

**Manasquan Fire Department
Manasquan Fire District #1
Standard Operating Guideline**

100.14

**Title: Personnel - Disciplinary Action
Procedures and Documentation**

**Date Issued: August 20, 2009
Date Last Revised: January 11, 2011
Revision Number: 1
Total Pages: 8**

Purpose: It is the intent of the Commissioners to treat all personnel fairly: to make all reasonable provisions for their health and safety; to provide adequate instruction, discretion, and equipment; and to treat all personnel with justice, dignity, and respect. All personnel are expected to work diligently and conscientiously for the benefit of the District as directed by their supervisors and to maintain a high level of conduct on and off the job. The District shall strive to provide corrective guidance to all personnel to assist in achieving the highest and most professional level of conduct. Personnel shall include all members of the department.

General: The District encourages the use and application of progressive discipline whenever practical. Accordingly, mild disciplinary actions may be taken when an individual first has problems with attendance, work performance, or behavior that is disruptive or inappropriate in nature. If the individual fails to correct the problem, or develops other problems, more severe disciplinary action shall be taken. Using progressive discipline in such a manner maximizes an individual's opportunity to correct problems and improve performance.

Utilizing progressive discipline, however, does not preclude or inhibit the District from exercising its right to impose severe discipline, including termination of an individual, whenever such action is deemed appropriate. While in most cases the disciplinary action taken will depend upon the severity of the offense(s), the record of the offender, and the seriousness of the consequences of the offense(s), there will be certain offenses which will result in severe disciplinary action regardless of the record of the offender.

The purpose of standard disciplinary procedures is to make it easier to be consistent in applying similar penalties for similar offenses. However, *supervisors* have the discretion to take circumstances into account when taking disciplinary action. The responsibility of justifying the level of the disciplinary action taken will belong to the Director.

100.14.01. Basis for Discipline:

The descriptions below are not intended to be all inclusive. Offenses constituting grounds for disciplinary action, up to and including termination, 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.

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 or Fire Company property or personnel.

Failure to meet 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.

D. Dereliction of Duty

Failure to observe and follow the policies, directives, standard operating guidelines or rules and regulation of the District.

Failure to follow Federal, State, and 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 or Fire Company equipment or property of others.

E. Insubordination

Willfull failure or refusal by an individual to perform assigned duty work or to fully comply with instructions or orders from a superior officer or other appropriate individual. May include use of abusive language or 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 above that level.
3. If an individual believes an instruction or order is illegal, he/she should immediately notify a supervisor above the supervisor giving the instruction or order.

F. Violation of Safety Rules

Improper removal of safety guards, 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, and smoking in prohibited areas.

Causing or contributing to an accident by operating District or Fire Company equipment in an unsafe or unauthorized manner.

Failure to notify supervisor , prior to reporting to duty, of taking prescribed drugs with a warning label, alcohol, illegal controlled dangerous substance or any other substance which may impair one's ability to physically or mentally perform.

G. Dishonesty

Stealing District or Fire Company property: stealing other 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 accounts: falsifying origin of personal injury to collect workers compensation: stealing or being apprehended with stolen property: illegal gambling on District or Fire Company property.

Unauthorized use or possession of District funds.

Misappropriating District or Fire Company property, i.e. equipment, furniture, or construction materials that have not been abandoned or discarded.

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: possession of dangerous weapons, firearms, explosives without permission: creating dissension or discord: between personnel, District and personnel, or between personnel and citizens. (This includes spreading rumors about the District or any of its personnel)

I. Abuse of Alcohol or Drugs

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

Drinking alcoholic beverages while on duty 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 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 premise 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 of, aiding, or encouraging the theft of cash, 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 the District of Fire Company property owned or leased.

100.14.02 Disciplinary and or Corrective Action Procedure

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:

1. Was there substantial evidence that the individual committed the offense charged?
2. Did the individual have forewarning that 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?

3. Is the rule violated related to the efficiency and safe operation of the Department?
4. Was there a fair and objective investigation?
5. Did the investigation provide substantial proof that the individual committed the offense?
6. With regards to the rule violated, has the rule been applied even handedly?
7. Is the degree of discipline to be imposed appropriate?

A. 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's are verbal, continued performance or conduct problems may require the counseling be a written document. Counseling should be administered at the time the misconduct is observed, reported, and confirmed.

B. 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, and consequences of future violations.

The officer in charge shall provide the individual with a copy of the reprimand. (form DA-01) Copies of all reprimands shall also be included in the individual's personnel file.

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

The following guidelines shall be followed:

1. 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 employee. (form DA-01)

2. Written Reprimand Minor

Formal disciplinary action of minor misconduct, moderate deficiency in performance or repeated lesser infractions. A written reprimand will be documented on form DA-01 and will include the required corrective action on the part of the employee. A copy will be placed in the employee's personnel file and shall include the date that the reprimand will be removed from the file. The date will either be six (6) months or one (1) year and will be determined by the circumstances and the individual's record.

3. Written Reprimand Major

Formal disciplinary action of a significant misconduct, deficiency in performance or repeated infractions. The reprimand will be documented on form DA-01 and will include the required corrective action on the part of the employee. The reprimand shall remain in the employee's personnel file for three (3) years.

C. Suspension

Suspension may be for a period of not more than sixty (60) days without appeal. Form DA-01 will be used and copy filed in employee's personnel file.

D. Termination

Termination may culminate the end of the disciplinary or poor performance process or may occur as the first step if the situation warrants it. Prior to the implementation of the recommendations, the employee shall be given at least 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 writing.

E. Administrative Leave

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

100.14.03 Enforcement

Enforcement of this Policy shall be under the direct auspices of the Director of Fire Service and /or his designee. The decision of the Director shall be in writing. Decisions of the Director of Fire Service shall be final unless the decision involves a suspension from the fire service exceeding sixty (60) days and or termination. The Chief or Line Officer in charge shall be permitted to take immediate disciplinary action for violation of any Policy,

Rules and Regulations, Directives, Order and S.O.G.s. Any disciplinary sanctions imposed shall immediately be referred (within 24 hours) in writing to the Director for the Director's approval, disapproval, modification and or further investigation or inquiry. The Director shall utilize the District's Safety Committee under circumstances deemed necessary by the Director for the purpose of fact finding and recommendation for safety procedure implementation and or modification.

100.14.03 Appeal Procedure

Any disciplinary implementation by the Director of Fire Service which exceeds sixty (60) days and or termination from the fire service shall be appealable by the volunteer to the Personnel Committee of the Board of Fire Commissioners.

All appeals must be in writing and submitted within ten (10) days of the Director's decision. The Personnel Committee shall review all appeals within thirty (30) days and render a written decision within ten (10) days after the conclusion of the Personnel Committee review. The Personnel Committee 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 his/her behalf. The strict rules of evidence will not apply.

The decision of the Personnel Committee shall include a finding of fact and determination. The Personnel's Committee'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 volunteer shall remain suspended from the fire service.

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