

# Discipline and Grievances

## Chapter 4

### 4.1 Personnel Discipline

As a public safety organization, there are established rules of conduct, which apply to all VFF's. These rules are based on the minimum acceptable standards of good behavior.

Each VFF must become familiar with the rules of conduct. Provisions are established so that any member who violates the rules of conduct may be subject to Disciplinary Action.

The purpose of disciplinary action is to correct behavior and performance issues within the department. Since we provide an essential service to our citizens and we are entrusted with their lives and property, it is essential that we operate within these parameters of behavior and performance.

VFF's are an important part of our combination fire department. By definition, VFF's are considered to be "at will" and the department may terminate a VFF at any time. However, it is the goal of the department to correct a VFF's behavior when he or she violates the minimum acceptable standards of good behavior and when possible, retain the VFF as a member in good standing in the department.

### 4.2 Rules of Conduct

Each VFF is expected to understand and follow the VFF Rules of Conduct, which is to be included in the application packet given to prospective new volunteers. Each VFF will sign, date, and return attachment 10.47, Department Overview and Volunteer Expectations, along with the volunteer application.

The signed form will be kept in the VFF's file with the County Finance Officer.

After the PVFF has completed their module training and is released to the respective VFC, the VFC will provide the PVFF any VFC expectations specific to the VFC. The expectations will be signed by the PVFF and retained in the PVFF's station file.

The following is a non-inclusive list.

The Employee/VFF Rules of Conduct are as follows:

1. Possession of firearms, nonlethal chemical agents, or any deadly weapon by department personnel is forbidden on State/County property.

2. The use of intoxicating beverages, marijuana or dangerous and restricted drugs during work or standby time, or appearing on the job or at stations under the influence, will be considered grounds for immediate Disciplinary Action.
3. Intoxicating beverages, marijuana and dangerous or restricted drugs will not be brought onto State/County/Town property, into State/County/Town barracks, offices, or buildings, or carried in personal or department vehicles.
4. All personnel residing in barracks are expected to conduct themselves in a manner that recognizes their responsibility for common courtesy and consideration to others that share the facility. Everyone is expected to be appropriately quiet after lights out.
5. Employees and VFF's are expected to meet grooming and uniform standards and present a neat, clean, well-groomed appearance at all times. Occasional dirty work is not an excuse for lack of personal cleanliness.
6. Buildings and grounds will be kept neat, clean, and attractive at all times.
7. State/County property must be used properly and accounted for. Employees and VFF's have a personal responsibility in the use and care of tools and equipment. Tools will be cleaned and returned to their proper places after use.
8. Lawful orders of supervisors will be obeyed promptly.
9. Both male and female employees and VFF's will be accorded socially acceptable privacy in both barracks and field environments. Employees and VFF's will always respect the rights and privacy of others. This will include:
  - Separate use of restrooms or shower facilities;
  - Appropriate attire for sleeping, exercising, changing into safety clothing or other regular activities where the regular uniform is not required; and
  - In areas where both men and women are present, nudity will not be permitted.
10. Interpersonal relationships during work and standby time are expected to conform to accepted standards of professional conduct free from sexual harassment or displays of affection.
11. The use of vulgarity, sexually suggestive comments or gestures, whether intended to be offensive or not, the display of explicit obscene photographs, pictures or posters or the use of any audio/visual equipment to produce, view or search for such vulgarity will not be permitted.

VFC members shall:

- Maintain courtesy to the public, coworkers and other agencies.
- Avoid arguments at emergency scenes.
- Refrain from horseplay during VFC operations.
- Perform their duties without undue discussion.
- Do their best to complete all VFC operations in a professional manner.
- Comply with reasonable directions and orders from appropriate supervisors of the department and VFC officers.
- Not misuse department or VFC equipment, supplies or funds.
- Comply with department safety rules and regulations.
- Comply with the adopted VFC by-laws.
- Comply with the Volunteer Standard Operating Procedures Manual.
- Comply with the departments Operations Manual.
- VFF's shall not initiate written or verbal contact with public or elected officials in regard to internal department issues without department approval.

In addition, a member is subject to Disciplinary Action for any of the following violations:

- Fraud in securing appointment
- Incompetency during duty
- Inefficiency during duty
- Inexcusable neglect of duty
- Insubordination during duty
- Dishonesty during duty
- Drunkenness on duty
- Intemperance

- Use of or under the influence of marijuana, illegal narcotics or habit-forming drugs, or inappropriate use of prescription drugs while in the course of duty.
- Inexcusable absence without leave
- Convictions of a felony or misdemeanor while a VFF will be evaluated the same way convictions are evaluated during the VFF application process as outline in section 2.3, Application Process and Time Frames.
- A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or misdemeanor (depending on the offense) any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- Immorality
- Discourteous treatment of any member of the department (career or volunteer) or member of the public
- Improper political activity during duty
- Willful disobedience during duty
- Willful disobedience of state law or county ordinance
- Misuse of State or County property
- Taking advantage of the position to achieve personal or private gain
- Conduct either in the course of duty or outside the course of duty which is of such a nature that it causes discredit to his/her VFC membership or the department
- Unlawful discrimination, including harassment, on the basis of race, color, religion, sex, ancestry/ethnicity, national origin, age, disability, gender, sexual orientation or preference, political affiliation, marital status, native language, medical condition, pregnancy or other characteristics which may from time to time be specified in applicable laws and regulations against any member of the department (career or volunteer) or member of the public while acting in the capacity of a volunteer firefighter
- Retaliation against any member of the department (career or volunteer) or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto

### 4.3 Sexual Harassment/Discrimination

All Employees and VFF's shall adhere to a standard of conduct that respects all people they come in contact with during the course of their employment or other activities related to work. Unprofessional, disrespectful behavior will not be tolerated.

All employees, VFF's and representatives shall adhere to the following established policies. Failure to adhere to these policies is unacceptable and will result in serious consequences to the individuals involved and for the department.

#### Non-Discrimination

VFC personnel procedures ensure all hiring, working conditions, training, promoting, compensation, benefits, transfers, elections and layoffs will be administered fairly to all applicants and VFF's regardless of race, color, religion, sex, ancestry/ethnicity, national origin, age, disability, gender, sexual orientation or preference, political affiliation, marital status, native language, medical condition, pregnancy or other characteristics which may from time to time be specified in applicable laws and regulations.

Personnel decisions motivated by prejudice or by factors not related to the requirements of the job have no place in the department or VFC's personnel practices.

All decisions related to personnel policies and practices in such areas as recruitment, testing, selection, election, placement, employee and VFF development, training, and advancement shall be made on the basis of merit. Any action by an individual counter to this policy is unacceptable.

No person will be:

- (1) excluded from participation in,
- (2) denied the benefits of, or
- (3) be subjected to discrimination,

because of race, color, religion, sex, ancestry/ethnicity, national origin, age, disability, gender, sexual orientation or preference, political affiliation, marital status, native language, medical condition, pregnancy or other characteristics which may from time to time be specified in applicable laws and regulations.

**The department has a zero-tolerance policy for discriminatory behavior or practices. All employees and VFF's shall maintain a work environment free from discrimination.**

All career and volunteer supervisors are each personally responsible for setting the tone for a discrimination/harassment-free work place, by personal example, communication, and understanding.

All VFF's are responsible to ensure they are aware of this policy and understand what constitutes discrimination and sexual harassment. Career and VFC supervisors must take appropriate measure whenever they witness, hear about, or reasonably should have known that such conduct may be occurring.

An employee and/or VFF who witnesses an incident of discrimination or harassment has the responsibility to report it to the appropriate supervisor or an outside agency, i.e., the supervisor having responsibility for the work-site or work-related service being provided (see 4.14 and 4.15).

Employees and VFF's who violate anti-discriminatory laws, rules or policies, or knowingly or negligently allow unchecked violation of these, will be subject to disciplinary action up to and including dismissal.

#### **4.4 Prohibiting Discrimination Based on Sexual Harassment**

##### **Definition of Sexual Harassment**

Sexual harassment is a form of discrimination that deprives its victim of equal employment opportunities. It is against federal and state law for any employee or VFF to sexually harass another.

This includes permanent staff members, contractors, seasonal employees, VFF's, committee members, other governmental employees, vendors, or members of the public encountered during or because of work.

Sexual harassment may be overt or subtle. Some behavior that may be tolerated in social setting is not appropriate in the workplace. Sexual harassment complaints may be substantiated by the complainant's perception of the situation, if the conduct is sexually based.

Sexual harassment includes unsolicited and unwelcome sexually based behavior when:

- Submission or toleration of the behavior is either explicitly or implicitly understood as a term or condition of employment.
- Submission (or rejection) by an employee or VFF is used as a basis for any employment decision, or:
- Conduct creates a work environment that a reasonable person would find to be intimidating or hostile by interfering with the ability to work or maintain his or her emotional well-being.

Sexual harassment may take different forms including (but certainly not limited to) the following:

### Verbal

- Sexual innuendoes, suggestive comments, profanity, wolf whistling, jokes of a sexual nature, sexual propositions, threats.

### Visual

- Sexually suggestive objects, pictures, cartoons, graphic commentaries, or leering and obscene gestures.

### Physical

- Unwanted physical contact like touching, pinching, brushing against someone, assault, and sexual contact.

### Other

- Sexual advances which are unwanted. This may include those situations that started in a reciprocal manner but are terminated by one or the other party.
- Actions or omissions affecting terms/conditions of employment (e.g. shift changes) for sexually based reasons. This may include situations where a third person is affected by treatment of less favorably because others have acquiesced to sexual advances.
- Implying or withholding support for appointment, promotion, transfer or changes in assignment based upon non-job relevant issues.
- Suggesting that a poor performance report will be prepared if requests for sexual favors are not met.
- Making threats of reprisal or actual reprisal, after meeting with a negative response to harassing behavior, such as initiating a rejection on probation or Disciplinary Action based upon non-job relevant issues.

## **4.5 Prohibiting Discrimination Based on Pregnancy**

A woman affected by pregnancy and related conditions must be treated the same as other applicants, employees and VFF's on the basis of ability to work and perform the essential duties of the classification.

A woman cannot be fired or refused a job or promotion solely on the basis of being pregnant. Any action by any individual counter to this policy is unacceptable.

To ensure equitable, fair treatment of a woman who is pregnant and/or is temporarily disabled from performing the duties of her classification and current assignment, contact the department Administrative Division Chief for technical assistance on resolving individual issues in compliance with federal and state laws and rules.

#### **4.6 Prohibiting Discrimination Based on Disability**

A disabled person shall be treated the same as other applicants, employees and VFF's on the basis of ability to work and perform the essential duties of the classification.

Decisions regarding personnel policies and practices will be made on the basis of the disabled applicant's or employee/VFF's ability to perform the essential functions of a particular job (with or without reasonable accommodation).

Evaluation of requests for reasonable accommodation shall be considered on a case-by-case basis, in the context of the needs of the individual making the request, as well as the essential duties of the particular position for which the accommodation is being requested.

#### **4.7 Non-Retaliation**

No employee or VFF shall be retaliated against for filing and/or opposing an EEO violation. Nor shall the employee or VFF be retaliated against for participating in an EEO investigation either as a complainant, respondent or witness.

**Retaliation in any form against anyone who complains about discrimination or sexual harassment is absolutely forbidden.**

#### **4.8 Unprofessional Behavior**

The department has **zero tolerance** for employees or VFF's who instigate or participate in practical jokes, hazing, use demeaning terms (such as "Babe" or "Honey"), abusive or profane language, gestures, or actions that have the effect of creating a hostile, unprofessional, and/or disruptive work environment and working relationships. The effect of any such incidents will be determined by the reactions of the recipient rather than the intention of the perpetrator.

These activities are not necessarily discriminatory by law, but are unprofessional and inappropriate and violate department Rules of Conduct and this policy section. Employers have moral and organizational reasons as well as legal incentives to address and correct such conduct at its earliest stages.

#### **4.9 Workplace Violence**

##### Zero Tolerance Standard

The department does not tolerate any type of workplace violence threatened or committed by or against any Career or VFF staff. Career and VFF staff are prohibited from making threats or engaging in violent activities.

The list of Zero Tolerance behaviors with regard to threats and/or violence shall include, but not be limited to, the following proactive measures and/or prohibited behaviors:

- No person shall engage, or be allowed to engage, in violent conduct or make threats of violence, implied, actual, direct, or indirect, or cause actual physical injury to another person at a department workplace or in connection with the conduct of department business.
- Violations occurring between two or more VFC members during business meetings or VFC activities will be referred to the VFC Captain for action.
- All threatening comments, remarks or violent behavior, implied, actual, direct or indirect at any county location or at any location where county business is being conducted are to be taken seriously, and are never to be dismissed and are to be reported immediately to the VFC Captain and the Career Captain.
- Supervisors shall take the necessary steps to ensure the incident is immediately reported to the appropriate Battalion Chief.
- Any aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
- Intentionally damaging department property or property of another.
- Being in possession of an unauthorized firearm or illegal knife while on department property or while on department business.
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

Any potentially dangerous situation must be reported immediately to a supervisor.

#### **4.10 Disciplinary Procedures**

The purpose of discipline is to provide an orderly environment in the department. Since we provide an essential service to people, and are entrusted with their lives and property, it is essential that we operate within these parameters of behavior and performance.

**On occasion VFF's will operate outside of this good order in violation of the rules. It is the purpose of the department to correct the behavior and retain the VFF as a member in good standing with the department.**

The department or the VFC officers may initiate Disciplinary Action. The VFC has the primary responsibility for its members and to enforce its own by-laws and this manual.

As a form of encouraging internal VFC supervision, the Career Captain is encouraged to have the VFC initiate Disciplinary Action by presenting the department policy violation(s) to the appropriate VFC officer.

When a VFC officer or career supervisor determines that the facts surrounding an infraction of policy or rules warrant disciplinary action, that action should be initiated as soon as possible so as to minimize time between offense and the prescribed corrective action. The severity of the infraction will dictate what course of corrective action will be initiated.

#### **4.11 Types of Disciplinary Action**

##### Informal Disciplinary Action:

Informal disciplinary action is defined as Corrective Interviews and Letters of Warning. They are generally the first step of corrective actions taken when the VFF's behavior or performance is unacceptable. However as specified in section 4.1, VFF's are considered to be "at will" and the Fire Chief may terminate a VFF at any time.

Before VFF's can change undesirable behavior, they must be advised that their present behavior or performance is unacceptable, and they must be advised as to what is expected of them.

Informal actions such as Corrective Interviews or Letters of Warning are used to inform VFF's of the accepted standards as well as unacceptable behavior or performance.

Because actions such as these are not classified as formal disciplinary actions, they are not filed with the Battalion Chief. However, these actions may be used later as supporting documentation (maintained at the station level) for a formal corrective action.

The career supervisor and VFC officer may initiate informal disciplinary action. In the case of a career supervisor issuing informal disciplinary action, it must be reviewed with and signed by the VFF with copies forwarded to the VFC Captain.

The process leading to informal disciplinary action should be started within 15 calendar days of the violation and the VFF shall be served informal disciplinary action within 45 calendar days of the violation or the supervisor being made aware of the violation. The VFF has 15 calendar days after being served informal adverse action to attach a written appeal letter to the informal adverse action letter.

All informal and formal adverse action shall be documented on attachment 10.28, Notice of Disciplinary Action.

Reasons for Informal Disciplinary Action: (Corrective Interview)

- Failure to complete training in prescribed time frame
- Failure to attend training drills
- Failure to respond to incidents
- Failure to follow safety procedures
- Minor infractions of Standard Operating Procedures

Reasons for Informal Disciplinary Action: (Letter of Warning)

- Repeat of infraction requiring previous corrective interview
- Negligent use of department equipment
- Insubordination to a VFC member or career staff

Formal Disciplinary Action:

Formal disciplinary actions are action which could lead to suspension, demotion or termination. Formal disciplinary actions are usually taken following a serious infraction of rules or standards or after repetitions of lesser infractions or for any potential violation of State law. However as specified in section 4.1, VFF's are considered to be "at will" and the Fire Chief may terminate a VFF at any time. Upon request, the VFF should be given access to the material developed in support of the action within 15 working days.

The VLO will be notified of all formal investigation disciplinary action investigations. The VLO will contact the VFF to assist them through the investigative process.

The process leading to formal disciplinary action should be started within 15 calendar days of the violation and the VFF shall be served formal disciplinary action within 45 calendar days of the violation or the supervisor being made aware of the violation. The VFF has 15 calendar days after being served formal adverse action to appeal the action in writing to the appropriate Division Chief (suspensions) or Fire Chief (terminations). Any decision based on the appeal is final.

The Battalion Chief, Division Chief or Fire Chief will initiate all formal action.

Reasons for Formal Action: (Suspension, Demotion or Formal Dismissal)

- Repeated infraction of rules that required previous Letter of Warning.
- Serious safety violations.
- Responding while under the influence of intoxicants.
- Unauthorized operation of department equipment.
- Use of influence as being a VFF.
- Violation of State law or County ordinance.

During probationary status, the battalion chief may terminate any PVFF without cause.

Delegation of Authority to Take Disciplinary Action

| <u>Procedure</u>                     | <u>Conducting Supervisor</u>      |
|--------------------------------------|-----------------------------------|
| Corrective Interview.....<br>Officer | VFC Captain and Career            |
| Letter of Warning.....<br>Officer    | VFC Captain and Career            |
| Suspension .....                     | Battalion Chief or Division Chief |
| Appeal.....                          | Division Chief or Fire Chief      |
| Dismissal .....                      | Division Chief                    |
| Appeal.....                          | Fire Chief                        |

Copies of informal and formal disciplinary actions are retained at the career station with a copy forwarded to County Finance for filing. Disciplinary actions are retained in the VFC’s file for the duration of the VFC’s service to the department.

All VFF’s can be concurrently investigated for violations of State law. Law enforcement investigations are separate from the disciplinary process and do not need to meet the disciplinary process timelines as outlined.

Informal and formal investigation can be extended an additional 60 days for a total on 120 days, by notifying the VFF in writing of the extension. The notification or extension letter should be signed by the respective Battalion Chief.

**4.12 Suspension and Termination**

During period of suspension or termination, the VFF will return all department and company owned items and equipment. The equipment is to be collected by the Career Captain or the designee of the Fire Chief as outlined below.

When a VFF is suspended, the Career Captain or Volunteer Captain will:

Collect all issued items and PPE. Items to be collected include:

- Badge
- ID card
- Company or department purchased uniforms
- Department patches
- Vehicle ID placard
- PPE
- Radio pager, charger and case

- Keys
- Items not returned will be referred to law enforcement for collection and possible criminal prosecution
- VFF badges and pagers should be retained by or collected by the VFC captain
- The County Finance Officer will remove the suspended VFF from the active roster
- PPE should be retained and secured at the station level until the VFF has served their suspension or is no longer a member

When a VFF terminates, the Volunteer Captain or Career Captain will complete the Demobilization process with the VFF. See attachment 10.50 Demobilization Process.

- Receive the safety gear from the VFF
- Assume the responsibility for the inventory and cleaning of the PPE
- Verify the serial numbers of the safety gear from the loan slip, which was sent to the station when the gear was issued
- Return the safety gear, along with a copy of the original loan slip to the Biggs Fire Station within fourteen (14) calendar days
- Provide a copy of attachment 10.28 to County Finance restricting terminated VFF's from reapplying for membership with the department. County Finance will file this form in the Terminated VFF File. From the terminated VFF file, a Do Not Hire List will be generated and maintained.

#### **4.13 Immediate Operational Disciplinary Action**

In the event a VFF's action or inaction will jeopardize the health and/or safety of any firefighter or citizen during any operational activity (e.g., emergency incident, vehicle operations, training, etc.), the immediate supervisor may order the member to cease his/her participation.

In the event the operational violation is of such a nature that it would be unacceptable or inappropriate to allow the member to continue responding to emergency incidents, an appropriate VFC or department supervisor may place the member on immediate temporary leave from active or responding duty until the incident can be investigated. The VLO, VFC Captain, Career Captain and Battalion Chief will all be made aware of Immediate Operational Disciplinary Action.

#### **4.14 Grievance and Complaints**

The department will utilize a formal process for an individual VFF to address any grievances/complaints utilizing attachment 10.29, Grievance, Harassment and Discrimination Complaint Form. The purpose of a formal process is to provide a means to resolve issues that cannot be resolved by other means. The process allows all parties to the issue an opportunity to be heard and ensures that a reasonable resolution is attained.

##### Procedure

The following procedures will be utilized should a VFF have a grievance/complaint.

Upon receipt of the grievance/complaint, the VFC Captain, VLO and Career Captain will research the issue and respond to the VFF in writing as to his/her findings and decision within fifteen (15) calendar days.

If the VFF does not agree with the decision of the VFC Captain, VLO and Career Captain, he/she may forward his/her grievance/complaint to the Battalion Chief within five (5) calendar days. Upon receipt of the grievance/complaint, the Battalion Chief will research the issue and respond to the VFF in writing as to his/her findings and decision within fifteen (15) calendar days.

If the VFF does not agree with the decision of the Battalion Chief, he/she may forward his/her grievance/complaint to the Fire Chief within five (5) calendar days.

The Fire Chief will assign the appropriate Division Chief to review the issue and to formulate a response. The Fire Chief's decision will be final and will be rendered within (15) calendar days (unless a mutually acceptable extension is agreed to).

#### **4.15 Harassment or Discrimination Complaints**

For complaints related to instances of harassment or discrimination, the complainant may exercise any of the following options. It is recommended that resolution be sought at the lowest possible level.

##### Informal

Meet with his/her VFC Captain, VLO, Career Captain, Battalion Chief or Division Chief as appropriate to discuss the problem and resolve the complaint at the lowest possible level, see attachment 10.29, Grievance, Harassment and Discrimination Complaint Form.

Contact the Administrative Division Chief to arrange for a conference with a department EEO counselor.

### Formal

- File a formal complaint with the Fire Chief.
- File a formal complaint with the Department of Fair Employment and Housing.
- File a formal complaint with the Equal Employment Opportunity Commission.

Note: if the complainant chooses to follow one or more of the informal options he/she does not lose this right to file a formal complaint.