

## Personnel Complaints

### 1013.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting, investigation and disposition of complaints regarding the conduct of members of this district and the service provided by this district. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1013.2 POLICY

This district takes seriously all complaints regarding service provided by the District and the conduct of its members.

The District will accept and address all complaints of member misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this district to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1013.3 PERSONNEL COMPLAINTS

Personnel complaints consist of any allegation of misconduct or improper job performance that, if true, would constitute a violation of district policy or rule or federal, state or local law. Allegations or complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate district policy or rule or federal, state or local law, may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the District.

#### 1013.3.1 CLASSIFYING COMPLAINTS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the member's Captain is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the designated district representative, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the designated district representative, such matters need not be documented as personnel complaints

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but may be further investigated or resolved as a complaint, depending on the seriousness of the complaint and the availability of sufficient information.

### **1013.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### 1013.4.1 SOURCES OF COMPLAINTS

- (a) Members of the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any district member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging the misconduct of a member that, if true, could result in disciplinary action.
- (d) Anonymous complaints and third-party citizen complaints should be accepted and investigated to the extent that sufficient information is provided.

#### 1013.4.2 ACCEPTANCE OF COMPLAINTS

All complaints will be courteously accepted by any member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed verbally, either in person or by telephoning the District, and will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall document and submit the complaint to the Fire Chief.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

### **1013.5 COMPLAINT DOCUMENTATION AND TRACKING**

Supervisors shall ensure that all formal and informal complaints are documented. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

### **1013.6 DISCIPLINARY INVESTIGATIONS**

All allegations of misconduct will be investigated as follows:

#### 1013.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a complaint rests with the member's immediate supervisor, unless the supervisor is the complainant, is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Fire Chief or the authorized designee may direct that another supervisor investigate any complaint.

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A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

Supervisors shall be responsible for the following:

- (a) District supervisors should respond to all complaints in a courteous and professional manner.
- (b) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Fire Chief is notified as soon as practicable.
- (c) A supervisor receiving or initiating any formal complaint shall ensure that documentation has been completed as fully as possible. The original complaint will then be directed to the Captain of the accused member, via the chain of command. The Captain will forward a copy of the complaint to the Fire Chief to take any appropriate action and/or assign the complaint for investigation. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor may orally report the matter to the Captain or Fire Chief.
- (d) A supervisor investigating any complaint should:
  1. Make reasonable efforts to obtain names, addresses and telephone numbers of additional witnesses.
  2. When appropriate, provide immediate medical attention and take photographs of alleged injuries as well as accessible areas of non-injury.
- (e) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Fire Chief for direction regarding his/her role in addressing the complaint.
- (f) Supervisors who receive a citizen complaint that can be resolved immediately should do so. Follow-up contact with the person who made the complaint should be made within 24 hours of the District receiving the complaint. If the matter is resolved and no further action is required, the supervisor will note the resolution and forward to the Fire Chief.
- (g) Unresolved citizen complaints shall be forwarded to the Fire Chief to determine whether to contact the person who made the complaint or assign the complaint for investigation.
- (h) The supervisor shall ensure that the procedural rights of the accused member are followed.
- (i) Within three days after assignment, the complainant should be informed of the investigator's name and the complaint number.
- (j) Interviews of the complainant should be conducted during reasonable hours.

### 1013.6.2 INVESTIGATION PROCEDURES

The following procedures should be followed with regard to any accused member subject to investigation by the District:

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- (a) Prior to any interview, the member should be informed of the nature of the investigation.
- (b) Interviews of accused members should be conducted during reasonable work hours of the member and, if the member is off-duty, the member shall be compensated if required.
- (c) No more than two interviewers should ask questions of an accused member to prevent confusion or misunderstanding.
- (d) All interviews shall be for a reasonable period or duration and the member's personal needs shall be accommodated.
- (e) No member shall be subjected to offensive or threatening language nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions and subject to discipline for failing to do so. Nothing administratively ordered may be provided to a criminal investigator.
- (f) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview should be provided to the member prior to any subsequent interview.
- (g) A member subjected to interviews that could result in punitive action shall have the right to have a representative of his/her choosing during any interrogation. However, in order to maintain the integrity of each individual member's statement, involved members shall not consult or meet with representatives or attorneys collectively or in groups prior to being interviewed.
- (h) All members shall provide complete and truthful responses to questions posed during interviews.
- (i) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

### 1013.6.3 INVESTIGATION FORMAT

Investigations of complaints should be timely, detailed, complete and follow this format:

**Introduction** - Include the identity of the member, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a very brief summary of the facts giving rise to the investigation.

**Summary of allegations** - List the allegations separately, including applicable policy sections, with a very brief summary of the evidence relevant to each allegation.

**Evidence as to each allegation** - Each allegation should be set forth with the details of the evidence applicable to each allegation and include comprehensive summaries of member and

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witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### 1013.6.4 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances dictate that allowing the accused to continue to work would adversely affect the mission of the District, the Fire Chief or the authorized designee may temporarily assign an accused employee to administrative leave. The Fire Chief or the authorized designee shall document in writing the employee's administrative leave and the cause for the leave.

### 1013.7 POST-INVESTIGATION PROCEDURES

Upon completion, the report should be forwarded to the Fire Chief through the chain of command of the involved member. Each level of command should review and include their comments in writing before forwarding the report. The Fire Chief may accept or modify the classification and recommendation for disciplinary action contained in the report.

#### 1013.7.1 FIRE CHIEF RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Fire Chief of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Fire Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Fire Chief, the Fire Chief may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Fire Chief, the Fire Chief shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### 1013.7.2 RESPONSIBILITIES OF THE FIRE CHIEF

Upon receipt of any written recommendation for disciplinary action, the Fire Chief shall review the recommendation and all accompanying materials. The Fire Chief may modify any recommendation and/or may return the file to the Fire Chief for further investigation or action.

Once the Fire Chief is satisfied that no further investigation or action is required by staff, the Fire Chief shall determine the amount of discipline, if any, to be imposed. In the event that disciplinary action is proposed, the Fire Chief shall provide the member with written notice of the following information:

- (a) Access to all of the materials considered by the Fire Chief in recommending the proposed discipline.

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- (b) An opportunity to respond orally or in writing to the Fire Chief within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Fire Chief may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the District. Upon request, the member shall be provided with a copy of the recording.
- (c) Once the member has completed his/her response, or if the member has elected to waive any such response, the Fire Chief shall consider all information received in regard to the recommended discipline. The Fire Chief shall thereafter render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Fire Chief has issued a written decision, the discipline shall become effective.

### **1013.8 PRE-DISCIPLINE MEMBER RESPONSE**

The pre-discipline process is intended to provide the accused member with an opportunity to present a written or oral response to the Fire Chief after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The member shall consider the following:

- (a) This response is not intended to be an adversarial or formal hearing.
- (b) Although the member may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The member may suggest that further investigation could be conducted or the member may offer any additional information or mitigating factors for the Fire Chief to consider.
- (d) In the event that the Fire Chief elects to cause further investigation to be conducted, the member shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The member may thereafter have the opportunity to further respond orally or in writing to the Fire Chief on the limited issues of information raised in any subsequent materials.

### **1013.9 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file. The tender of a retirement or resignation by itself shall not serve as grounds for the termination of any pending investigation or discipline.

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### **1013.10 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary members may appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step and termination from employment. The member may appeal using the procedures established in any operative collective bargaining agreement and/or personnel rules.

### **1013.11 AT-WILL AND PROBATIONARY MEMBERS**

At-will and probationary members may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy and without notice or any cause at any time. These members are not entitled to any rights under this policy.

Any probationary period may be extended at the discretion of the Fire Chief in cases where the member has been absent for more than a week or when additional time to review the member is considered to be appropriate.