



Virginia Beach Department of Emergency Medical Services



## HUMAN RESOURCES

### DISCIPLINARY POLICY FOR VOLUNTEER MEMBERS

**PURPOSE:** To provide a policy and procedures for imposing discipline to address a member's misconduct or unsatisfactory performance.

**APPLICABILITY:** This policy shall apply to all volunteer members and supervising officers of the Department of Emergency Medical Services.

**POLICY STATEMENT:** It shall be the policy of the Department of Emergency Medical Services to establish a system of progressive discipline to address the behavior of employees who have engaged in misconduct or who fail to meet performance expectations. In cases where employee conduct was sufficiently egregious, serious discipline, up to and including dismissal, may be imposed even for the first offense.

### DEFINITIONS

**Written Reprimand** - A letter or memorandum issued by a supervisor and placed in the member's official file documenting the member's unsatisfactory work performance or misconduct.

**Administrative Leave** – A temporary non-punitive prohibition of a member to perform his or her duties pending resolution of questions regarding work performance, misconduct or ability to perform required work tasks.

**Administrative Separation** – A non-punitive removal from the department when a member is unable to perform the essential duties of their position or fails to meet activity and procedural requirements for continued membership with the department.

**Suspension** – A temporary prohibition of a member to perform his or her duties due to unsatisfactory work performance or misconduct.

**Demotion** – A reduction in the rank or certification of a member in conjunction with a change in job duties and responsibilities as a result of a member's unsatisfactory work performance or misconduct.

**Dismissal** – An involuntary separation from the department as a result of a member's unsatisfactory work performance or misconduct.

## **CORRECTIVE ACTION AUTHORITY**

All appointed officers are granted the authority to levy corrective action/discipline, up through and including the authority to relieve from operational activities, any individual within their area of responsibility using the delegated authority of the EMS Chief in accordance with Section 2-422 of the City Code. In addition to the appointed supervisors, this responsibility and authority will also lie with the Operational Medical Director.

The authority for levying corrective actions within the chain of command are as follows:

### **Squad Commander/Captain**

Administrative leave pending investigation  
Written reprimands  
Suspension of a subordinate for up to 2 weeks

### **Volunteer Assistant Chief**

Administrative leave pending investigation  
Written reprimands  
Suspension of a subordinate for up to 5 weeks

### **Deputy Chief**

Administrative leave pending investigation  
Written reprimands  
Suspension of a subordinate for up to 8 weeks  
Demotions

### **Chief**

Administrative leave pending investigation  
Written reprimands  
Suspension of a subordinate for up to 12 weeks  
Demotions  
Dismissals

Disciplinary action initiated by the Medical Director shall be treated as the same as if the EMS Chief initiated it. In all cases only the EMS Chief may terminate the member from the Service.

## **PROGRESSIVE DISCIPLINE**

All members shall be disciplined in a progressive manner. Based on varying circumstances, however, a supervisor may exercise discretion in determining the degree of discipline that should be imposed. A dismissal is generally considered appropriate only as a last resort or in the case of an extremely serious policy violation. The following list represents the forms of disciplinary action:

- Written Reprimand
- Suspension
- Demotion
- Dismissal

The department considers verbal warnings, cautions, or oral counseling to be performance management tools and not forms of discipline. Further, the department recommends the use of these methods prior to discipline, when appropriate. A warning, a caution, or an oral counseling, if documented, should be maintained in a critical incident file or departmental file.

## **UNSATISFACTORY WORK PERFORMANCE OR MISCONDUCT**

Disciplinary action may be taken either when a member's work performance is unsatisfactory, violates policy, or when the member has engaged in misconduct.

Examples of behavior or unsatisfactory work performance which could result in discipline include, but are not limited to the following:

### Performance

1. Failing to perform assigned duties correctly, competently or at an adequate level of production
2. Careless conduct, endangering one's safety or the safety of others
3. Negligence in the care and handling of City, department or rescue squad property
4. Refusing to cooperate in an official investigation

### Policy

1. Violation of a City or departmental policy, procedure, regulation administrative directive or any local, state or federal law

2. Retaliation against a member or employee for using mechanisms such as complaint procedures or whistleblower venues
3. Code of Ethics violation
4. Substance Abuse Policy violation
5. Failure to complete a directed referral to the Employee Assistance Program or failure to complete a mandated treatment plan
6. Misuse of City or rescue squad-provided computers or computer systems

### Misconduct

1. Absence without leave (AWOL)/unexcused absence from duty
2. Recurring tardiness
3. Insubordination
4. Refusal to comply with instructions of a supervisor
5. Use of offensive, abusive, threatening, coercive, profane or discourteous language
6. Provoking or participating in a fight while on duty or on City property
7. Theft
8. Conduct which may cause the City to be put in disrepute
9. Conduct unbecoming an EMS volunteer
10. Use of one's position, identification or badge for personal gain
11. Engaging in unlawful or improper conduct on or off duty
12. Misappropriation of City or rescue squad assets
13. Falsification of records or reports
14. Dishonesty
15. Lack of candor (intentional failure to fully disclose related facts)

## **DISCIPLINARY PROCEDURE**

### **Administrative Leave**

Pending outcome of an investigation, a member may be placed in a temporary alternative assignment or relieved of duties entirely. This option will be exercised on a case-by-case basis. Consideration will include, but not be limited to: misconduct relates to the work performed or position held by the member; whether or not the member poses a threat to the public or workplace; or the action of the member in the workplace may interfere with the investigation.

Every attempt will be made to ensure the investigation is completed in an expeditious manner. When an investigation is expected to last longer than fourteen (14) days, the supervising officer shall request approval for extended Administrative Leave from a Deputy Chief. Such request may be granted if the delay in the investigation was not through the fault of the employee in question.

## **Fact-Finding Investigation**

Before imposing any discipline, a supervisor shall conduct an investigation (fact-finding process). The extent and formality of the investigation will depend on the individual circumstances of the policy violation, misconduct or performance issue. The fact-finding investigation shall be conducted as soon as possible.

- A. The fact-finding investigation shall include one or more of the following, if applicable:
  - a. Fact-finding Meeting/Conversation: Talking the member against whom discipline is being considered.
  - b. Determining whether the member had been informed about the rule of policy which had been violated.
  - c. Determine whether the member had been provided clear and attainable performance standards and expectations.
  - d. Gathering and reviewing documentary evidence.
  - e. Talking to witnesses and/or persons with relevant knowledge.
- B. In appropriate circumstances (i.e. AWOL or insubordination), the fact-finding investigation may consist solely of a meeting/conversation with the employee against whom discipline is being considered.
- C. Members are not entitled to have a personal representative at any meeting(s) with a department supervisor during the fact-finding process.

## **Pre-Disciplinary Meeting**

Prior to issuing formal discipline, a supervisor shall meet with the member to allow the member a final opportunity to respond to the allegations against him/her. During this meeting, members shall not be allowed to have a personal representative present. When dismissal, demotion or a suspension of more than 30 days is being considered, the responsible officers shall provide a minimum of 24 hours written notice to the member of the pre-disciplinary meeting advising the member of the proposed action, the reason(s) why discipline is being imposed, and the date and time of the meeting. In situations involving lesser discipline, 24 hours of notice is not required and where otherwise appropriate, the fact-finding meeting may suffice for the pre-disciplinary meeting.

## **Mandatory Contents of Disciplinary Letters**

All letters imposing discipline shall be forwarded to the Administration Office to be included in the members' official personnel file. Actions not filed in writing shall not be considered valid. All letters imposing discipline shall contain the following elements:

- Action being taken (i.e. reprimand, suspension, etc).
- The reason(s) for the action taken, described in sufficient detail so that a reasonable person would understand the bases for the discipline.
- The date when the pre-discipline and/or fact-finding meeting took place, and a summary of the member's response or that the member failed to provide a response.
- A warning that future unsatisfactory performance or misconduct may result in further disciplinary action.
- An explanation of the member's grievance rights, if any.

## **Situational Contents of Disciplinary Letters**

As appropriate, letters imposing discipline shall also contain the following elements:

- An explanation of steps (i.e. training, counseling, improvement plan) which management has taken to assist the member.
- A listing of prior corrective action(s) the member has received.
- A brief explanation of factors which the supervisor considered in selecting the penalty.

## **Notice of Discipline**

A written notice of the discipline being imposed shall be hand-delivered to and signed by the member, or shall be sent via certified mail. If both parties agree notices may be provided via email. However, the member must provide and email response acknowledging receipt of the notice.

## **PURGING LETTERS OF REPRIMAND AND SUSPENSION**

Letters of reprimand and suspension may be purged from a member's official personnel file. Members shall forward a written request to the EMS Chief. The Chief, or his designee, in the absence of objective facts to the contrary may purge the requested record provided that (1) no subsequent disciplinary action has been taken, and (2) the minimum retention period has passed. The minimum retention period for a letter of reprimand is eighteen (18) months, and for suspension is five (5) years.

## **REEMPLOYMENT**

No individual shall be reemployed or reinstated who has been dismissed twice from the department with the previous five (5) consecutive calendar year period.

## **PENALTY FACTORS/CONSIDERATIONS**

The following are a list of factors that, depending on the circumstances of each individual case, shall be considered in determining the penalty for an employee's misconduct or unsatisfactory work performance. This list is not all-inclusive:

- A. The nature and seriousness of the offense, and the impact on the department's mission.
- B. Whether the member had notice of the supervisor or department expectations.
- C. Whether the member had notice of the rule or policy which was violated.
- D. Prior disciplinary actions (<18 months for reprimands, <5 years for suspensions).
- E. The level of the member in the organization.
- F. Mitigating factors such as consideration of the member's length of exemplary or satisfactory service (note that mitigating factors are not considered in cases of violation of substance abuse policies).
- G. Whether there is prior documentation of work or performance issues with the member.
- H. Whether the supervisor reasonable believes that the member's behavior or performance can become acceptable in the future.
- I. What discipline has been issued in similar cases of misconduct or poor performance.

## **PRESCRIBED PENALTIES AND SPECIAL CONSIDERATIONS**

Some situations have specifically prescribed penalties, suggested penalties or special considerations. These are:

- Members found to have knowingly and with intent misused City or rescue squad funds, or helped others do so shall be dismissed.
- The Department of Emergency Medical Services has a zero tolerance for substance abuse as outlined in Section 4.2 of the City of Virginia Beach Substance Abuse Policy.
- Suspension or dismissals set forth under the Criminal and Administrative Charge and Conviction Panel.

## ADMINISTRATIVE SEPARATION

Administrative separation shall be used to address situations where members are unable to perform essential position functions due to health reasons, loss of mandated certifications, loss of Medical Director authorization to practice or failure to comply with activity or procedural requirements.

### ORDERED:



1/20/2017

EMS Chief

Date