

Chapter V Personal Behavior and Appearance

Subject 3 Discipline

503.01 Objectives

- A. To provide disciplinary policies, guidelines and procedures as they relate to the City of Cincinnati Fire Department.
- B. To provide a fair and effective system of handling disciplinary problems, which is capable of functioning within the parameters of Federal and State Labor Laws, Civil Service Laws and the City of Cincinnati Personnel Policies and Procedures, Fire Department Procedure Manual and the Current Labor Management Agreement.
- C. To provide a record of employee behavior used as a guide in performance ratings, evaluating and correcting employee's weaknesses as well as justifying disciplinary actions taken.

503.03 Policy

- A. All disciplinary actions within the department, which may be undertaken by management and/or supervisory personnel, shall conform to the guidelines, rules and regulations, and laws as set forth in the appropriate Federal and State Statutes, Civil Service Laws, the City of Cincinnati Personnel Policies and Procedures and the Fire Department Procedure Manual and the Current Labor Management Agreement.
- B. The basic underlying approach to discipline within the fire department shall be of a positive nature and shall seek, as its aim, the goal of employee self discipline and adherence to organizationally accepted norms of conduct.
- C. Where self-discipline fails, disciplinary action is authorized and shall be accomplished in such a manner as to be fair, equitable, consistent, and suited to the situation.
- D. Any employee having supervisory authority and responsibility shall discuss deficiencies in performance, conduct, and other matters with subordinates as soon as possible after such deficiencies have been observed. Methods of improvement and corrective actions should be pointed out to the employee during said discussion; any such actions shall be documented in writing. Whenever possible, sufficient time for improvement shall precede formal disciplinary action.
- E. All disciplinary and corrective action shall be documented in such a manner as to be defensible on appeal and/or review and be recorded properly in the member's personal action file at the district. **It is also worth noting, that any discipline that is not documented cannot be considered to have happened.**

503.05 Responsibility

- A. Officers shall be responsible for enforcement of fire department procedures and for the discipline of all personnel/members under their command. They shall have the right to reprimand any member who willfully shirks their duty or who is incompetent or careless in the performance of their duty.
- B. **Officers Culpability:** Officers shall report to their superior officers violations of fire department procedures, insubordination or dereliction of duty by subordinates. Any failure on their part to take proper action for violations of procedures, insubordination or dereliction of duty by subordinates will subject officers to charges of neglect of duty.
- C. Acting officers are responsible for maintaining discipline and handling disciplinary matters in accordance with the position in which they are temporarily assigned.
- D. All fire department members are responsible for maintaining self-discipline and adhering to organizationally accepted norms of conduct and duty.

503.07 Handling Disciplinary Problems

- A. Company officers shall discipline members in a progressive manner (by instruction, counseling, and when necessary formal corrective action) as prescribed for all minor violations such as but not limited to:
 - a. Tardiness
 - b. Uniform violations
 - c. Attitude, participation and efficiency at drills.
 - d. Performance at fires, in quarters, when inspecting, etc.
 - e. Personal hygiene and good grooming.

The officer shall maintain a personal record of all incidents and actions taken at their level. **Prior to disciplining any member, supervisors shall review member's disciplinary history to ensure proper progressive discipline is taken. A failure to adhere to progressive discipline will subject supervisors to disciplinary action.**
- B. Company officers will forward to the District Chief a F-47 for any case which they feel requires more severe forms of discipline. This may be a series of minor delinquencies (all documented), or a more serious single incident. The District Chief may discipline the employee at this level, or take the matter to the appropriate Assistant Chief for action. The company officer's report must contain all the particulars, as he knows them, including any investigation that has taken place.
- C. Where indicated, the Assistant Chief will forward the member's personal action file and a F-47 in the form of charges; or he may refer the particulars to the Human Resources Assistant Chief for review. Recommendations from the Company Officer, District Chief and Assistant Chief may accompany any referral.
- D. When a member's personal file is forwarded for action all appropriate previous discipline shall be included.

- E. Any officer taking action involving a member not assigned to him shall see that proper notification is made through the member's commanding officer and District Chief. The District Chief responsible for the member's file shall see that the personal action file is updated.
- F. When a member is transferred, the personal action file and the company personnel file are forwarded to the member's new District Chief or Assistant Chief. Note the difference between personal action file at the district and personnel file at the company.
- G. Any member who feels that they have been disciplined unjustly may appeal to the next highest level of command.
- H. Members will be notified in writing of charges, including the time and date of the hearing and the fact that they are entitled to representation, when serious charges which may result in suspensions, demotion or dismissal are to be heard.
- I. Written reprimands shall be administered by Fire Lieutenants and above. More serious penalties require a Pre-Disciplinary (Departmental) Hearing. Acting officers shall consult their District Chief for advice on handling disciplinary problems.
- J. Consult the current Labor Management Agreement (Contract) to ensure compliance with its language.

503.09 Charges

- A. Written charges may be preferred by one member against another, or by a civilian against any member of the fire department, for violation of fire department procedures or a violation of any law or ordinance. The charge shall specify the acts and circumstances with times, dates and places.
- B. The person preferring charges shall be prepared to substantiate them by producing competent testimony at the hearing. Charges shall be attested by witnesses with personal knowledge of the facts. Members shall not, under any circumstances, withhold facts or other information or give false testimony before the City Manager or any fire department officer. Such action shall be made the subject of charges of dishonesty.
- C. Members shall personally be served with a copy of charges against them at least ten calendar days before their hearing by an authorized officer of the fire department. Notice of members who are to appear as complainants or witnesses may be telephoned by their respective officers, who shall promptly transmit such notice to the members concerned.

503.11 Suspension Pending A Pre-Disciplinary (Departmental) Hearing

- A. The Fire Chief or an Assistant Fire Chief may suspend a member if, in the judgment of that officer, the offense is serious enough to warrant immediate action. An Assistant Chief shall make an immediate oral report of such action to the Fire Chief, followed by a written report. A hearing of the charges may be held in five calendar days.
- B. If a company officer finds that a member is incapable of performing duties properly due to a condition that will be a matter for disciplinary action, the officer shall immediately notify the District Chief who in turn shall notify the Assistant Chief of Operations or his designee. In the meantime, the officer shall relieve the member of all duties and restrict member to quarters pending further instructions. If the member needs medical attention, the officer shall see that member receives it promptly.

503.13 Suspension

- A. Members of the fire department who are suspended from duty shall promptly surrender all fire department property in their possession including: badge, cap wreath, firehouse key and I.D. card to their immediate supervisor who shall turn the items over to the Internal Investigation staff (Internal). Internal shall retain the items until the period of suspension ends. Members under suspension shall not wear the uniform, shall appear at the hearing in civilian clothing and shall be restricted from all non-public areas of the firehouse.

503.15 Pre-Disciplinary (Departmental) Hearing

- A. The Fire Chief may conduct a Pre-Disciplinary hearing on his own authority. The Fire Chief may designate any staff officer who is qualified as a hearing officer, to conduct a hearing for him. The Fire Chief may also assign another officer to assist in the hearing. The Fire Chief or his designee, upon receiving the charges, will set the date and time for a hearing at which the defendant, charging officer and other witnesses may be heard. All interested persons shall be notified of the date and time for the hearing. Members shall be entitled to ten (10) calendar days advanced notice before any pre-disciplinary hearing. A member may waive his right to a hearing in writing.

The Fire Chief or his designated hearing officer will either sustain or dismiss the charges, if charges are sustained a penalty will be recommended. The Fire Chief or his designated hearing officer will forward recommendations to City Human Resources, then to City Law and then to the City Manager. The decision of the City Manager is final except to the extent Civil Service Law permits appeal.

503.17 Appeal

- A. Any member who has been dismissed, demoted or suspended has a right to appeal to the Civil Service Commission within ten days of such action, in accordance with current Civil Service regulations. Refer to the current labor/management agreement article on Grievance Procedure / Review Panel for further direction.

503.19 On-Duty members under the influence of alcohol, debilitating drugs or other substance impairing physical or mental capacity.

- A. The immediate supervisor must initiate action based on observations, making written notes of observations. Have others observe for signs of impairment.
- B. If the immediate supervisor has reason to believe the employee is impaired, the employee shall be relieved of duty immediately pending substantiation of the impairment.
- C. The next higher level of supervision will be notified of the employee's condition and action taken.
- D. This superior officer will observe the employee and decide if further testing is required. If the employee is believed to be incapacitated further testing is required.
- E. The Fire Chief and Assistant Fire Chiefs have the authority to order the member to submit to breathalyzer, urinalysis or blood testing to determine incapacitation.
- F. A member who refuses to submit to examination and test shall be charged with direct disobedience of orders and being under the influence and/or any other violations of the fire department procedures as may be applicable.

A member who refuses to submit to the aforementioned test, shall be suspended immediately by an Assistant Chief; pending the hearing of the charges.

A member who does submit to the aforementioned test and examinations and is found to be innocent shall be restored to duty. A complete report shall be forwarded indicating the facts and actions taken in chronological order, including results of the test.

A member who submits to the aforementioned test and examinations and is found to be under the influence shall be suspended immediately by an Assistant Chief and the necessary charges shall be initiated by the employee's immediate superior or the person initiating the action against the employee.

- G. Review the current labor/management agreement appendix on Alcohol and Drug testing for further direction.

503.21 Failure to Report for Duty

- A. A member who fails to report for duty at his/her assigned time and location will be reported as ABSENT WITHOUT LEAVE (A.W.O.L.) unless member has telephoned the immediate supervisor prior to 0700 in which case the employee will be reported as TARDY.

A.W.O.L. or TARDY employees will be reported to the next higher level of supervision immediately and the late employee shall submit a F-47 explaining the absence.

Repeated violations of this rule may be cause for strict disciplinary action, including dismissal. In accordance with Civil Service regulations, a member who is absent without leave for three consecutive working days shall be deemed to have resigned from their position.

- B. Paid off-duty detail: This policy shall also apply to a member assigned to a paid off-duty detail.

503.23 Tardy

- A. An employee who fails to report for duty at his/her assigned time and location, and has contacted his/her immediate supervisor prior to that time, will be reported as Tardy.

Tardy employees will be reported to the next higher level of supervision immediately. A Form F-47 shall be required from the employee, explaining the absence.

In those cases where corrective or disciplinary action is warranted, proper forms should be initiated.

503.25 Employee Rights

- A. When a member is to be questioned about, or charged with, an alleged violation of any prescribed code of conduct, whether departmental, or city wide, or any other infraction of rule or law, member shall be entitled to Union representation, if so requested in any meeting in which the member is required to respond to such questioning or charges. The member or representative shall be entitled to a copy of any statement the member makes or any report the member is required to make, including access to any tape recorded statements. Except in the case of misconduct which requires immediate suspension, a member shall be entitled to ten calendar days advance notice before any departmental hearing.

503.27 Grievance Procedure

- A. A grievance is an allegation by an employee covered by the labor-management agreement that a term or terms of the agreement have been violated or misrepresented by the City of Cincinnati, the Cincinnati Fire Department or their respective agents or officers. The steps and procedures involved in the grievance process are covered in the current labor-management agreement.