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|  | Employee Discipline: ROFR Section 111.01 | | TFCA Best Practices: 12.07 |  |
| | Effective: 11-10-2015 | Revision: 11-10-2015 | Fire Chief: Eric Thompson  | |

I. POLICY

It is the department's policy to impose any necessary disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure that the rights of employees are protected.

Discipline is a process of taking specific actions which will help train, develop or modify the inappropriate actions of an employee, preferably through positive rather than negative measures. Discipline in the Department involves reward of employees for excellence and positive actions; and training, counseling, and in some cases sanctions for inappropriate actions or behavior.

II. PURPOSE

The purpose of this order is to establish procedures concerning informal and formal disciplinary practices within the department.

III. DEFINITIONS

A. Days

The term "days," as used herein, means work days provided, however, that if the last day of any time period mentioned herein is a Saturday, Sunday, or holiday, the time period shall be extended to the next day.

B. Moral turpitude

An intentional act or behavior displayed in words or actions which violates public morals or the common sense of the community involving but not limited to intent to defraud, intentional dishonesty for personal gain, lying, perjury, subornation of perjury, cheating, bribery, unlawful possession of controlled substances, sexual harassment, unlawful sexual conduct, or excessive use of force.

C. Relief from duty

An administrative action by a superior whereby a subordinate firefighter is temporarily relieved from performing his or her duties.

| | | | | |
|---|---|-------------------------|---|---|
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D. Discipline

The taking of specific actions intended to help train, develop or modify the actions of an employee. Discipline may be positive (awards and training) or negative (punishment).

IV. PROCEDURES

A. Positive discipline

1. Positive discipline seeks voluntary compliance with established policies, procedures, orders. Methods of positive discipline include:
 - a. Recognition of excellent job performance through rewards or awards.
 - b. When people outside the department compliment an employee's performance, the person who receives the information shall make a record of the comments and pass them to the employee's supervisor. When the Chief receives compliments about an employee, he or she should write a thank-you note to the individual. Copies of the person's statement and the Chief's response shall be sent to the firefighter involved, the supervisor and, a copy of all correspondence shall be placed in the employee's personnel file.
 - c. Truly exceptional acts shall be clearly and promptly identified to the Fire Chief. These acts may be the basis for special awards or for special recognition by community groups or media coverage.
2. Discussion and counseling
3. Training

B. Consistency in discipline

1. The department abides by the philosophy that discipline must be applied consistently and uniformly.

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|---|---|-------------------------|---|---|
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2. The department provides employees with descriptions of prohibited behavior in ROFR SOP's 101-107 and elsewhere in these orders. No list, however, can be all-inclusive. Employees are expected to have a reasonable perception of what constitutes proper behavior, based on training and experience.

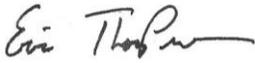
C. Relief from duty

1. An employee may be relieved from duty whenever a supervisor, whether the Fire Chief, Deputy Fire Chief, or Captain, questions an employee's physical or psychological fitness for duty. An internal investigation may follow.
2. The Deputy Fire Chief or Captain has authority to relieve an employee from duty, but must promptly report this action to the Fire Chief, accompanied by a written report setting forth details and circumstances. Note: The Fire Chief may also relieve an employee from duty.
3. If the necessity to relieve from duty is not immediate, the behavior or actions of the employee shall be deemed a matter for internal investigation. In an internal investigation, only the Fire Chief may relieve an employee from duty. Only the Fire Chief, under consultation with the City Manager, may suspend a firefighter without pay.
4. A firefighter who refuses to obey a direct order in conformance with the department's orders may be relieved from duty by the Deputy Chief or Captain, who may recommend suspension to the Fire Chief. The Fire Chief, in consultation with the City Manager, may then suspend without pay.

D. Penalties

The following options are available:

1. Documented oral reprimand; counseling; and training
2. Written reprimand.
3. Demotion or suspension without pay.

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4. Dismissal from department.

E. Documented oral reprimand; counseling and/or training

1. Oral reprimands resulting from improper actions, while informal, require documentation with an employee's acknowledgment of such record. The following steps shall be observed:

- a. At the time of an oral reprimand, the employee receiving it shall be counseled as to correct behavior, and further advised that a written record shall be maintained concerning the reprimand/counseling, and that the employee may read the record.
- b. The employee shall be further advised that he or she has the right to file a statement in his or her personnel file setting forth his or her position, in case of disagreement.

2. The reprimanding supervisor shall record the reprimand/counseling in a memorandum to the personnel record containing the following information:

- a. Employee's name;
- b. Date of reprimand/counseling;
- c. Summary of reasons for reprimand/counseling;
- d. Summary of employee's response;
- e. Suggestions for improvement or specific actions suggested;
- f. Name of counselor and signature.
- g. The following statement must appear:

"I acknowledge that I have today received counseling and I have been advised of the following rights: (1) that a written record of reprimand/counseling shall be maintained; (2) that the employee

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|---|---|-------------------------|---|---|
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has a right to review the record and respond in writing; (3) that the form shall become part of the personnel file; and (4) that the employee is required to acknowledge the reprimand/counseling by signing the record."

h. The employee shall sign and date the form following the statement.

3. Oral reprimand/counseling may involve remedial training. This training may be deemed necessary to rectify the improper behavior. Remedial training may include attendance at academy classes, in-service, or other training specially created to help the employee correct or modify his or her behavior. Remedial training is reasonably offered until the employee can demonstrate proficiency in the corrected behavior. All training shall be documented.
4. If the employee's actions did not result in a formal internal investigation and employee has not behaved improperly following counseling for two years, the record of counseling shall be expunged from the employee's personnel file. Accumulation of three oral reprimands in a twelve month period may result in a written reprimand or suspension, depending on circumstances.
5. Supervisors are expected to informally counsel employees regularly without waiting on instances of poor performance. Most counseling is informal, positive, supportive, and often undocumented.
6. Supervisors are responsible for counseling employees concerning job-related matters, within their capabilities. Many things can affect the job and an employee's performance, so job-related counseling may involve family and other individual, personal subjects. Counseling may include identification of unacceptable behaviors or actions, specifically what was done wrong and the desired or acceptable performance. Counseling can attempt to determine the reason for the particular behavior, determine and recommend how to correct or improve performance or to solve the problem.

F. Written reprimand

1. A written reprimand, issued by the Fire Chief, cautions an employee about poor behavior, sets forth the corrected or modified behavior mandated by the

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department, and specifies the penalty in case of recurrent poor behavior. A written reprimand becomes a permanent part of the employee's personnel record.

2. An employee may not appeal a written reprimand. Only suspension time off without pay, demotions or termination may be appealed to the City Manager who shall be the final arbiter. The appeal must be filed within 5 business days of the disciplinary action. (TFCA BP 12.07)

G. Demotion or suspension without pay

1. If the situation warrants, the Fire Chief, in consultation with the City Manager, may demote an employee, suspend without pay, or take other measures normally considered equivalent, such as the forfeiture of vacation or compensatory time.
2. Suspensions without pay will normally apply to a period of up to 15 days, as determined by the Fire Chief and City Manager.
3. If an employee becomes a candidate for suspension a second time within one year after the first suspension, the employee may be dismissed.
4. Suspensions resulting from the arrest or criminal investigation of an employee may be indefinite or result in termination.
 - a. Should an employee be arrested or identified as a suspect in any felony, misdemeanor involving violence or moral turpitude, family violence or DWI, they shall immediately be placed on administrative leave with pay and an internal investigation shall commence. At the conclusion of the internal investigation the Fire Chief may take appropriate disciplinary action based on the results of the internal investigation, including suspension or termination.
 - b. Terminations may result from other criminal infractions.
 - c. If an employee is acquitted of criminal charges, the employee may yet be disciplined at the discretion of the Fire Chief or reinstated with full or partial back pay.

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5. Any member suspended for a period five days or longer shall return all department-owned property. On any suspension, the firefighter must return to department custody his or her badge, and identification card.
6. During a suspension, the employee shall not undertake any official duties.
7. Demotion shall be to the next lowest rank. Demotion shall only apply to the Driver Engineer and Captain positions.
8. An employee may appeal a suspension within five days of notice. An employee may appeal a suspension through the Fire Chief to the City Manager, whose decision is final. (TFCA BP 12.07)

H. Termination

1. Terminations are made in cases of extreme misfeasance, malfeasance, or nonfeasance of duty. A complete record of the circumstances of the misbehavior shall be made by all persons having knowledge of the misbehavior.
2. Employees may appeal a dismissal within five days of receipt of notice, and may appeal in accordance with the procedure outlined under City Policy.

I. Reporting arrests

Any employee arrested for, charged with, or convicted of any crime, or required to appear as a defendant in any criminal or civil proceedings, must so inform the Fire Chief in writing as soon as possible. Employees do not have to report parking tickets. Employees must report summonses or arrests for reckless driving, DWI, or any other hazardous or moving traffic offenses. Failure to notify the department of the foregoing shall be cause for dismissal.

V. PROGRESSIVE DISCIPLINE

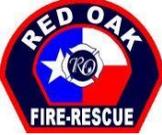
- A. Except for gross breaches of discipline, moral turpitude, or serious violations of law or conduct, the department generally follows the principles of progressive discipline.

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- B. Probationary employees shall be dismissed, suspended, or otherwise disciplined according to the foregoing. The only difference is that a probationary employee has no right of appeal. In the case of a dismissed probationary employee, the official record shall merely indicate that the person was dismissed during probationary employment.

VI. ADMINISTRATION OF SUSPENSIONS, DEMOTIONS, OR DISMISSALS

- A. After an appropriate investigation, should the Fire Chief sustain the allegation and determine that the discipline may be a suspension, demotion, or termination; the Fire Chief may request review of the investigation by the employees chain of command to obtain their recommendations for disciplinary action.
- B. Upon receipt of the recommendations, if the Fire Chief believes the discipline should be greater than a Written Reprimand, the Chief shall request personnel read the written investigation summary and initial each page. The review will take place in the presence of the investigating officer or other staff member. The employee will be allowed to add a written statement to the investigative package stating any arguments with the evidence or investigation process. This statement will be prepared and added before leaving the review site.
- C. The Fire Chief will meet with the employee and allow the employee to make any statement regarding the evidence or investigation, and review any written statement provided by the employee. The Fire Chief will then have the employee report back after a period determined by the Chief.
- D. The Fire Chief will again review the investigation, considering the employee's input and may then decide on the discipline or send the investigation back for further investigation.
- E. The Fire Chief will meet with the employee to inform him or her of his decision. The Chief will present the employee with a letter outlining the discipline, the effective date of the discipline, the reason for the discipline and the employee's appeal rights.

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- F. Copies of all investigations resulting in disciplinary action and all disciplinary paperwork will be filed in the employees personnel file. A copy of the investigation will be maintained in the internal investigations files.