

# Discipline 101

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Quiz

# City's Philosophy

- Discipline is to:
  - a) Correct and modify behavior that impacts:
    - Other employees within workplace
    - Service delivery to the public
    - Interferes with another employee's ability to perform his/her job duties
    - Violates policies, procedures and regulations
  - b) Get the employee back to meeting performance standard

# City's Philosophy (con't)

c) Be progressive

d) Generally use the least severe step which will restore employee to meeting standards

e) Conduct discipline as close to the time of the incident as possible

# City's Philosophy (con't)

- f) The supervisor trains and assists the employee
- g) Employee is responsible for acceptable performance of the FULL RANGE of job duties
- h) A two-track system with different steps for misconduct and performance

# Two-Track System

Performance Discipline	Misconduct Discipline
1. Verbal Counseling	1. Verbal Warning
2. Written Counseling	2. Written Warning
3. Supplemental Performance Report / PDP	3. Reprimand
4. Reduction in Compensation	4. Suspension
5. Demotion	5. Demotion
6. Termination	6. Termination



# A Few Tips

- Counseling and Warnings usually focus on a specific issue or incident (narrow focus)
- Performance Evaluations generally address several issues (broad focus)
- Misconduct issues are disciplines based on the incident. This means a *first* incident may result in termination

# A Few Tips (con't)

Did the action taken seem:

- Fair and Equitable
- Consistent with department/division standards
- Reasonable





# Supervisors

- Role Model
- Prepare Performance Plan
- Communicate acceptable job standards to employees
- Hold employees accountable for job performance
- Document objective performance data
- Conduct Performance Evaluations
- Recognize and Reward employee performance
- Develop Employees
- Knowledge of rules, policies and procedures

# Supervisors (con't)

- Keep your supervisor informed
- Conduct Discipline
  - Verbal Counseling/Warning
  - Written Counseling/Warning
  - Supplemental Performance Reports
  - Performance Development Plan
- Recommend / Prepare discipline documents
- Documentation
- Know Civil Service Rule XI
  - RESIGNATION, REMOVAL, SUSPENSION, REDUCTION IN COMPENSATION, DEMOTION

# Employees

- Perform the full range of duties at an acceptable level
- Improve behavior and / or performance to an acceptable level



# Management / Supervisory Standards

- The following should be discussed with supervisory staff:
  - Standards and expectations of acceptable performance
  - Guidelines for appropriate discipline
  - How discipline should be handled in their division
  - Apply specific needs of the division fair and consistently

# Management / Supervisory Standards

(con't)

- One element may be so important that if an employee does not meet standard in one element, then the overall job performance rating may not meet standards
- Discipline should be administered equitably, based on clear job related EPR criteria
- In order to ensure all actions are fair and consistent it should be reviewed by the next higher level supervisor

# Employee Performance Review Program (EPRP)

- Employee Performance Review is the foundation of Rewards and Discipline
- Employee must first have a performance plan
- An employee should have a new performance plan when he/she moves into a new position, or there is a change of supervisors
- Supervisors will be held accountable in their performance plans for:
  - Conducting timely performance evaluations
  - Rewarding and disciplining employees

# Employee Performance Review Program (con't)

- It is very difficult to correct a serious performance problem without conducting a corresponding evaluation
- Maintain Performance Standards/Hold Employees Accountable to performance
  - - Avoid performance that does not meet standards or is not corrected becoming your minimum acceptable performance standard
- Evaluations also document exceptionally good performance and justify additional rewards

# Employee Performance Review Program (con't)

- Supplemental Performance Review
  - A tool to notify employees about poor performance
  - An official documented record of poor performance
- Remember to:
  - Establish date/time to meet with the employee and provide performance updates on a regular basis and adhere to dates
  - Offer assistance
  - Keep employee informed - there should be **No** surprises
  - Conduct a final meeting to discuss employee status
  - Do not let final date lapse



# Employee Performance Review Program (con't)

- Supplemental Performance Reviews should refer to any previous inappropriate behavior(s) within the current evaluation
- Include behaviors that can be supported with examples or documentation previously discussed with employee
- Must include a Development Plan that addresses how the employee must correct problems / behaviors

# Employee Performance Review Program (con't)

- Meet on a regular basis to discuss performance
  - List dates, times, and location of weekly/bi-weekly meetings with employee in the supplemental performance review and adhere to them
- Be specific on the expected performance
- Work closely with your Personnel Liaison to ensure all the requirements for a supplemental performance review and the annual review are met

# Firefighters Procedural Bill of Rights Act

Notification

Representation

Interview Process & Rights

Deadlines

Appeals

Locker Search

Reassignment

Punitive Action for Exercising Rights

Enforcement

\*as it relates to discipline

## COVERS

All Firefighters of all ranks, including at-will employees (Deputy Chief or higher)

Events and circumstances involving the performance of his/her official duties.

## Exceptions:

Single-Role Paramedics & EMT's<sup>\*(Article 11)</sup>

Arson Investigators<sup>\*(PBOR)</sup>

Probationary Firefighters

Off-Duty Misconduct

# Firefighter Bill of Rights

## TRIGGERED BY:

**Any actions which may lead to:**

- Dismissal
- Demotion
- Suspension
- Reduction in Salary
- Transfer for the purpose of punishment
- Written Reprimand
- Written Warning/Counseling

## DOES NOT APPLY TO:

- Verbal Counseling
- Verbal Warning
- Instruction
- Coaching
- Routine or unplanned contact with supervisor

# FACT-FINDING INTERVIEW - NOTICE

- **Shall Include:**
  - Date/details of alleged action
  - Department/City Rules/regulations violated
  - Name and rank of interviewers
  - Right to representation



# FACT-FINDING INTERVIEW - REPRESENTATION

- It is the Firefighters responsibility to obtain representation
- Not a part of the investigation
- Local 145
- Attorney
- MOU Article 11
  - Fire Battalion Chiefs are not authorized to represent Fire Fighters, Fire Engineers, or Fire Captains on matters of discipline or grievances.
  - Fire Captains are not authorized to represent Fire Fighters or Fire Engineers on matters of discipline or grievances.
  - Members of the Board of Directors may represent employees in all Fire classifications in matters of discipline and grievances.

# FACT-FINDING INTERVIEW - RIGHTS

- **ALLOWABLE**

- Questions may be asked by and through no more than two interrogators at one time)
- Reasonable hour
- Reasonable length, determined by the complexity of the issue
- Reasonable breaks, to attend to own personal physical necessities
- On-Duty or Compensated

- **NOT ALLOWABLE:**

- Offensive language
- Threat of punitive action
- Incentives/Rewards/Bribes/Quid pro quo

# FACT-FINDING INTERVIEW - RECORDING

- May be recorded by either party
  - **Employer recording:** firefighter shall have access to the recording if any further proceedings are contemplated or prior to any further interrogation at a subsequent time.
- They have the right to bring own recording device and recording and all aspects of the interrogation.



# FACT-FINDING INTERVIEW – CRIMINAL CHARGES

- If during or prior to the interview it is determined that the Firefighter could be subject to criminal charges, the employee must be informed of constitutional rights (Miranda Rights)
- FBOR states continued questioning shall require a written formal grant of immunity from criminal prosecution. However, this is not possible for us, in our job role, to do.

# FACT-FINDING INTERVIEW PRIVACY

- **POLYGRAPH**
  - Firefighter cannot be forced to take a polygraph
  - Refusal to submit cannot be noted or used against the Firefighter
- **MEDIA**
  - Firefighter cannot be subject to visits by the media without the Firefighters express written consent.
  - Firefighter's photograph, home address, telephone number, or other contact information shall not be given to the press or news media without express written consent.
- **DISCLOSURE OF FINANCIAL INFORMATION**
  - Firefighter cannot be forced to disclose financial information

# FACT-FINDING INTERVIEW PRIVACY

(con't)

- **LOCKER SEARCH**

- **Lockers cannot be searched, UNLESS:**

- Search Warrant OR
    - Firefighter gives consent OR
    - Firefighter has received advance notice OR
    - Firefighter is physically present



# INVESTIGATIVE DEADLINES

- **One year from discovery**
  - not the incident
- **Exceptions:**
  - Firefighter voluntarily waives deadline
  - Criminal investigation or prosecution
  - Multijurisdictional investigation
  - Employee is incapacitated or unavailable
  - Civil litigation
  - Worker's compensation fraud



# INVESTIGATIVE DEADLINES (cont)

- **May reopen if:**
  - Significant new evidence has been discovered that is likely to affect the outcome of the investigation, AND
  - The evidence could not reasonably been discovered in the normal course of the investigation, OR
  - The evidence resulted from the Firefighter's predisciplinary response or procedure
- **DISCIPLINE DEADLINE**
  - Within 30 days of the decision to discipline but not less than 48 hours prior to imposing the discipline

# APPEALS

- **Non Property Rights**
  - Informal Appeal
- **Property Rights**
  - Skelly Hearing
  - Civil Service Hearing
- **Firefighter is entitled to any notes made by a stenographer, and copies of any reports or complaints made by investigators or other persons.**
  - UNLESS, they are required by law to be kept confidential

## REASSIGNMENT

A Firefighter shall not be loaned or temporarily reassigned to a location or duty assignment if a Firefighter in his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

## PUNITIVE ACTION FOR EXERCISING RIGHTS

A Firefighter shall not be subject to or threatened with punitive action, or denied promotion, because of the lawful exercise of the right granted under this act

# ENFORCEMENT OF THE ACT

- **Penalties for violation**
  - Department may be liable for a civil penalty
  - \$25,000 for each violation
  - Damages may be awarded
  - Attorney's Fees
- **Frivolous or bad faith**
  - Sanctions
  - Attorney's Fees
  - Expenses



# DESC Model

- When discussing issues in a tense situation:
- **D**escribe Behavior
  - “When you report to work late...”
- **E**xpress Impact
  - “...your crew doesn’t leave the yard on time and productivity is reduced”
- **S**pecify Change
  - “You need to report to the yard on time everyday – that means 7:00 am”
- **C**onsequences
  - “If you do not do this beginning tomorrow I’ll have to take more severe disciplinary action”

# Group Activity

1. Write out a brief “script” of a conversation using a **DESC** model
  2. Focus on the behavior / performance that needs to be corrected
  3. Be prepared to share your conversation with the class
- *Do not label employees based on your opinion (e.g. employee is lazy, unable to learn, etc.)*

# Documentation

Documentation is crucial for the following reasons:

- Seriousness of behavior
- Unacceptable behavior
- Corrected behaviors
- Provides a record



Be sure to focus on:

- Behavior(s) and the impact(s)
- Date(s) and Time(s)
- Outcome(s) and Consequence(s)

# Written Counselings and Warnings

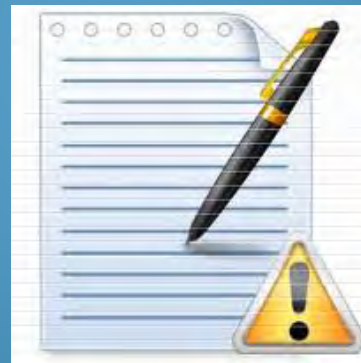


- Be sure to focus on:
  - Performance or incident
  - Date or time frame
  - Improvement needed
  - Consequences if improvement is not noted
- Be sure to offer assistance and designate a follow-up date
- If appropriate, offer EAP as a resource

# Counseling and Warnings

- Previous Verbal Counselings / Warnings should be referenced in the Written Counseling / Warning. Document:

- Date(s)
- Time(s)
- Topic(s)



- If the employee fails to change the behavior document it in the Written Counseling / Warning

# Individual Activity

- Prepare a written warning / counseling
  - Use the templates in your manual
  - Completely write it out
  - Be prepared to read it to the class



# Resources

- Department Management / HR Division/PSU
- Human Resources Department / Labor Relations Office
- Local 145
- City Attorney's Office
- Employee Assistance Program



# FAQ's

- Previous questions
- Questions from today





# Human Resources Department

619-236-6313

<http://citynet/hr/index.shtml>