14.1 Corrective Action Procedures

These procedures are designed to establish a fair and objective process for correcting or treating unacceptable conduct; to distinguish between less serious and more serious actions of misconduct; and to provide corrective action accordingly. Corrective action is limited to employee conduct occurring only when employees are at work or when otherwise representing the County in an official or work related activity, unless otherwise specifically provided for in this procedure or as specifically set forth in the Police Department General Orders and Fire and Rescue Department General Orders.

Each supervisor is expected to exercise good judgment. Disciplinary action set forth in the Group of Offenses contained herein must be applied by management in a uniform and consistent manner.

14.2 Groups of Offenses and Penalties

Unacceptable conduct may be divided into three types of offenses according to their severity. The offenses listed in each of three groups of offenses are not all-inclusive and may not identify every offense which may occur and result in disciplinary action. The disciplinary actions set forth in the Group Offenses are the minimum actions which must be imposed. Employees, who are in violation of a Group I or Group II Offense that may result in an involuntary separation, may be offered the option to resign by management rather than be involuntarily separated by dismissal or termination.

Management cannot offer any employee that violates a Group III offense the option to resign. If the employee initiates a resignation, acceptance of such resignation for a Group III violation will be left up to the discretion of the appointing authority. Any resignation resulting from a preponderance of a disciplinary matter shall not be deemed to be a resignation in good standing. (See Section 13.3 Resignation.)

The accumulation of active written notices, regardless of the nature of the first Group Offense, may result in suspension without pay on the second active notice, but such suspension shall not exceed three (3) workdays. A third active written notice will normally result in termination. If the circumstances warrant, an appointing authority may impose a more serious disciplinary action than indicated herein. More severe penalties, including termination, may be imposed for Group I or Group II Offenses, if the circumstances warrant. For example, a jail guard caught sleeping on duty presents greater danger to the public health, safety and general welfare than other positions. One such offense may result in termination.

If mitigating circumstances warrant, the County Executive may reduce punishment below the established disciplinary action.

A. Group One Offenses and Penalties:

First Offense - Written Reprimand

Second Offense - Written notice and 1-3 Days Suspension Without Pay

Third Offense - Termination

1. Neglect or carelessness in observation of departmental safety rules or disregard of common safety practices (such as improper driving, etc.);

2. Mischievous actions such as horse play, wrestling, unnecessary shouting or demonstrations, or similar undesirable conduct;
(3) Creating or contributing to unsanitary conditions or unsafe conditions:

(4) Transportation of unauthorized passengers;

(5) Failure to report any work related personal injury, auto, or equipment damage to one's immediate supervisor as soon as possible;

(6) Failure to use or wear proper safety equipment as required;

(7) The use of obscene language toward supervisors, fellow employees and/or members of the public;

(8) Sleeping during work hours;

(9) Operation of County vehicles in excess of posted speed limits except by law enforcement and public safety officers in performance of their duties;

(10) Consistently arriving late for work;

(11) Failure to report for work;

(12) Leaving job without permission;

(13) Engaging in outside employment without approval of the County Executive (Section 11.3);

(14) Failure to obey order of supervisor;

(15) Excessive use of telephone or computer for personal reasons during business hours;

(16) Obtain or attempt to obtain unauthorized access to information or use thereof; to include paper records, automated and/or electronic information systems;

(17) Threatening, intimidating, harassing, coercing or interfering with other employees or supervisors at any time.;

(18) Abuse of any leave;

(19) Violation of any County and/or applicable federal, state, departmental policy which is not set forth in Personnel Policy;

(20) Actions which disrupt the preservation of data and systems integrity and/or fail to protect the County’s investment in IT assets. Offenses include but are not limited to the following paragraph references in the Responsible Use of Information Technology Resources (RUP) – III.A.2, III.A.3, III.A.5, III.C.1, III.C.2, III.C.3, III.C.4, III.C.5, III.E, III.I, III.J, III.L, III.M, III.O, III.P.
B. Group Two Offenses and Penalties:

First Offense - Written notice and 3-5 days suspension without pay.

Second Offense - Termination

1. Reporting for work while intoxicated, or under the influence of intoxicants or drugs;

2. Reckless driving of vehicles and/or reckless operation of equipment while on County business;

3. Continued inefficient or careless performance of assigned duties;

4. Lying about a work related matter or in the course of a work-related investigation;

5. Any act of negligence which reflects disregard for the safety of persons or property;

6. Refusal to respond to questions during any County work-related investigation;

7. Unauthorized use of County property for private work or performing private work on County time;

8. Violation or condoning of a violation of the Virginia State and Local Government Conflict of Interest Act;

9. Supervisors abusing authority, such as gross favoritism or mistreatment of employees;

10. Insubordination – willful refusal to obey orders of supervisor;

11. Engaging in outside employment while on sick leave;

12. Discrimination, harassment, or retaliation that affects the terms and conditions of another County employee’s employment or an applicant for employment on the basis of race, sex, color, religion, national origin, age or disability as defined in Section 14.5;

13. Use of slurs directed at a person’s race, sex, color, religion, national origin or disability;

14. Charging personal long distance telephone calls to the County and not notifying the immediate supervisor or appointing authority of the call in order to reimburse the County for the charge;

15. Wanton or willful neglect in the performance of assigned duties;

16. Threatening to do or rendering bodily harm to other persons in the workplace;

17. Overt acts that allow or gain access to protected information not authorized in the performance of an employee’s job. Offenses include but are not limited to the following paragraph references in the RUP – III.A.4, III.B, III.G, III.N.
C. Group Three Offense and Penalties:

First Offense - Termination

(1) Falsifying County records or data to include but not limited to, accident reports, workman's compensation benefits, performance appraisals, timecards, travel and/or expense vouchers, employment applications, alcohol and/or controlled substance test results to include attempting to falsify or assisting others in attempting to falsify test results, etc.;

(2) Malicious damage or deliberate destruction in any manner of County property, tools, equipment or the property of others;

(3) Possession or use (unless prescribed by a physician) as well as the manufacture, distribution, dispensation of marijuana, cocaine (including crack), phencyclidine, valium, benzodiazepines, amphetamines, barbiturates, methadone, methaqualone, opiates (including heroin) and propoxyphene or any other drug listed in the Drug Control Act of 1970 (54.1-3400) or the Controlled Substances Act (21 U.S.C. Section 8.12) while on the job, except where carried as evidence by court personnel or law enforcement officers;

(4) The use of or being under the influence of controlled substances as defined in Section 25.2 C while on the job (except where alcoholic beverages are consumed by Police Officers in the performance of their job) or use of alcoholic beverages on County property is prohibited;

(5) Theft or unauthorized removal of funds, records, or property;

(6) Unless authorized herein, employees shall not use, possess or carry, either concealed or displayed, firearms, explosives or any lethal weapon on County owned or leased property or the worksite at any time. This shall include County and personal vehicles, except lawfully possessed firearms and ammunition may be stored, if and only if, such lawfully possessed firearms and ammunition are locked and secured in a personal vehicle. Carrying of firearms by County employees, if required for the performance of their jobs, shall be authorized only by the appointing authority as provided by law and with the concurrence of the Police Chief;

(7) Knowingly operating a vehicle on County business with a revoked, expired, or suspended operator's permit or being designated as “not licensed” by any department of motor vehicles or vehicle licensing authority;

(8) Knowingly operating a vehicle on County business with a demerit point balance of eleven (11) or more as consistent with the Virginia Department of Motor Vehicles (VA DMV) demerit point system if position requires employee to drive as a part of the employee’s position. Fire and Rescue Department staff is governed by specific provisions set forth by the insurer and departmental policy which may be more restrictive;

(9) Operating a vehicle on County business while under the influence of intoxicants or other self-administered drugs, prohibited under Section 14.2C (3) or (4);
(10) Failure of any employee to notify his appointing authority within five (5) calendar days of any criminal conviction for conduct occurring within the workplace;

(11) Failure of any employee to immediately notify his immediate supervisor or appointing authority if diagnosed with a contagious/life threatening illness which poses a threat to others or may incur additional risk to themselves due to their work environment (See Section 24);

(12) Deliberate destruction of County records or information; to include, but not limited to, paper records, automated and/or electronic information systems, alcohol and/or controlled substance test results or specimens;

(13) Conviction of a felony as it relates to job performance and/or assigned duties and responsibilities;

(14) Unauthorized release of confidential information;

(15) A Commercial Driver’s License (CDL) holder receives a test result of .02 or greater for alcohol and/or a positive result for controlled substances; refusal to submit to testing or provide required consent certifications; or provisions of Section 28-Commercial Drivers License (CDL) Alcohol and Controlled Substances Test Program;

(16) Intentional subversion of security procedures and restrictions to include violations of law using County IT resources. Offenses include but are not limited to the following paragraph references in the RUP – III.A.1, III.D, III.F, III.H, III.K.

14.3 Departmental Rules and Regulations

Each County department, at its own discretion and to meet its particular and special needs, may establish rules and regulations in addition to and consistent with those contained herein, provided that the rules in this section are set forth as the minimum criteria and are consistent with this Personnel Policy. These departmental rules must be approved by the County Executive in consultation with the Diversity Director and Human Resources Director.

14.4 Loudermill Hearing - Notice of Pre-Termination and Opportunity to be Heard

The Loudermill Hearing gives non-probationary employees the opportunity for a name clearing hearing before disciplinary action takes place. See Section 13.6.

A. No disciplinary action which includes a suspension for more than three days, demotion, or termination may be instituted against a non-probationary employee without at least a hearing between the employee and his appointing authority. The appointing authority will conduct the hearing or delegate it to a subordinate staff member. The hearing shall be tape-recorded. The ultimate decision of what action, if any, rests with the appointing authority following review by the Diversity Director, Human Resources Director, County Attorney, and County Executive or his designee.

B. If, after deliberation, the department takes disciplinary action against the employee, the employee may appeal the disciplinary action in accordance with the County's grievance procedure.
C. Disciplinary action may be instituted against an employee in accordance with the following procedure;

(1) Advise the employee of the rule or regulation which he is alleged to have violated;

(2) Advise him/her of the evidence and witnesses concerning such violations;

(3) Give the employee an opportunity, if he/she so desires, to respond to the charges against him/her and to give his/her own version;

(4) Advise the employee of what disciplinary action, if any will be taken; and

(5) Disciplinary action implemented in accordance with prescribed corrective action procedures.

14.5 Disclosure, Harassment or Retaliation in the Workplace On the Basis of Race, Sex, Color, Religion, National Origin, Age or Disability or Whistle-Blowing Activities

This policy is promulgated to define and prohibit conduct that could constitute, a violation of Title VII of the Civil Rights Act, Americans with Disabilities Act and Age Discrimination Employment Act as amended and any other State or federal employment laws prohibiting these acts, and provides a process for receiving and resolving complaints that violations have occurred.

A. Generally:

It is illegal to subject an employee to discrimination or harassment based on race, sex, color, religion, national origin, age or disability because such action undermines the employment relationship. The employment relationship includes hiring, selection for promotion, disciplinary action, and other terms and conditions of employment.

B. Sexual Discrimination and Harassment:

It is illegal to subject an employee, regardless of sex, to unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment does not refer to occasional compliments or touching of a socially acceptable nature. It refers to behavior which is not welcome, which is personally offensive, debilitates morale, and, therefore, interferes with work effectiveness.

The following are examples of sexual harassment and are prohibited. They do not represent all the forms in which sexual discrimination or harassment may occur:
(1) Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors including but not limited to, hiring, promotion, training and other opportunities or benefits, acceptance of a lower standard of performance, providing higher performance evaluations, and lax time-keeping, when similarly qualified persons are not afforded such benefits or opportunities;

(2) Explicit or implicit threats that an employee's job will be adversely affected if sexual demands are rejected, including but not limited to, lower evaluations, denial of promotions, or other employment opportunities, punitive transfers, terminations, and altered or increased work assignments;

(3) Denial of employment opportunities or otherwise adversely affecting a person's employment as set forth in subsection 2 above, based on rejection of sexual attention or demands;

(4) Deliberate, repeated, or unsolicited verbal comments and gestures of a sexual nature. This includes any type of sexually suggestive remarks, pictures, or "jokes";

(5) Deliberate, repeated and unsolicited, and unwanted touching of any kind, including the touching, patting, kissing or pinching of another person and the repeated brushing against another person's body;

(6) Repeated propositions of a sexual nature; continued or repeated verbal comments of a sexual nature; degrading, abusive, or sexually suggestive comments about an employee's appearance; whistling or catcalling of a sexual nature; and the display of sexually suggestive objects or pictures.

Any supervisor who uses implicit or explicit sexual behavior to control, influence, or affect the employment of an employee is engaging in sexual harassment.

Any employee who makes deliberate and/or repeated offensive verbal comments or gestures, or who engages in physical contact of a sexual nature which is unwelcome in the workplace is also guilty of sexual harassment.

C. Roles and Responsibilities

(1) Managers and supervisors have the responsibility to ensure that no County employee is subjected to discrimination or harassment as defined in this section or actions which could be perceived as discrimination or harassment as a result of their own actions, those of other employees, or those of third parties such as customers or contractors. They are to provide a working environment which is free of harassment and/or intimidation. When they observe behavior that violates this policy, they shall promptly report same to the Diversity Director. They shall circulate this policy among all employees.

(2) All employees are expected to conduct themselves in a manner that will ensure proper performance of County business and maintenance of public trust and confidence.
D. Complaint Procedure:

Employee complaints regarding discrimination or harassment shall be handled pursuant to this section. The following process shall be followed in lieu of the first three steps of the Grievance Procedure, and in the event that the complainant alleges an adverse action under the Grievance Procedure and is unsatisfied with the decision of the County Executive, the matter shall proceed to the Fourth Step of the Grievance Procedure (Section 9.3).

(1) An employee, who experiences discrimination, harassment, or other complaint shall report the incident directly to the Diversity Director. The Diversity Director shall report the complaint to the department head, alleged perpetrator, and County Executive as soon as possible after the alleged discrimination or harassment occurs.

(2) While it is desirable for an employee who experiences discrimination or harassment to make it clear to the perpetrator or their supervisor that the behavior is offensive, such notification is not required.

(3) Victims have a responsibility to make it clear to the discriminator or harasser, directly or through the complaint process, that such behavior is offensive and to provide notice of the discrimination or harassment in a timely manner to the Diversity Director.

(a) First Step: Within 30 calendar days of the alleged misconduct, the complainant shall contact and meet with the Diversity Director to explain the complaint. The complainant will submit the exact charges in writing to the Diversity Director. Upon receipt of a written complaint, or as otherwise deemed appropriate, the Diversity Director will review the complaint and may obtain such further information concerning the complaint as may be necessary to determine whether an investigation is warranted. If an investigation is not warranted, the Diversity Director shall notify the complainant.

(b) Second Step: If the Diversity Director determines that an investigation is warranted, the Diversity Director will conduct an investigation consisting of interviews of the complainant, the victim, if not the complainant, the accused, witnesses named by the victim and others who may have relevant information. All interviews will be taped.

In addition, when appropriate, the Diversity Director shall review relevant personnel and other files for information relevant to the complaint.

The accused shall be informed of the allegations and provided an opportunity to respond in the interview process.

(c) Third Step: After completion of the investigation, the Diversity Director will prepare a report to the County Executive of findings, analysis of the validity of the allegations and recommendation for action. The Diversity Director shall submit the report 15 working days after the written complaint has been registered, unless said time period is extended by the County Executive for good cause.
E. Retaliation or Reprisals:

No employee shall take reprisal, retaliate or encourage others to engage in retaliation or reprisal against any person acting in good faith who:

1. Opposes any conduct prohibited by this policy;
2. Complies or encourages others to comply with this policy;
3. Files a complaint concerning any violation of this policy;
4. Testifies, assists or participates in any investigation or hearing resulting from a complaint under this policy; or
5. Exercises or attempts to exercise any right conferred under this policy.

Complaints of retaliation shall be made pursuant to Section 14.5 D. Employees who engage in retaliation, take reprisal, or encourage others to do so, in violation of this prohibition shall be disciplined in accordance with Section 13.5 and this Section. Investigation of allegations of such actions of retaliation shall be done in accordance with this section.
F. Procedures for Investigating Complaints of Discrimination, Harassment or Retaliation on the Part of Police and Fire and Rescue Employees:

When the Chief of Police or Fire and Rescue Department Director (or his/her designee) determines that further investigation of the initial complaint is called for, he/she shall notify the Human Resources Director and Diversity Director. Complaints alleging discrimination, harassment, or retaliation in the workplace by a member/employee shall be jointly conducted by the Diversity Director and the department supervisor assigned to investigate the complaint. The investigation shall be conducted in accordance with Section 14.5 and be consistent with the Law Enforcement Officers and Firefighter Procedural Guarantees if they are applicable.

G. Whistle Blower Protection/Anti-Retaliation Policy

(1) “Whistle blowing” as used in this section shall include three (3) possible employee actions:

(a) The employee’s good faith, reasonable reporting of the suspected unlawful conduct or conduct in violation of any County, State or Federal policy, directive, ordinance or law by fellow employees or other taxpayer funded (in whole or in part) County partners to County management as outlined in this section; or

(b) The employee’s good faith, reasonable reporting to County or other government authorities or other law enforcement or regulatory agencies the suspected unlawful conduct or conduct in violation of any County, State or Federal policy, directive, ordinance, or law by one or more individuals employed by the County; or

(c) The employee’s good faith, reasonable reporting that one or more individuals employed by the County have asked or required the employee to participate in the suspected unlawful activities or conduct in violation of any County, State or Federal policy, directive, ordinance, or law.

(2) No one employed by the County or acting on behalf of the County shall take reprisal, retaliate or encourage others to engage in retaliation or reprisal against any person because he or she has acted in accordance with the requirements of this policy by making a good-faith report of reasonable charges of suspected unlawful activities or conduct by any employee of Prince William County, or other taxpayer funded (in whole or in part) County partner, even if the investigation findings conclude that no violation occurred.

Such acts of reprisal or retaliation include, but are not limited to:

(a) Separating or threatening to separate an employee;

(b) Disciplining or suspending or threatening to discipline or suspend an employee;

(c) Imposing any penalty upon an employee;
(d) Intimidating or coercing an employee;

(e) Discriminating against an employee; or

(f) Discouraging or dissuading an employee from reporting, testifying or otherwise taking part in the investigation.

(3) This policy shall not apply to and/or protect any employee who knowingly or with reckless indifference to the truth, makes a false report or provides false information to the employer or other government official. False and/or malicious accusations or those made in bad faith are subject to discipline up to and including termination.

(4) This policy shall not apply to any proper management determinations, adverse actions (including but not limited to disciplinary action), or other lawful management actions (including but not limited to reductions in force, transfers or separations) which may impact an employee, as outlined in the Personnel Policies.

(5) Complaint Procedure: Employee complaints regarding suspected whistleblower retaliation shall be handled pursuant to this section.

(a) An employee who believes that he or she has been subjected to a retaliatory adverse action, including discipline, separation, discrimination, or threats thereof, in violation of this policy shall file a written complaint within thirty (30) days from the date of the alleged retaliatory action.

(b) Such complaint shall be filed with the employee’s supervisor, appointing authority, Human Resources Director, the County Executive or the County Attorney. Upon receipt, all complaints will be forwarded to the County Executive who will direct and ensure that it be promptly and properly investigated. The process for the investigation shall be determined by the County Executive after consultation with the County Attorney.

(c) If there is a foundation for the allegations, appropriate disciplinary action will be taken by the County Executive or her authorized designee in accordance with Section 13.5 and Section 14. The level of discipline is in the full discretion of the County Executive or her designee, and shall remain confidential, consistent with the Personnel Policy.

(d) All complaints and information related thereto will be handled discreetly. Where no foundation for the complaint is found, no documentation will be placed in any personnel file.

(e) The County Attorney or designee shall serve as counsel to the County Executive, or other County staff designated by the County Executive, throughout all phases of the complaint review and investigation process.
14.6 Workplace Violence

Appointing authorities shall immediately notify the Chief of Police and Human Resources Director of all allegations of workplace violence or threats of violence.