

LAKWOOD FIRE DEPARTMENT STANDARD OPERATING GUIDELINES

SOG NUMBER: 400.03	PERSONNEL
DATE IMPLEMENTED: JUNE 12, 2017 DATE REVISED:	TITLE: DISCIPLINARY GUIDELINES

PURPOSE:

Disciplinary action is a tool to allow supervisors to deal effectively with members whose performance or conduct is unacceptable.

Disciplinary actions are taken to promote the efficiency of Department operations. In exercising discipline, the Department will give due regard to each member's legal rights and will ensure that disciplinary actions are based on objective considerations without regard to age, color, disability, ethnicity, national origin, political affiliation, race, religion, gender, sexual orientation or other nonmerit factors.

SCOPE:

All career and volunteer personnel.

I. BASIS FOR DISCIPLINE

The descriptions below are for instruction purposes and are not intended to be all-inclusive. Offenses constituting grounds for disciplinary action shall include, but shall not be limited to, the following:

A. Unsatisfactory Attendance

- Excessive or unauthorized absences and/or tardiness.

B. Unsatisfactory Performance

- Inability or unwillingness to satisfactorily perform assigned duty.
- Not performing duties at an acceptable level in accordance with performance standards established by the District or mandated federal or state standards.
- Inefficiency during duty.
- Incompetency during duty.

C. Indifference Toward Work

- Inefficiency, negligence, carelessness, interfering with the duty of others, mistreatment of the public or other personnel, leaving duty without permission.

- Negligently causing damage to District property or personnel.
- Failure to meet or maintain specified conditions of position, such as failure to obtain or maintain a license or certificate required as a condition for performing a job.
- Misusing or failing to use delegated authority in performance of duties.
- Inexcusable neglect of duty.

D. Dereliction of Duty

- Failure to observe and follow the policies, directives, standard operating procedures or rules and regulations of the District.
- Failure to follow federal, state or local laws.
- Failure of an individual to take appropriate action when a violation of policies, rules or regulations comes to his/her attention, regardless of the violator's assignment or position in the District.
- Failure to report damage to District equipment or property of others.

E. Insubordination

- Willful failure or refusal by an individual to perform assigned duty/work or to fully comply with instructions or orders from a superior or other appropriate individual. May include the use of abusive language and displaying hostility in response to supervision.
 1. If an individual believes that the instruction or order is improper, he/she should obey the order or instruction and question the order later. This practice does not apply to imminently dangerous situations.
 2. If an individual believes an instruction or order, if followed, would result in personal injury or damage to District equipment, he/she should request approval by another supervisor of a higher level.
 3. If an individual believes an instruction or order is illegal, he/she should immediately notify a supervisor of a higher level than the supervisor giving the instruction or order.

F. Violation of Safety Rules

- Improper removal of safety guards (e.g. fire extinguishers); failure to use safety equipment; failure to follow safety practice rules; failure to report an on-the-job injury, vehicle accident or unsafe condition on the day of the occurrence; smoking in prohibited areas.
- Causing or contributing to an accident by operating District equipment in an unsafe or unauthorized manner.

- Failure to notify supervisor, prior to reporting to work, of taking prescribed drugs with a warning label, alcohol, illegal controlled dangerous substances or any other substance which may impair one's ability to physically or mentally perform.
- Failure to report any motor vehicle or criminal charge or complaint while off duty.

G. Dishonesty

- Stealing District or Fire Company property; stealing another individual's or citizen's property; misuse of District or Fire Company property or funds; cheating; forging/willfully falsifying District reports, documents, etc.; any falsifying action detrimental to the District; unauthorized charges against the District's account; falsifying origin of personal injury to collect workers' compensation; stealing or being apprehended with stolen property; illegal gambling on District or Fire Company property (on or off duty).
- Unauthorized use or unlawful possession of District funds.
- Misappropriation or destruction of District or Fire Company property, i.e. equipment, furniture, construction materials which have not been abandoned or discarded, electronic equipment, records, etc.
- Utilizing District data or information systems for any reason other than District business.
- Falsely reporting illness or injury, or otherwise attempting to deceive any official of the District as to a health or medical condition.

H. Disturbance

- Participation by an individual in a disturbance occurring on District owned or leased property.
- Entering District owned or leased property at unassigned times without permission; fighting on District owned or leased property; use of abusive, profane, or threatening language; horseplay; deliberately causing injury to fellow employees; harassment of other District personnel or citizens; discourtesy to citizens; possession of dangerous weapons, firearms or explosives without permission; creating dissension or discord between personnel or between District and personnel, or between personnel and citizens. (This includes spreading rumors about the District or any of its personnel.)

I. Abuse of Drugs or Alcohol

- The District will not tolerate on-duty use, possession or distribution of illegal drugs or alcohol by District personnel. All personnel are required to report to duty free of drugs (beyond the direction of a physician), controlled substances and/or alcohol. Personnel who violate this policy, or the prohibitions provided herein, are subject to disciplinary action up to and including discharge from employment.

- Drinking alcoholic beverages during duty hours or reporting to duty under the influence of alcohol.
- Dispensing, using and/or possessing any illegal controlled substance during the performance of job duties, on the job site or on District property, owned or leased.

J. Misuse of District Equipment or Services

- Using District equipment, credentials or services for anything other than District business without proper authority; careless, negligent or improper use of property or equipment; abuse, misuse, deliberate destruction, abandonment or damaging of property, tools, facilities or equipment belonging to other personnel, citizens or the District.

K. Sabotage

- Deliberate damage or destruction of District or Fire Company equipment or property; advocacy of or participation in unlawful trespass or seizure of District or Fire Company property; removal of District or Fire Company property from the premises without permission.
- Falsifying, altering or destroying District or Fire Company records.
- Willful waste of public supplies, service or equipment.

L. Misconduct

- Any conviction of or confession of a felony or misdemeanor offense or other misconduct, including lewd and immoral conduct during or after duty hours, which could have an adverse effect on the District or the confidence of the public in the integrity of the District shall be considered misconduct.
- Theft or aiding or encouraging the theft of cash or District or Fire Company property or equipment.
- Actions or behavior detrimental to the preservation of good order and discipline.
- Operating or conducting illegal gambling on District or Fire Company property, owned or leased.

M. Failure to Abide by the Rules of Conduct for Officers and Personnel

II. DISCIPLINARY AND/OR CORRECTIVE ACTION PROCEDURE

A. All or a combination of the following disciplinary and/or corrective action procedures may be utilized. The officer in charge will evaluate each situation and take the appropriate level of discipline. Prior to imposing any disciplinary action, the officer in charge will first consider the following:

- Was there substantial evidence the individual committed the offense charged?

- Did the individual have forewarning the conduct was unacceptable and could lead to discipline? Or, is the offense so serious that any person may properly be expected to know it was wrong?
- Is the rule violated related to the efficiency and safe operation of the Company?
- Was there a fair and objective investigation?
- Did the investigation provide substantial proof that the individual committed the offense?
- With regard to the rule violated, has the rule been applied even handedly?
- Is the degree of discipline to be imposed appropriate?

The Board shall provide an investigation and discipline check list which shall encompass the above guidelines prior to imposing any discipline. The discipline check list shall be completed and shall become a part of the individual's personnel file.

B. Counseling

The officer in charge should advise the employee of his/her unsatisfactory performance or conduct and recommend specific areas for improvement. While some counseling is verbal, continued performance or conduct problems may require that counseling be a written document. Counseling should be administered at the time the misconduct is observed, reported and confirmed.

C. Reprimand

Reprimands are written memos to employees given for unsatisfactory performance, policy, procedural or conduct violations or in instances where counseling has already been given and the violation has occurred again or where unsatisfactory performance is continued.

When a written reprimand is given, it is to be administered in a timely manner. The employee concerned is to be informed directly of the conduct, of the rule it violates, of the action being taken, the terms and conditions of that action, the consequences of that action and consequences of future violations.

The officer in charge shall provide the individual with a copy of the reprimand. Copies of all reprimands shall also be included in the individual's personnel file.

Individual signatures should be obtained on documents to indicate that the individual has received the document and the signature does not necessarily imply agreement.

The following guidelines shall be followed:

- **Oral Reprimand** - An oral warning is usually for a minor offense. The reprimand should include an explanation of the violation and a request for corrective action on the part of the member.

- **Written Reprimand - Minor** - Formal disciplinary action of minor misconduct, moderate deficiency in performance or repeated lesser infractions. A written reprimand will be documented on the prescribed form and should include the required corrective action on the part of the member. A copy of the written reprimand shall be placed in the member's personnel file and shall include the date the reprimand will be removed from the member's file. The date will be either six (6) months or one (1) year following the reprimand and will be determined by the circumstances and the individual's past history of incidents.
- **Written Reprimand - Major** - Formal disciplinary action of significant misconduct, deficiency in performance or repeated infractions. The reprimand will be documented on the prescribed form and will include the required corrective action on the part of the member. The reprimand shall remain in the member's personnel file for three (3) years.

D. Suspension

Suspension may be for a period of not more than ninety (90) days without appeal.

E. Termination

Termination may culminate the end of the disciplinary or poor performance process or may occur as the first step if the situation warrants. Prior to the implementation of the recommendations, the employee shall be given at least forty-eight (48) hours to give a good and sufficient explanation in writing as to why he/she should not be terminated. The employee must be notified of this opportunity to respond in the employment status memo.

F. Administrative Leave

Under justifiable circumstances, an officer in charge may, subject to the approval of the Chief, place an individual on administrative leave. Such circumstances may be, but are not limited to, completion of pending criminal or administrative investigations.

III. ENFORCEMENT

Enforcement of the discipline policy and rules and regulations promulgated thereunder shall be under the direct auspices of the Chief and/or his designee. All disciplinary decisions of the Chief shall be in writing. Decisions of the Chief shall be final unless the decision involves a suspension from the fire service exceeding ninety (90) days and/or termination from the fire service. In the absence of the Chief, a Chief Line Officer in charge shall be permitted to take immediate disciplinary action for violation of any policy, rules and regulations, directive, order or SOP. Any disciplinary sanctions imposed by a Chief Line Officer in charge shall immediately be referred (within twenty-four [24] hours) in writing to the Chief for the Chief's approval, disapproval, modification and/or further investigation and inquiry. The Chief shall utilize the District's Safety Committee under circumstances deemed necessary by the Chief for purposes of fact finding and recommendations for safety procedure implementation and/or modification.

IV. APPEAL

Any disciplinary implementation by the Chief which exceeds ninety (90) days and/or termination from the fire service shall be appealable by the member to the Fire District Administrator. All appeals must be in writing and submitted within ten (10) days of the Chief's decision. The Fire District Administrator shall review all appeals within thirty (30) days and render a written recommendation within ten (10) days after conclusion of the Fire District Administrator's review. The Fire District Administrator may request a hearing on any issue. Any hearing held shall be upon notice to all parties and, although not a full judicial proceeding, the appellant shall be entitled to present witnesses and other evidence for and on his/her behalf. The strict rules of evidence will not apply.

The decision of the Fire District Administrator shall include a finding of fact and determination. The Fire District Administrator's hearing and deliberations shall exclude the public. The appellant shall have a right to counsel and to cross examine witnesses presented by the Board.

During the appeal process, the affected member shall remain suspended from the fire service.

The Fire District Administrator shall refer its findings of fact and recommendation to the Board for final action. Final action shall require a majority of the full Board.

Legal References: