealing with the matter. Such matters should be handled informally or reported directly and/or referred to the Office of the Inspector General, if appropriate.</p> <p>4.4 The burden of proof in this process is at all times on the employee filing the ECRP concern.</p>		
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- 4.5 All concerns must be filed in writing no later than fifteen (15) calendar days after the occurrence of the action or inaction which resulted in the basis of the concern. The completed ECRP form with the employee's original signature must be received by the ECRP coordinator on or before the close of business on the 15<sup>th</sup> day. Should the 15<sup>th</sup> day be on a weekend or city holiday, the form must be submitted by close of business on the last working day prior to the 15<sup>th</sup> day.
- 4.6 Upon receipt of the ECRP form, the ECRP Coordinator will review the concern to determine whether it is timely and can be appropriately addressed within the ECRP. If the matter is determined to be untimely or ineligible for resolution through ECRP, the Coordinator shall provide the employee written notice within five (5) calendar days of filing.
- 4.7 The ECRP will be forwarded immediately to the supervisor/manager for review and response. If the supervisor/manager has not previously met with the employee to discuss this issue, the supervisor will need to coordinate a private/informal discussion with the employee. The supervisor/manager will prepare a written response to the employee's concern and proposed resolution. The response cannot grant anything that is outside of, or beyond the authority of the supervisor/manager. This response should be provided to the employee and to the ECRP Coordinator within seven (7) calendar days of the concern being provided to the supervisor. Should this response not resolve the concern, the ECRP Coordinator will schedule a meeting the committee. If the coordinator does not receive the response from the supervisor within those seven (7) days, it will automatically be scheduled before the committee.
- 4.8 A three person committee will be designated to hear the concern. All three committee members will be from a different service line than the employee filing the concern. The committee will be chaired by the designee of the Director who should be in a managerial position not below the classification of Deputy Assistant Director. The committee will also include a supervisory representative lower in classification than the chair. The third committee member will be a non-supervisory employee. The ECRP coordinator will maintain a pool of supervisor and non-supervisory employees approved by their respective Deputy Directors to participate on this committee. Any Committee member who had a decision making role in the subject of the ECRP or is the subject of the ECRP shall not be permitted to participate on the committee in the ECRP hearing.
- 4.9 The recommendation for resolution from the committee will require the agreement of at least two of the three members.
- 4.10 The Committee cannot overturn or modify any action authorized by the Director without the Director's approval. Furthermore, the Director retains the right to overturn or modify any recommended resolution that is found to be in conflict with City/Department policy, local/state/federal law, or in the opinion of the Director, is contrary to the best interest of the City/Department.
- 4.11 Either the Committee or the director may close without resolution any concern filed which is later determined to be outside the jurisdiction of the Committee or the director, is untimely

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filed, is inappropriate to be addressed through this process or if the employee is not actively pursuing resolution.

- 4.12 Employees who have concerns arising out of the same or similar fact situations, or an employee who files more than one concern, may request to have ECRP meetings consolidated. The committee may, at their discretion, elect to either combine the concerns or hear the concerns separately.
- 4.13 The employee(s) filing the concern shall be given at least two (2) calendar days notice of any committee review meeting of the concern unless a shorter time is mutually agreed upon.
- 4.14 It shall be a violation of this policy for any supervisor to take any retaliatory action against any employee for utilizing or participating in any part of the ECRP.
- 4.15 Disciplinary action is not suspended by an employee's participation in this program. Any disciplinary action taken after an employee files an ECRP would not necessarily constitute retaliation.
- 4.16 The HRD/Client Services/General Services group shall monitor and assist the operation of this program.
- 4.17 The employee shall be allowed a reasonable time off from his regular duties to file his concern and to attend the meeting, and such time off shall not be charged against the employee. It is the employee's responsibility to obtain permission from his/her immediate supervisor to leave their work area in order to file the Concern. While an employee may not be prevented from filing a concern, the timing of permission to leave the work area is at the discretion of the supervisor. All other efforts associated with the ECRP, including time for preparation, meetings with witnesses or representatives, drafting responses or gathering evidence, etc., may not be conducted on City duty time. Employees may not "work" their concerns on city time and must compile, research, draft, prepare and complete their written description of their concerns on their own time.
- 4.18 Employees may not use city resources (work time, city telephones, email, paper, etc.) for any activity related to the ECRP other than filing concerns, responding to meeting notices and attending meetings.
- 4.19 The employee shall be allowed to have a representative of his or her choosing present at the meeting. The representative need not be an attorney but may be anyone desired including a union representative, relative, friend, minister, spouse, etc. The representative may not be another City employee, unless the representative is a certified or probationary Department Union Representative (DUR). ECRP Coordinators shall in no way act or function as an employee advocate or serve to provide legal advice of any kind to employees.
- 4.20 The employee filing the concern may, at the time of filing, request the attendance of fact witnesses only. The actual attendance or testimony of any witnesses will be at the discretion

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of the Committee. The time off for participation by approved witnesses will be considered City business. The maximum number of witnesses that may be approved is five.

- 4.21 Original documents relating to the concern will be maintained in the HRD/Client Services/ General Services group. ECRP forms and related documents shall not be placed in the personnel file of the employee who submitted the concern. Every reasonable effort shall be made to keep the ECRP and the related documents from disclosure to persons without a need to know, except as required by state, federal, or local law.
- 4.22 ECRP Review meetings shall not be open to the public.
- 4.23 Participants shall not record ECRP review meetings.
- 4.24 All parties must, at all times, comport themselves in a civil and courteous manner appropriate for the workplace.
- 4.25 A pending ECRP does not relieve an employee of the obligation to comply with all departmental and citywide policies, procedures, rules, regulations, etc. and to fully perform their job duties, responsibilities, tasks, etc., whether specifically stated or inferred, in an acceptable manner (quality, quantity, timeframe, output, results, etc.).
- 4.26 If an employee who filed a concern resigns his/her position with the city or is terminated or indefinitely suspended while the concern is pending, the ECRP shall become moot and all further processing shall cease.
- 4.27 The department director may adjust any guidelines specified herein as necessary for the continuous improvement of this program.
- 4.28 Within thirty (30) calendar days from the filing of the ECRP, the ECRP Committee shall convene to hear the concern(s). Each participate at the review meeting shall appear in person to fully, candidly, and openly discuss the concern(s) in an effort to mutually resolve the issue. This meeting shall not exceed a one hour time limit. Within five (5) calendar days of the meeting, the Committee shall make a written response and recommendation for resolution.
- 4.29 If the Committee recommendation does not resolve the employee's concern, the employee within five (5) calendar days from the date of the Committee's written response, may file a request with the ECRP coordinator, seeking the Department director's review of the Committee's recommendation. The director may then accept the committee's recommendation, modify, or deny it and order an alternate final resolution.
- 4.30 The final determination of a concern will rest with the Department director. There shall be no further appeal.

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## 5.0 EXCLUSIONS

In addition to those described above, the following are excluded from issues addressable through the ECRP:

- 5.1 Matters expressly identified as Grievable pursuant to the City of Houston Code of Ordinances 14-50 and Article 14.01.01 (Grievable Issues) of the Meet and Confer agreement with HOPE dated August 18, 2011.
- 5.2 Discrimination, sexual harassment complaints
- 5.3 Retaliation for filing a discrimination or sexual harassment complaint
- 5.4 "Whistle Blower" complaints
- 5.5 Matters which are subject to appeals at the Civil Service Commission, including, but not limited to, appeals of indefinite suspension, removals, demotions
- 5.6 Review of Temporary Suspensions
- 5.7 Performance Improvement Discussions (PID)\
- 5.8 Salaries, raises, performance incentive plan (PIP)
- 5.9 Non referral complaints by job applicants
- 5.10 Job classification challenges
- 5.11 Actions taken pursuant to AP 2-2
- 5.12 Alcohol and drug test results or procedures
- 5.13 Salary Continuation:
- 5.14 Layoffs or reduction in force issues
- 5.15 Denial of FMLA leave requests/complaints
- 5.16 Terminations during probation
- 5.17 Allegations of criminal misconduct/Office of Inspector General (OIG) investigations
- 5.18 Any issue cited or addressed in a prior ECRP filed by the same employee
- 5.19 City/Departmental Policy

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