

Discipline

1003.1 PURPOSE AND SCOPE

Best Practice

This document provides procedures for Toms River Fire Department personnel initiating a disciplinary action.

Corresponding Policies:

This procedure corresponds with all department policies or procedures where a violation may have occurred.

1003.2 DEFINITIONS

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Command discipline - A penalty imposed by department officers to sanction those members under their direct command with the purpose of correcting minor deficiencies and maintaining discipline within the command of the officer imposing the discipline. Command discipline does not include any formal charges.

Formal discipline - A penalty that includes formal charges for violation of department policy or procedure.

1003.3 PROCEDURES BEFORE DISCIPLINARY ACTION IS IMPLEMENTED

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- (a) Any member found to have violated this policy may be subject to the appropriate remedial or disciplinary action.
- (b) The remedial action may include, but is not limited to counseling, training, intervention, and/or mediation.
- (c) The disciplinary action may include, but not limited to reprimand, suspension, or termination from the department.
- (d) Referral to another authority for review and determination of possible violation of State and Federal statutes may also be appropriate.
- (e) After an incident or complaint has been thoroughly investigated and the need for disciplinary action is determined, the Fire Chief with consultation with the District Administrator shall make a decision concerning the action to be taken. Factors to be considered in making this decision are:
 - 1. Seriousness of the offense.
 - 2. Member's past history with the Department.
 - 3. Past practice of the Fire Department in dealing with similar offenses.
- (f) Although disciplinary action for the same offenses maybe "similar," the final decision to determine the action to be take shall be made after considering the factors previously listed, and applying them to the particular situation.

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- (g) Corrective action/discipline shall be done to assist the member to meet appropriate and satisfactory standards of conduct and performance. Corrective action shall be administered privately,, within (7)_ Days of the findings and determinations of the appropriate disciplinary action.

1003.3.1 COMMAND DISCIPLINE

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Supervisors may impose command discipline for infractions including but not limited to:

- Tardiness.
- Violation of uniform regulations.
- Minor infractions involving conduct and behavior while on-duty.
- Failure to display required knowledge, skills, abilities.

1003.3.2 FORMAL DISCIPLINE

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Formal discipline may be imposed following the completion of an administrative investigation. There may be statutory requirements regarding a hearing following an administrative investigation that may lead to disciplinary action.

Infractions that may result in formal discipline include but are not limited to:

- Harassment of any kind.
- Theft.
- Insubordination.
- Personnel complaints.
- Criminal acts.
- Violation of the oath of office.

Prior to implementation of any formal disciplinary action, officers responsible for charging members, reviewing or investigating charges, or imposing any sanction should consider the following:

- (a) Due process: Disciplinary actions should follow the standards and requirements imposed by state law and regulations, employee agreements, collective bargaining agreements, and Human Resources department rules. Failure to provide the member due process may result in a reversal on appeal or other legal action.
- (b) General policies: Sound personnel practices may prevent problems associated with member discipline. A supervisor seeking to discipline a member must clearly show what rule, policy, or standard was not met or what duty was breached.
- (c) Records showing incompetency or misconduct.
- (d) Electronic communications: Emails, texts, and other electronic communications between members may provide information relevant to a disciplinary investigation.

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- (e) Conferences and counseling: A counseling session or conference is not considered a form of discipline and should be non-adversarial. It is an opportunity for the supervisor and the member to discuss the incident and provides the member with an opportunity to explain it.
- (f) Assignment to other locations/duties: Depending on the nature of the violation, the member or members may need to be immediately reassigned or placed on administrative leave pending the outcome of the investigation.
- (g) Investigation: All complaints and allegations of misconduct should be thoroughly investigated according to department and/or Human Resources department policies, any applicable state or local laws, and applicable collective bargaining, Bylaws, Fire Service Agreement or employee agreements.
- (h) Representation during investigation: Members should be afforded representation according to any applicable collective bargaining agreement or employment agreement, department policy, or state or local laws.
- (i) Criminal acts or omissions: Complaints and allegations of misconduct that may involve criminal acts or omissions should be referred to the appropriate law enforcement agency.
- (j) Medical examination: If the discipline arises from the possibility of some physical limitation in accordance with the Temporary Modified Duty Assignments and Return to Work policies, ensure a proper medical evaluation has been completed and forwarded to appropriate District Office

1003.3.3 DOCUMENTATION

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All command and formal disciplinary actions should be documented in the member's personnel file. A disciplinary record should include:

- Date, time, and place of the incident.
- Facts of the incident.
- Specific policies or procedures that were violated.
- Recommendations for remedial action, if any.
- Disciplinary action taken, if any.
- Signatures of both the supervisor and the member disciplined and the Appropriate District Administrator.

1003.3.4 DISCIPLINARY REPORTS

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A disciplinary report is documentation of an incident where a member has violated or is alleged to have violated a department policy or procedure. Reports relating to informal discipline such as verbal reprimand, remedial training, or a written reprimand, as applicable, serve as records of the incident and may be the first step in progressive discipline.

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Members responsible for completing such reports should adhere to the following guidelines:

- Be objective: Members should be disciplined consistently for the same violations of policy or procedure. Failure to apply discipline objectively can result in loss of trust between members and officers.
- Be specific: Include dates and times of the infraction as well as personnel involved, nature of the violation, and reference to the specific policy/procedure sections involved.
- Write in a clear and factual manner: Expanding on the facts, adding opinions, or adding personal impressions may interfere with the narrative.
- Document the actions taken, including:
 - Determination of no violation after further investigation.
 - Verbal or written reprimand.
 - Suspension.
 - Demotion.
 - Probation.
 - Termination.

For incidents that may require formal discipline, members should refer to the Personnel Complaints Policy and any other applicable policies or procedures.

1003.3.5 PROGRESSIVE DISCIPLINE

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Forms of progressive discipline include but are not limited to:

- (a) The Administrator and/or designee shall have the right to discipline employees consistent with the Policies and Procedures of the Toms River Fire Department as determined at the sole discretion of the Administrator and/or designee, as applicable, the Administrator and/or designee may undertake the following actions;
 1. Verbal reprimand; documented in the employee's personnel file maintained by the District Administration office.
 2. Written reprimand documented in the employee's personnel file maintained by the District Administration office.
 3. Formal Hearing before the appropriate Board of Fire Commissioners resulting in suspension without pay or termination. Prior to the hearing, a formal Rice Notice will be issued to the employee. The Administrator and/or designee, shall have the authority to suspend immediately without a prior hearing.
 4. Employees may be suspended for violation of the applicable Policies and Procedures, ordinances, or statutes as applicable by the Administrator and/or designee for not more than five (5) days without the need for a hearing or formal vote by the Appropriate Board of Fire Commissioners, except that written

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application may be made by the employee to the commissioners to appeal such suspension within three (3) calendar days of action being handed out.. If the appeal is not filed timely with the Toms River Board of Fire Commissioners District's 1 and 2 , the employee's right to appeal is deemed waived.The appeal shall be granted upon majority vote of the commissioners present at a meeting called for the purpose of considering such appeal. For all other disciplinary actions instituted, the employee shall have such rights set forth in their respective collective bargaining agreement with the commissioners.

5. If suspended from duty, the employee must surrender all Toms River Fire Department property to the Administrator and/or designee, who will retain such property pending further disposition of the matter, if applicable.
- (b) At the discretion of the Administrator and/or designee, action may begin at any step, and/or certain steps may be repeated or by-passed, depending on the severity and nature of the infraction and the employee's work/disciplinary record.
- (c) Verbal Reprimand
1. Is an appropriate remedy for a minor infraction of the by-laws, rules, regulations, or operating guidelines and shall be used as a tool to cause the member to conform to the conduct required.
 2. The line officer shall prepare a Disciplinary Action Form and place the original copy in the member's personnel file (manila folder). The officer shall also document the reprimand on the outside of the member's personnel file (manila folder) and shall include the date and problem.
 3. Shall be expunged from the member's personnel file after twelve (12) months, if no other infraction or disciplinary action occurs.
 4. May be administered by any Officer and does not need to go before the Investigating Committee.
- (d) Written Reprimand
1. Shall be issued when a member's infraction of the by-laws, rules, regulations, or operating guidelines is serious enough to require documentation regarding the incident but not serious enough to warrant a suspension, demotion, or termination/dismissal. A written warning shall also be issued after a verbal reprimand
 2. Written reprimands may only be issued by a Chief or Officer.
 3. The Officer issuing the written reprimand shall prepare a Disciplinary Action Form signed by the member and issuing Officer. The original form shall then be placed in the member's personnel file (manila folder) and forwards a copy forwarded to the appropriate District Office..
 4. The member may appeal the Written Reprimand to the Board of Fire Commissioners in wrtiing.
- (e) Suspension
1. Firematic Suspension

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- (a) A member who violates any section of the Policies may be suspended all from firematic duties by a Chief officer or the Administrator without an investigation by the Investigating Committee.
 - (b) The member may still participate in company meetings, fundraisers, and Executive functions.
 - (c) The member may appeal the Firematic Suspension to the Board of Fire Commissioners.
- 2. Executive Suspension
 - (a) A member who violates the Department's House Rules and/or Policies may be suspended from Executive duty by the President without an investigation by the Investigating Committee
 - (b) The member may still participate in firematic functions, drills, and calls.
 - (c) The member may appeal the Executive Suspension to the Investigating Committee.
- 3. Full Suspension
 - (a) Shall be issued after a member has numerous repeated incidents of infractions of the by-laws, rules, regulations, or operating guidelines or a single major infraction.
 - (b) Member shall be suspended from both Firematic and Executive duties.
 - (c) All full suspensions shall be investigated, discussed, and issued by the IChief and/or Administrator. All determinations of the Chief and/or Adminsitrator shall be final with approval of the Board of Fire Commissionersl.
 - (d) Certain violations/conduct may be deemed severe enough to warrant immediate suspension without lesser dicipline including prior warnings, pending an investigation. This action may only be done by a line officer or the Administrator.
 - (e) An Officer or Adminstratorshall prepare a Disciplinary Action Form signed by the member,Fire Chief and Administrator and place the original in the member's personnel file (manila folder) with a copy forwarded to the appropriate District Office.
- 4. Suspension Offenses
 - (a) First Offense- 15 Days
 - (b) Second Offense- 30 Days
 - (c) Third Offense- 60 Days
 - (d) Fourth Offense- Termination
- 5. Suspension offenses shall be within a ten (10) year period. If there is more than ten (10) years between suspensions then it shall be considered a First Offense.

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(f) Demotion

1. If a member's continued performance, actions, or lack of participation in the current position is determined not in the best interest of the Toms River Fire Department, the Chief or Administrator may demote a member to a position of lower rank, if available. (Example: Firefighter may be placed on probationary status).

(g) Termination/Dismissal

1. All recommendations for termination/dismissal shall be made by the Chief or Administrator and brought to the Appropriate Board of Fire Commissioners for a majority vote.
2. All facts, conversations, and actions shall be thoroughly documented. The Chief or Administrator shall prepare a Disciplinary Action Form signed by the member and Fire Chief and place the original in the member's personnel file (manila folder) and a copy forwarded to the appropriate District Office.
3. For violations/conduct deemed severe enough to warrant immediate termination/dismissal, the Fire Chief or Administrator shall place the member on immediate suspension without taking prior action or giving prior warnings, pending an investigation by the Board of Fire Commissioners and vote by the Board of Fire Commissioners.

(h) If the member refuses to sign the Disciplinary Action Form the Officer shall obtain a witness' signature on the document indicating that refusal. The document is then placed in the member's personnel file (manila folder). A member's refusal to sign is not grounds for separate disciplinary action.

(i) Any member who is arrested and charged with an indictable offense shall be prohibited from participating in any firematic or executive duty during the period between arrest and the end of the trial. During this period the member shall be placed on a leave of absence for personal reasons. Upon completion of the trial or outcome of the charges, the Investigating Committee shall determine the appropriate action, if any.

NOTE: Progressive Discipline steps may be omitted depending on the severity of the infraction.

1003.4 CORRESPONDING PROCEDURES

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Personnel involved in discipline may need to consult the following procedures:

Administrative Investigations and Interviews

Personnel Complaints

1003.5 WORKSHEETS

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1003.5.1 DISCIPLINE WORKSHEET

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Infraction (include a description of the incident)	Date/Time/Location	Corresponding Policy and/or Procedure (Title, #, and section)
If the response to any of the following questions is "YES", then Formal Discipline procedures should be initiated. If all questions are answered "NO" then Command Discipline may be imposed.	YES	NO
Does the infraction require immediate reassignment or removal from duty pending the outcome of an investigation or hearing? (Refer to applicable Personnel Complaints and Administrative Investigations and Interviews procedures.)		
Does the infraction require an investigation or hearing? (Refer to applicable Personnel Complaints and Administrative Investigations and Interviews procedures.)		
Does the infraction involve:		
Harassment of any kind		
Theft		
Insubordination		
Bullying		
Discrimination		
Criminal Acts		
Retaliatory Behavior		
Violation of the Oath of Office		
Violation of the department social media policy		
Any infraction resulting in injury or death of a member or other individual		

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Any other infraction which, based upon the frequency of the infraction, failure to follow policy or procedure after re-training, or consistent with prior discipline imposed on other members under similar circumstances, the officer initiating the discipline determines formal discipline should be imposed.		
Action items that should be completed prior to starting the formal discipline process	Date of Review Meeting MM/DD/YYYY	Officers Present and Outcome
The initiation officer reviews the policy/procedure associated with the infraction to ensure that all necessary documentation, review, and reporting requirements are satisfied.		
Officer seeking to initiate formal discipline has reviewed the matter with their superior officer.		

1003.5.2 COMMAND DISCIPLINE WORKSHEET

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Officer Self-Check
Confirm that no factors leading to formal discipline exist.
Any requirements of applicable policy/procedures are satisfied.
Desired discipline is consistent with prior discipline imposed against other members for similar infractions under similar circumstances. If desired discipline is inconsistent, provide an articulable, work-related reason, and discuss with their commanding officer and Human Resources.
Infraction and desired resolution discussed with commanding officer.
Matter reviewed with Human Resources, if: • Required by policy/procedure. • Desired by officer. • Advised by commanding officer.
Infraction and discipline discussed with the member.
Disciplinary report completed and filed according to department policy.

1003.6 ATTACHMENTS

Agency Content

See attachment: [Disciplinary Action Form](#)

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Attachments

Disciplinary Action Form.pdf

Toms River Fire Department
Disciplinary Action Form

Member's Name: _____

Incident Date: _____ Time: _____ Location: _____

Reprimand Date: _____ Date Eligible to be Expunged (if applicable): _____

Disciplinary Action Taken (circle one): Verbal Reprimand Written Reprimand

Suspension: # of days _____ Demotion to: _____ Termination

Reason for Action and/or by-law, rule, regulation, or operating guideline violated:

Witnesses (if applicable):

Description of the Incident that occurred:

Corrective and/or Disciplinary Action Implemented:

Summary of Member's Explanation (if provided):

Name and Rank of Committee Members Present:

Name:

Rank:

Further conduct of this nature may result in further disciplinary action up to and including termination. I acknowledge that I have read and understand the above information and consequences.

Member's Signature _____ Date _____

Authorized Signature _____ Date _____

Cc: Original Copy to be placed in member's personnel file.