

285 MEMBER/EMPLOYEE DISCIPLINE

I. Purpose: Florence Township Fire District No. 1 members and employees are required to conduct themselves in a highly self-disciplined manner, obeying District No. 1 Policies and Procedures and Rules of Conduct. In situations where members do not adhere to these expectations, Supervisors will take the necessary action to correct the problem. This procedure will guide Florence Township Fire District No. 1 Supervisors in dealing with disciplinary problems that they may encounter.

II. Personnel Effected: All personnel.

III. Definitions:
Suspension Day: In the paid service, a day of suspension shall be defined as 8 hours regardless of the type of shift the employee is working. In the volunteer service, a suspension day shall be a 24 hour period wherein the member may not participate in any departmental activities.

IV. Policy: It is the policy of the Fire District that discipline be administered in a fair and lawful manner.

A. All District Personnel: Any and all Fire District personnel may be subject to discipline for failure to comply with his or her duties under these Standard Operating Procedures, the Rules and Regulations established by the Fire District, the duties and/or requirements of any and all Contracts or for the reasons set forth in N.J.A.C., Section 4A:2-2.3.

B. Permanent Career Employees: Matters within the sole jurisdiction of the New Jersey Department of Personnel, including, but not limited to, major discipline of permanent career employees, layoffs, and/or the classification of an employee, are governed by the New Jersey Administrative Code, Section 4A:2-2 et seq. (Regulations Governing the Department of Personnel). This Policy and Procedure augments and supplements the New Jersey Administrative Code, Section 4A:2-2 et seq. with regard to major discipline of permanent career employees. Whenever there is a conflict between the New Jersey Administrative Code and this Policy and Procedure with regard to permanent career employees, the New Jersey Administrative Code shall supersede this policy with regard to permanent career employees.

C. Scope of Policy Subject to IV B above: Major discipline (suspension in excess of five (5) days) of part time paid and volunteer members and minor disciplinary actions, which consist of a verbal reprimand, formal written reprimand or a suspension or fine of five (5) working days or less, of all Fire District personnel shall be governed by this Standard Operating Procedure.

1. Verbal Counseling/Warning: Should the Commissioners or a Supervisor determine that an action or inaction of any member of the department warrant a verbal warning, then said verbal warning shall be given pursuant to the following guidelines:

(a) Verbal Warning/Counseling: This is the most often used and least severe of the formal group of corrective actions. It is, simply stated, a verbal warning. When properly administered, it serves to notify employees and volunteers that certain behavior or performance deficiencies need changing/improving or in the absence thereof, that further disciplinary action will take place. The Commissioner or Supervisor should keep notes of the counseling session for future reference and guidance. Notes or records should be placed in the supervisor's file.

(b) Memo of Counseling: A Commissioner or Supervisor may elect to document with a Memo of Counseling. This Memo of Counseling may be placed in the employee's personnel file, for a period of time not to exceed twenty-four (24) months.

(c) The Chief must be advised of any and all verbal warnings issued by any commissioner or supervisor within twenty-four (24) hours.

2. Written Reprimand/Warning: Should the Commissioners or the Chief determine that an action or inaction of any Fire District personnel warrant that a written warning/reprimand be issued, the appropriate written reprimand shall be prepared and issued as set forth below.

(a) The Board, the Chief or a Supervisor authorized by the Chief may elect to use formal written reprimands to document a repeat offense of a minor infraction, or a more serious single infraction for which suspension, demotion or dismissal is not appropriate. The form used for issuing a formal written reprimand is Florence Township Fire District No. 1 Written Reprimand.

(a) The individual issuing the formal reprimand shall keep the original, make a copy for the employee and one for the employee's personnel file, which shall be forwarded to the Fire Chief. In cases involving the performance of a probationary fire fighter, a photocopy of the document shall also be forwarded to the training Officer. The Fire Chief shall forward a copy of any and all written reprimands to the Commissioners.

(b) Preparation of Memos of Counseling and Written Reprimands: Either a Memo of Counseling documenting a verbal reprimand or a formal written reprimand shall be addressed from the Supervisor to the member. These documents should be written as if the member were being told the information in a conversation with the Supervisor. The following must be included in these documents:

- The date the Memo or Reprimand is prepared;
- A description of the incident;
- The rule(s) and/or policy violation;
- An explanation of what is expected of the member in the future, written as a clearly stated objective;
- A review date for possible removal from his or her personnel file (this pertains to a Memo of Counseling only); and
- The signatures of both the Supervisor and the member, as an indication that the member has received a copy of the document and not that the member agrees with the content of the document.

(c) If the member refuses to sign that he or she has received a formal Written Reprimand or a Memo of Counseling, the Supervisor issuing same must obtain a witnesses signature on the document indicating that the member refused to sign for receipt of same. A member's refusal to sign a Written Reprimand or Memo of Counseling indicating that he or she has received same is grounds for a separate disciplinary action for insubordination.

3. Suspension/Fine/Termination: Should the Commissioners determine that an action or inaction of a member warrants a suspension or fine, then a District No. 1 Preliminary Notice of Disciplinary Action* shall be prepared by the Fire Chief. Said preliminary notice/complaint shall be filed with the Secretary of the Board of Fire Commissioners and a copy thereof shall be served upon the member/employee so charged with a notice of a hearing thereon designating its time and place, which shall be no less than ten (10) calendar days nor more than thirty (30) calendar days from the date of service of the complaint.

(a) **Members/Employees Right to a Hearing:** If the member/employee being charged desires a hearing before the Board, said member/employee must notify the secretary of the Board or the Fire Chief in writing within five (5) calendar days of receipt of the Preliminary Notice of Disciplinary Action.

(b) **Commissioners Determination:** The Commissioners shall submit

their final written determination within fourteen (14) calendar days after said hearing. The Commissioner's written determination will be made on a form entitled "District No. 1 Final Notice of Disciplinary Action" **. The Commissioner's Final Notice of Disciplinary Action shall be final and binding on all members/employees except permanent career employees where major disciplinary penalty is imposed. Furthermore, permanent career employees have certain rights in major disciplinary actions covered by the New Jersey Administrative Code, Section 2A:2-2 et seq.

*In major disciplinary actions involving permanent career personnel, the form to be used is Department of Personnel Preliminary Notice of Disciplinary Action Form (31-A).

**In major disciplinary actions involving permanent career personnel, the form to be used is Department of Personnel Final Notice of Disciplinary Action Form (31-B).

4. Investigative Process: Any accusation of misconduct or a complaint involving fire department members, shall be thoroughly investigated before formal action is taken. The investigation is a fact-finding process and Supervisors must be cautioned not to make judgments until a thorough investigation is concluded.

5. When Investigative Report Must be Prepared: For accusations and complaints of serious on duty misconduct, an investigative report must be completed. Accusations or complaints of criminal misconduct may be referred to Florence Township Police for investigation. Exceptions to this are some minor infractions of the law, which will be investigated by the appropriate Supervisor.

6. Content of Investigative Reports: When an investigative report is prepared by a Supervisor, it must include the following information before it will be considered complete:

- Summary of the incident – should answer the questions: who, what, when, where, why and how. In a criminal situation, a police report will be requested through the Florence Township Police Records Division;
- Interviews conducted – this must include the interviewee rank, date, time, location, those present, and the information discussed. If possible, a signed statement by the interviewee should be obtained;
- Conclusion – from the information available, the Supervisor must make a determination as to whether or not the employee's action or inaction is a failure to comply with his or her duties under these Standard Operating Procedures, the rules and regulations established by the Commissioners or a violation of N.J.A.C., Section 4A:2-2.3. Extenuating circumstances may be discussed in this section; and
- Attachments – relevant documents that the Supervisor feels should be part of the investigative report. The completed report shall be forwarded to the Fire Chief. The Fire Chief will gather or cause to be gathered any additional information necessary and forward the investigation report together with any supplemental information to the Board of Fire Commissioners together with the Fire Chief's recommendation as to whether or not disciplinary action should be taken.

7. Immediate Suspensions Prior to Hearing: A member/employee may be suspended immediately and prior to a hearing where it is determined that the member/employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective providing of fire district services. However, a preliminary notice of disciplinary action will, with the opportunity for a hearing, be served in person or by certified mail within five (5) days following the immediate suspension. Moreover, a member/employee may be suspended immediately when the member/employee is formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job, see N.J.A.C., Section 4A:2-2.7. Where the suspension is immediate and is without pay, the member/employee

must first be apprised either orally or in writing of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before the Board of Fire Commissioners.

8. Right to Representation During Investigatory Interviews: A

member/employee shall have a right to representation present only during investigatory interviews. An investigatory interview occurs when a Supervisor questions a member or employee to obtain information, which could be used as a basis for discipline or asking an employee or member to defend his or her conduct.

9. Member/Employee's Right and Responsibility to Request

Representation: If a member/employee has a reasonable belief that discipline or other adverse consequences may result in what he or she says, the member or employee has the right to request representation. Neither the Board, the Chief nor other Supervisors are required to inform the member/employee of his or her right to representation; it is the employee's or member's responsibility to know and request.

10. Procedure to be Followed if Member Requests

Representation: When a member or employee makes the request for representation, for a representative to be present, the Fire District has three (3) options:

- (a) It can stop questioning until the representative arrives;
- (b) It can call off the interview; or
- (c) It can tell the employee that it will call off the interview unless the employee voluntarily gives up his or her rights to a representative.

11. Representatives Role During Investigatory Interview:

During an investigatory interview, management must inform the representative or Fire Company representative of the subject of the interview. The representatives must also be allowed to speak privately with the member or employee before the interview. While the interview is in progress, the representative cannot tell the member/employee what to say, but he/she may advise them on how to answer a question. At the end of the interview, the representative can add information to support the member or employee's case.

12. Members Responsibility to Answer Questions With Regard to

Fitness for Duty: A member/employee may be compelled by Supervisor to answer questions that are related to his/her duties or fitness for duty. Failure to answer such questions completely and truthfully may be the basis for disciplinary action.

V. Employee Assistance Program

Occasionally, Supervisors will be approached by members/employees who are having personal problems and require assistance. Many times, just listening and helping the member/employee to reason through the problem will be all that is needed. Other times, particularly with serious alcohol, drug, stress, marital or financial problems, the member/employee may require professional assistance. This help is available through the Employee Assistance Program (Refer to Administrative Procedure 105.01A). Supervisors must be aware that when a members/employees personal problems involve violations of Departmental Rules or Policies, disciplinary action may be necessary in addition to entering the Employee Assistance Program.