

EDDY COUNTY VOLUNTEER FIRE DEPARTMENTS POLICY MANUAL

111 Firefighter Discipline

Members of the Eddy County Fire Department may be subject to disciplinary action for violation of the Eddy County Policy & Procedure Manual, the Volunteer Policy Manual, or each individual Fire Department bylaws.

In general, disciplinary action will be carried out within each department according to the rules established in their bylaws. However, in situations where the issue is not handled satisfactorily or cannot be handled within the Department the matter will be referred to the County Fire Marshal for presentation to the Eddy County Fire Board. If the issues is not resolved at this level it shall be referred to the Eddy County manager.

PURPOSE

Fire Department members are required to conduct themselves in a highly self-disciplined manner, obeying all applicable county policies. In situations where members do not adhere to these expectations, supervisors will take the necessary action to correct the problem.

This procedure will guide Fire Department supervisors in dealing with any disciplinary problems they may encounter. For additional information and/or assistance, the Eddy County Human Resources Department should be consulted.

GENERAL INFORMATION

Fire Department supervisors will administer discipline in a corrective, progressive and lawful manner.

Corrective in the sense that the supervisor and member come to an understanding about the causes and/or reasons for a member's deficiencies, correct those deficiencies, and restore the member to a productive and positive member status.

Progressive in that discipline will normally begin with a verbal reprimand or warning and, when circumstances of separate or related incidents warrant, proceed to written reprimand(s), suspension, demotion, and finally to dismissal. An incident of misconduct

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may require any of these forms of disciplinary action whether or not a lesser form has preceded the action, depending on the severity of the offense.

Lawful in that discipline and the procedure by which it is administered does not violate applicable personnel rules, administrative regulations, or the member's constitutional rights.

The primary objective of disciplinary action is to improve (or correct) performance, efficiency and morale of the member receiving discipline as well as that of the department. Disciplinary proceedings and the results thereof are confidential. The supervisor is responsible for maintaining this confidentiality. All media inquiries pertaining to disciplinary actions shall be directed to the County Manager.

It is mandatory that supervisors seek support from their superiors prior to taking disciplinary action and feel comfortable that they can support their actions in a formal review or appeal process. Support from supervisors is extremely important when disciplinary action beyond a verbal reprimand is being considered. The county Human Resources Department, upon request of the Fire Marshal, is available to provide staff support and guidance in any disciplinary action.

LEGAL REPRESENTATION

Supervisors may allow legal counsel for the member in disciplinary actions resulting from alleged criminal activity. The legal counsel's function would be to advise the member as to any legal privileges, not to represent the firefighter in the disciplinary proceeding. If legal counsel is going to be present, contact the Fire Marshal 24 hours prior to the meeting.

PROGRAMS FOR IMPROVING JOB PERFORMANCE

In most cases, minor job performance problems can be resolved by the supervisor bringing the problem to the attention of the member, and the member making the proper modification in his/her performance. When a serious job performance problem is identified, the supervisor must decide whether to solve it through:

- * Training
- * Non-Disciplinary Counseling or

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*Disciplinary Action

Each situation will be considered separately, and it will be the supervisor's responsibility to make a determination as to the best course of action to resolve the situation.

If the situation is determined to be a training problem, a program for improvement will be developed for the member. If the member's performance has not improved sufficiently within the established programs timeline, the situation should be dealt with as a disciplinary problem.

INVESTIGATIVE PROCESS

Any accusation of misconduct or 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.

For accusations and complaints of serious on-duty misconduct, an investigative report must be completed. Accusation of complaints of criminal acts or misconduct will be assigned by the Fire Marshal to the Sheriff's Office for investigation. The Fire Chief, with notification of the County Fire Marshal, has the discretion to suspend the member pending the outcome of the investigation. In instances where it is felt necessary the County Fire Marshal may also suspend department members.

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?, where?, when?, and how? In a criminal situation, a copy of the criminal investigation report will be requested through the Fire Marshal.

Interviews Conducted -- this must include the interviewee, rank and assignment, date, time, location, those present, and the information discussed. If possible, a signed statement by the interviewee should be obtained.

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Employee History -- this is a summary of commendations and previous disciplinary actions concerning the employee. The Departmental Personnel file shall be reviewed.

Conclusions -- from the information available, the supervisor must make a determination of responsibility. Extenuating circumstances may be discussed in this section.

Recommendations -- state the recommended disciplinary action or alternate course of action, if any.

Attachments -- relevant documents that the supervisor feels should be a part of the investigative report.

The completed report shall be forwarded to the Count Manager via the Fire Marshal. The investigative report is CONFIDENTIAL and for administrative use only. Care will be taken to maintain confidentiality of the report.

Questions concerning legal issues pertaining to Administrative Investigations should be directed to the County Fire Marshal's Office.

The following legal issues should be kept in mind when conducting administrative investigations:

- A member may be compelled by supervisors to answer questions that are related to his/her duties or fitness for duty. Failure to answer such questions completely and truthfully may form the basis for disciplinary action, including dismissal. A member under investigation should be so advised prior to an administrative interview. Any investigation involving a criminal matter shall be referred to the law enforcement agency having jurisdiction.

SUSPECTED ON-DUTY SUBSTANCE ABUSE

Reporting for duty under the influence of alcohol or drugs, or any substance which impairs any member's mental or physical capacity, will not be tolerated. The unauthorized use, sale, purchase or possession of alcohol or controlled substances on county property or while

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conducting fire department business is prohibited and shall be grounds for discipline up to and including dismissal. When there exists a reasonable ground to believe that a member is under the influence of alcohol or drugs, the supervisor may direct the member to submit to a drug screening and/or blood alcohol test. Refusal to submit to such tests will subject the member to disciplinary action up to and including dismissal. Any member using medication or prescribed drugs which may impair job performance shall report this fact to his or her supervisor.

SUSPENSION, DEMOTION OR DISMISSAL

Suspensions, demotions or dismissals are utilized as punitive, yet corrective measures taken for numerous repeated incidents of rule infractions or a single major infraction by a member. It is the responsibility of the supervisor to stabilize a situation in which immediate action is necessary. This may require relieving the member from duty until a decision is made concerning the official action to be taken. Supervisors should not commit themselves to a particular form of disciplinary action prematurely.