

Town of Oswego Fire District

Discipline Policy

This policy governs the discipline of a volunteer member or volunteer officer of the fire department by the Town of Oswego Fire District. This procedure is in addition to and not in place of any action the fire department may take pursuant to its own bylaws.

Such officers and members of the department may not be removed by the Town of Oswego Fire District from office, or membership, as the case may be, by such authorities or by any other officer or body, except for incompetence or misconduct.

Misconduct. Misconduct is defined to include, but not be limited to:

- a. Insubordination
- b. Failing or refusing to obey the rules of the district
- c. Failing or refusing to obey the policies of the district
- d. Refusing an order of the commissioners
- e. Failing to carry out the duties of office or membership
- f. Acting in a manner that brings disgrace upon the district or fire department
- g. Conduct unbecoming a member of the district or department
- h. Plea to or conviction of a misdemeanor or felony
- i. Engaging in harassing conduct of any nature of another volunteer or officer

Incompetence. Incompetence includes:

- a. A proven inability of any nature (such as a lack of skill) to perform the role of an officer or member;
- b. The physical or mental inability to perform the role of an office or member.

Temporary suspension. The Chief of the Department shall hold the members, officers, and employees of the fire district strictly to account for neglect of duty and may suspend them for improper conduct, subject to the action of the board of fire commissioners at its next meeting. At the meeting of the Board, the Board may vote to overturn the suspension or to continue the suspension up to one year, or to seek dismissal of the member or officer. If the Board desires to impose a longer suspension up to one year, the Board may initiate such proceedings on its own motion.

Suspended Member Restrictions. Members who are suspended may not, for the entire period of the suspension, attend any municipal or department function other than is related to the affiliated hearing or investigation. Suspended members shall not in any way identify themselves as being affiliated with the department or company, such as by wearing insignia or other marked clothing. Such members may not be present on district property or in its vehicles. No benefits or

privileges of members may be exercised. Any violation of this rule shall permit the Board to continue the suspension for an appropriate period of time, up to an additional two months. Nothing shall prohibit a suspended member from exercising any rights available to him as a member of the public as if he/she were not a member.

Hearing panel. The Fire District board, an officer appointed by the board, or a hearing panel appointed by the board, shall serve as the fact finding panel. The board, officer or panel shall make a written record as to their findings of fact. No person that has particular knowledge of material disputed facts to the event(s) in question shall serve on the board for this purpose or on a hearing panel.

Notice of Charges. The Chair of the Fire District board, or his designee, shall provide the member with the notice of charges which provides all charges alleged with specific dates. The charges shall specifically state the charges and the specific conduct in question, as well as any specific rule violated if applicable. The notice and a copy of the charges shall be served personally. Such notice shall provide the member with at least ten (10) days and no more than thirty (30) days notice of an administrative hearing. The member shall be advised that it is permitted to submit a written response at any time before the hearing. The notice shall also state the time and place of the hearing, and shall advise that the member may be represented by counsel. The notice shall also state the name of the hearing panel members. The member shall be afforded four days from receipt of the notice to object to the members of the hearing panel, but the only reasonable objection is that a member of the committee is biased or was a witness. Upon receiving an appropriate objection which the Chairperson deems reasonable, a new member may be added to a hearing panel or the individual will be removed from the decision making body of the board members. There must be at least three remaining board members to vote on the discipline.

The hearing. There may be a prosecutor or officer charged with proving the charges. If no such position is filled, the board members or hearing panel will simply run the hearing. At a hearing, the member will be permitted to present a defense to the charges. The board or hearing panel will determine what the facts of the incident(s) are and will render a statement of facts for each charge. The member may present proof that could serve to mitigate any punishment if he/she desires. A stenographer may be employed to record the hearing if the board, hearing panel or officer desires the same. The member may demand the hearing be placed on audio tape.

The decision. The Fire District board shall decide the facts of the matter if no hearing panel was used, and shall impose a suitable punishment that bears a rational relation to the offense. If an officer or hearing panel heard the facts of the matter, the record of the hearing shall be referred to the commissioners for review within ninety days from the close of such hearings together with recommendations for or against punishment. The Fire District board need only consider the recommendations but need not to adopt them. The Fire District board must adopt the statement of facts, however. No Fire District board member that was a witness to the material events in question shall vote on this matter or have a voice in the matter. There must be at least a quorum voting in favor of any punishment to impose a punishment.

Suitable Punishment. A member or officer may be suspended up to but no longer than one year. An officer may be removed from the officer position for the remainder of the term. A member may be removed from membership.

Appeal of the hearing. A member has no right to appeal the hearing except in the time permitted and under the procedure permitted by Article 78 of the Civil Practice Laws and Rules (CPRL).

Adopted 03/20/2012