

	<b>TRAVIS COUNTY ESD #5</b> <b>MANCHACA FIRE RESCUE</b> <b>Department Policy / Best Practices</b>	<b>X102</b>
	Authorized by:  Fire Chief Chris Barron	<b>Effective:</b> 03/10/2023 <b>Rescinds:</b> <b>Reference:</b> <b>Application:</b> All Personnel
<b>Discipline</b>		

**I. Purpose**

To provide guidance to supervisors for the consistent and fair administration of discipline, as well as the proper documentation of disciplinary action. It is also to provide members with an understanding of Manchaca Fire/Rescue’s philosophy and practice of discipline in its goal of maintaining the high professional standards of the organization.

**II. Background**

All members are subject to the department’s rules, regulations, and policies. Failure to perform in a professional manner will result in disciplinary actions. Actions range from verbal counseling to the being terminated from the organization. The goal of discipline is always to correct behavior with the lowest level of discipline appropriate for the situation so the member will be a productive and a positive contributor to the organization.

**III. Policy/Best Practices**

**A. Background Investigations**

1. Criminal, Driving and References checks will be performed on new potential members of the organization. These checks may also be performed on an annual basis, post-accident or on a random basis. These records will be reviewed and, if necessary, the member will may be called upon to explain his/her actions and provide any type of further information.

**B. Concepts of Discipline**

1. Discipline will be corrective in nature. Discipline should strive to identify causes or reasons for a member’s deficiencies and find measures to correct these deficiencies. The correction process should be measurable and follow-up should be performed to determine if corrections are made.
2. Discipline should be progressive. Discipline should begin at the lowest level possible and progress to increasingly more severe forms of discipline. Levels of discipline include:

Supervisor Counseling – Oral (Documented)	Restricted Duty
Supervisor Counseling – Written	Suspension / Demotion
Written Reprimand	Indefinite Suspension

3. If the situation is not corrected or additional deficiencies occur that indicate a trend in poor judgment, performance, or professional attitude, the lowest level of discipline could be bypassed for a higher level of discipline. Major violations of department policy or procedures may result in bypassing the lowest levels of discipline and progress directly to higher levels of discipline. Major violations include but are not exclusive to the following:
  - a. Insubordination
  - b. Failure to recognize or accept the authority of a supervisor; any action, conduct, or language that displays a defiance of authority.
  - c. Refusal to obey an order
  - d. Refusal to work at an emergency
  - e. Neglect of duty
  - f. Threats of violence or fighting
  - g. Failure to report an Arrest
  - h. Detention by a Peace Officer where the member is placed in a detention facility under restraint, whether or not charges were pursued, and regardless of the disposition of such charges. It shall include those incidents where arrest/release procedures are used based on a person's signed promise to appear on a future date. It shall not include traffic offenses, except those that bear a higher penalty than Class C Misdemeanor.
  - i. Failure to report loss of Driver's License or privilege
  - j. Failure to give true statements at administrative investigations
  - k. Misrepresentations on department reports or records
  - l. Conviction of any felony, or Class A or B Misdemeanor
  - m. Gross negligence or willful disregard of safe practices or safety regulations
  - n. Use or possession of illegal drugs on or off duty
  - o. Use or possession of alcoholic beverage(s) on duty
  - p. Intoxication off duty while identifiable as a member of the department
  - q. On-duty impairment by reason of the use of any substance
  - r. Unauthorized possession of weapons
  - s. Theft
  - t. Destruction of property
  - u. Multiple violations of Rules and Regulations
4. Discipline information shall be limited to involved parties. When a member is disciplined, the member and that member's chain of command shall be involved in the process. Other personnel will be included as circumstances require, and then only to the level necessary to convey needed information.
5. Discipline should not be reactionary in nature. Supervisors must be familiar with department rules and policies and base actions on actual violations. Support and review of disciplinary action by another officer(s) is necessary when discipline extends beyond oral counseling. Consultation with a higher ranking officer is the preferred course of action.

### **C. Investigating Misconduct and Complaints**

Any complaint or accusation of misconduct shall be investigated thoroughly before action is taken. Supervisors should seek as much information as possible about the situation from multiple perspectives before making a judgment. Lesser violations can be documented by use of the Notice of Unacceptable Performance or Behavior form. For other offenses, including major violations, an investigation report should be completed in conjunction with the Notice of Unacceptable Performance or Behavior form. An investigation report should include the following:

- Summary of the incident (who, what, where, when, why, how)
- Persons interviewed with time, date, location, witnesses, and information covered in the interview
- An employee history of past performance including previous disciplinary action as well as awards and commendations
- Supervisor conclusions including responsibility and if any extenuating circumstances existed.
- Recommendations for disciplinary action or alternative action, if any
- Attachment of any additional documentation the supervisor wishes to include to support the report

Notes on conducting an investigation:

- Members should be interviewed as soon as possible
- Members should be isolated for interview to preserve individual perspective and allowing members to “compare notes” on what was said
- Interviews should be conducted in private and in person if at all possible
- Questions should be narrowly focused on the issue at hand
- Failure of a member to participate in an investigation or answer truthfully is a major violation of policy and in itself subject to disciplinary action.
- Issued gear, lockers, offices, desks, and the like are property of the ESD and subject to inspection and search without a warrant.

### **D. Options for Improving Member Performance:**

Every situation should be considered separately. Approach these situations as an opportunity for improvement. Multiple options are available to help the member correct unacceptable performance or behavior. Examples include:

#### Non-Disciplinary Counseling:

Many times, a minor violation is correctable by simply speaking with the member and bringing the issue to their attention in a non-threatening environment.

#### Training:

If it is determined that a member’s situation stems from a lack of training or improperly applied training, the supervisor should develop a plan to correct and evaluate the training deficiency. Goals and a time frame should be set for improvement. Consider consulting the training officer in implementing and evaluating a training plan. If performance has not improved to an acceptable level, the situation should be taken to a higher level of discipline.

#### Disciplinary Action:

If after investigation, it is determined that disciplinary action is called for; the level of discipline must be determined. Factors will include the seriousness of the offense, the members past history, the past practice of the department in similar situations, and unique characteristics of the given offense. It is crucial that discipline be consistent in order for it to be effective for the member and the department as a whole. Barring a major offense, discipline should be

progressive in nature, starting with lower levels and progressing in severity as the situation warrants.

Follow-Up:

When disciplinary action is taken, a time period should be established for revisiting the issue to determine if corrective actions have been met. The Notice of Unacceptable Performance or Behavior form should indicate the time period and who will conduct the follow-up.

**E. Levels of Disciplinary Action:**

1. Supervisor Counseling – Oral:

This is the most commonly used and least severe form of discipline. It takes on a more serious stance than non-disciplinary counseling. Oral counseling is essentially a verbal warning. It lets the member know that certain behaviors or actions need to improve or more formal disciplinary action will take place. The supervisor should make notes of the counseling session and retain them in a secured, organized manner. The supervisor shall advise the Chief and next in command of the counseling session.

2. Supervisor Counseling – Written:

For a repeated violation or more serious initial violation, the supervisor may choose to perform a written counseling session. The Notice of Unacceptable Performance or Behavior form should be used to document the counseling session. The form must include a description of the incident, nature of violation, corrective action, and a time frame to conduct a follow-up. The documentation will be placed in the member's personnel file and a copy provided to the member. The supervisor shall advise the Chief and next in command of the counseling session.

3. Written Reprimand:

For repetition of a minor infraction or commission of multiple infractions the written reprimand should be utilized. The written reprimand can be used as the first level of discipline for a major violation depending on the nature of the violation. The Notice of Unacceptable Performance or Behavior form should be used to document the counseling session. The form must include a description of the incident, nature of violation, previous history, corrective action, and a time frame to conduct a follow-up. The documentation will be placed in the member's personnel file and a copy provided to the member. The supervisor shall include the Chief and next in command to assist in the investigation and administration of the reprimand.

4. Restricted Duty:

For commission of a major violation, or repeated discipline problems, the Captain may place a member on restricted duty. The supervisor that initiates the action will inform the Chief of the infraction and utilize the Notice of Unacceptable Performance or Behavior form and complete an investigative report. Upon review, the Captain will determine the degree of restriction, if warranted. Restricted duty allows the member to continue to participate in the department on a limited basis. The degree of restriction and duration will be documented and included in the investigative report. The documentation will be placed in the member's personnel file and a copy provided to the member.

5. Suspension / Demotion:

Suspension or demotion is reserved for serious offenses, repeated offenses that have not improved with other forms of discipline, and major violations of particularly serious nature. The Chief and/or next in command will be involved in the investigative process. The Notice of Unacceptable Performance or Behavior form and an investigative report will be completed. The Chief will make the final decision on suspensions and demotions and determine the duration of the action. The documentation will be placed in the member's personnel file and a copy provided to the member.

6. Termination:

This is the most severe form of discipline and is reserved for the most severe circumstances or as a final resort for a member that will not respond to other forms of discipline. Only the Chief can terminate an employment. The Notice of Unacceptable Performance or Behavior form and an investigative report will be completed. The documentation will be placed in the member's personnel file and a copy provided to the member.

**IV. Appeals To Disciplinary Action:**

An employee may appeal a disciplinary action except an oral counseling session. If a Lieutenant or Captain was the supervisor administering the disciplinary action, the action may be appealed to the next in command or Chief.

**V. SPECIFIC DISCIPLINARY ISSUES**

***External Complaints:***

Complaints from the public or other agencies, including anonymous complaints, will be investigate to the extent necessary and at the supervisory level necessary to determine the facts of the matter and what action, if any, is needed.

A member receiving a complaint will document the information and inform the Chief or next in command. The Chief or next in command will determine how to proceed with the investigation. The Chief or next in command will contact the complainant (unless they have requested to not be contacted) to inform them that the matter is being investigated. The following steps should be taken:

**COMPLAINANT**

- Make sure the nature of the complaint is understood
- Clarify any discrepancies
- Thank the complainant for bringing their concerns to the attention of the department
- Ask if they wish to be contacted after the investigation

**SUBJECT**

- Interview the subject(s) of the complaint
- Discuss events surrounding the complaint

- Ask if anything unusual occurred
- Inform the subjects of the incident as seen by the complainant
- Discuss discrepancies between the two versions

The investigation will result in one of the following determinations:

- **Unfounded:** The event did not occur
- **Exonerated:** The event occurred, but was justified, lawful, and proper
- **Not Sustained:** The investigation did not prove or disprove the allegation
- **Sustained:** All or part of the event did occur and is based on substantial fact supporting this finding.

The determination will be shared with the members involved and the complainant will be informed that an investigation was conducted and proper action taken (if follow-up is indicated). An investigation report will be completed, documenting the allegations, investigation, findings, and reporting of findings. The incident should also be looked at from the perspective of quality service delivery to see if additional training or policy changes are called for. If the finding is “sustained”, the subjects involved will be handled by use of the department’s discipline policy.