



WADING RIVER FIRE DISTRICT BOARD OF FIRE COMMISSIONERS

1.12 Disciplinary Procedure Policy

OBJECTIVE:

This procedure shall enumerate the process required for the charging, investigation and subsequent resolution of disciplinary action resulting from a member of the Department or a paid employee of the District violating District Rules, Policies and Procedures.

POLICY:

TYPES OF DISCIPLINARY MATTERS

For the purposes of this procedure there are two types of disciplinary matters to be considered. The first is a charge involving incompetency or misconduct. In accordance with the statute any member charged with incompetence or misconduct shall be entitled to a hearing before the Board of Fire Commissioners or such Hearing Officer(s) appointed by the Board.

The second form of disciplinary action involves absenteeism or failing to meet mandatory requirements. The law does not provide for a right to a hearing before the Board on such charges and no hearing before the Board will be granted. However, any action imposing sanctions against a member or paid employee as a result of a sustained disciplinary finding must be approved by the Board prior to implementation. Under no circumstances should this procedure be considered or interpreted as expanding the hearing rights granted to volunteer firefighters under Section 209-1 of the General Municipal Law.

DEPARTMENT MEMBERS:

FILING OF CHARGES

Any member or officer wishing to file charges against a member of the Fire Department must file written charges, signed by the person making such charges against such member with the Chief of the Fire Department within seventy two (72) hours of the date of the alleged conduct. The filing shall state the alleged violation, and shall cite the Rules, Policies or Procedures violated. The filing shall also include a narrative of facts surrounding the alleged violation and include the names of witnesses, if any.

In the event Chief's office becomes aware of allegations requiring disciplinary action against a member, it may on its own motion initiate charges as prescribed above against the member within 30 days after it becomes aware of the alleged conduct.

RESPONSIBILITY OF CHIEF'S OFFICE

Upon receipt of formal written charges filed against a member or officer by a member or officer, the Chief or any of his or her assistants assigned shall investigate the charges. They shall notify the member charged within seventy two (72) hours interview him or her, and request that the member charged file a written report explaining his or her version of the Incident. The Chief or his or her assistant shall also interview any witnesses with relevant information on the matter and take written statements where possible. The Chief and his or her assistant shall complete their investigation within ten (10) days. The Chief shall provide a written copy of the investigation, and proposed disciplinary action if warranted, to the Board by the next Board meeting following the completion of the investigation. The Board then shall review the investigation and findings and proposed sanctions and deliberate for the purposes of accepting, rejecting, or remand to the Chief for further consideration and/or investigation. If the Board affirms the Chief's findings and proposed sanctions, the Chief may then present the investigation results and sanctions to the member.

If the member chooses to accept the finding and punishment proposed by the Chief, then the agreement between the parties shall be submitted in writing to the Board. Such submittal shall be in the form of the waiver attached and made a part of this procedure. In the event that the member does not accept the determination the Board shall direct that counsel prepare a Statement of Charges to be filed and served upon the member for the holding of a formal hearing where applicable. Such charges shall be served personally upon the accused officer or member at least ten (10) days, but not more than thirty (30) days before the hearing date. Where no hearing is required by law, the Board shall implement the determination which it believes appropriate under the circumstances. The Board shall also determine on record whether a hearing officer, or a hearing board be appointed or alternatively that the Board of Commissioners shall serve as the hearing board.

If a formal hearing is scheduled, the Chief or his or her designated Assistant Chief shall be responsible to arrange for witnesses to be present and any relevant evidence to be presented before the Board.

HEARING PROCEDURE AT THE DISTRICT LEVEL

A record of the hearing shall be made by a stenographer.

At such hearing the member accused shall be permitted to appear by counsel at his or her own expense, to cross—examine witnesses testifying against him or her, and to present witnesses and evidence relevant to his or her defense of the matter.

Proper demeanor shall be maintained by all parties during such hearings. Members shall be held strictly accountable for their conduct at such proceedings.

At the close of all evidence and submission by the hearing officer or hearing board if any, the Board shall deliberate and make a final determination. It may reserve decision and await a copy of the transcript before rendering a final determination.

SUSPENSION PENDING HEARING AND DETERMINATION

The Chief of the Department or an Assistant Chief acting in his or her behalf may suspend a member for disciplinary reasons pending the next regular meeting of the Board of Fire Commissioners. At that meeting the Board shall determine to continue the suspension pending an investigation and disposition of the charges, or shall reinstate the member pending same at its discretion. The Board shall periodically review the status of any continued suspension and may modify such suspension at any time

A company officer, or highest ranking member present may order a member to cease and desist from certain actions, may direct the member to leave an emergency response scene, a fire station, or other place where the membership is conducting district, department, or company business, but only a Chief or his or her assistants may formally suspend a member pending the next regular meeting of the Board.

Any member suspended pending a disciplinary hearing shall return all equipment and personal property issued to him by the District, Department and Company promptly to the Chief for storage at the Chief's office pending the outcome of the matter.

FINAL DETERMINATION AND ACTION BY THE BOARD

The Board of Fire Commissioners shall hear all relevant evidence presented at the hearing, or in the case of the designation of a Hearing Officer or Hearing Board shall review his or her recommendation and the hearing record, and make a final determination. This determination shall include a finding that the accused is guilty or not guilty of the misconduct alleged, and where a guilty finding is reached, the Board shall impose an appropriate penalty.

PAID EMPLOYEES:

Paid employees of the Fire District may file formal written charges against another paid employee, member, or Officer. Members, and officers may file formal written charges against a paid employee. The requirements set forth pursuant to documentation contained within such filing shall adhere to the requirements as set forth in the Filing of Charges Section of this procedure. However, in lieu of submission to the Chief's Office, the paid employee shall submit the filing to the Board of Fire Commissioners.

Upon receipt of such filing the Board shall have sole responsibility for the investigation and disposition of such charges. The Board may assign the investigation to a surrogate.

REFERENCES:

NYS GML 209-1

ART 75 NYS Civil Service Law

APPENDIX

The following forms are appended to and made a part of this procedure:

- a. Waiver of Hearing
- b. Waiver of Defective Service

Historical Note:

Adopted 09/2011



WADING RIVER FIRE DISTRICT BOARD OF FIRE COMMISSIONERS

1503 North Country Road, Wading River, NY 11792

Phone: (631) 929-3753 • Fax: (631) 929-4362

WAIVER FORM SERVICE OF PROCESS

Date: _____

I, _____ having been informed that I have a right to a formal hearing under Section 209L. of the General Municipal Law with regard to the attached Statement of Charges containing a notice of the time , date, and location of such hearing; hereby waive my right to be formally personally served with such document, and agree to accept the Statement of Charges based upon service by mail.

This waiver shall not prevent my appearing at such hearing and defending myself against such charges, but I shall waive the right to assert a personal jurisdiction defense relative to the method of service.

I have been informed that at such a formal disciplinary hearing, I will be entitled to be represented by counsel at my own expense, to confront and cross examine witnesses testifying against me, to present witnesses in defense of the charges against me, and to testify in my own behalf in defense of such charges. At any such hearing the officers preferring the charges would bear the burden of proving the charges against me.

However, I have been advised that I must appear at the hearing at the date and time set, and any adjourned date. My failure to appear will result in the hearing being held in my absence.

I hereby knowingly and voluntarily waive my right to personal service under Section 209L. of the General Municipal Law.

FIREFIGHTER

DATE

WITNESS

WITNESS

Adopted by the Wading River Fire District Board of Fire Commissioners on Monday, 06/26/2017.

Glenn Erick, Chairman
Tom Colitti, Vice Chairman
James Meier, Commissioner
John McManus, Commissioner
Randolph Hintze, Commissioner