

Personnel Complaints

1016.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting, investigation and disposition of complaints regarding the conduct of members of this District and the service provided by this District. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

This policy is intended to be applied in accordance with the procedures, rights or status that may be contained in any applicable collective bargaining agreement or policy established by the District's Administration.

The pre- and post-disciplinary procedures set forth in this policy do not apply to complaints against at-will members who are not covered by the Firefighters Procedural Bill of Rights Act (FBOR).

1016.2 POLICY

This District takes seriously all complaints regarding service provided by the District and the conduct of its members. The District will accept and address all complaints of member misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this District to ensure that the community can report misconduct without concern for reprisal or retaliation.

1016.3 PERSONNEL COMPLAINTS

Personnel complaints consist of any allegation of misconduct or improper job performance by any employee that, if true, would constitute a violation of District policy or rule or federal, state or local law. Allegations or complaints may be generated internally or by the public.

Inquiries about employee conduct or performance that, if true, would not violate District policy or rule or federal, state or local law may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the District's response to specific incidents.

1016.3.1 CLASSIFYING COMPLAINTS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the member's Duty Officer is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member. The responsible supervisor shall have the discretion to determine the appropriate manner for resolving the complaint.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or

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referred to the designated District representative, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the designated District representative, such matters need not be documented as personnel complaints but may be further investigated or resolved as a complaint, depending on the seriousness of the complaint and the availability of sufficient information.

1016.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1016.4.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be available and clearly visible in public access locations within District facilities. Forms will also be available on the District website. Forms may also be available at other government offices and facilities. Personnel complaint forms in languages other than English may also be provided as determined necessary or practicable.

Every supervisor is responsible for monitoring public satisfaction or inquiries regarding the personnel complaint process and forwarding to the Duty Officer any suggestions for improvement or changes.

1016.4.2 SOURCES OF COMPLAINTS

- (a) Members of the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any District member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging the misconduct of a member that, if true, could result in disciplinary action.
- (d) Anonymous complaints and third-party citizen complaints should be accepted and investigated to the extent that sufficient information is provided.

1016.4.3 ACCEPTANCE OF COMPLAINTS

All complaints will be courteously accepted by any member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed verbally, either in person or by telephoning the District, and will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact of the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

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1016.5 COMPLAINT DOCUMENTATION AND TRACKING

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the District should audit the log and send an audit report to the Fire Chief or the authorized designee.

1016.6 DISCIPLINARY INVESTIGATIONS

All allegations of misconduct will be investigated as follows:

1016.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a complaint rests with the member's immediate supervisor, unless the supervisor is the complainant, is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Fire Chief or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

Supervisors shall be responsible for the following:

- (a) District supervisors should respond to all complaints in a courteous and professional manner.
- (b) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Duty Officer, Division Chief and Fire Chief are notified as soon as practicable.
- (c) A supervisor receiving or initiating any formal complaint shall ensure that a personnel complaint form has been completed as fully as possible. The original complaint form will then be directed to the Duty Officer of the accused member, via the chain of command. The Duty Officer will forward a copy of the complaint to the Division Chief to take any appropriate action and/or assign the complaint for investigation. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor may orally report the matter to the Duty Officer, Division Chief or Fire Chief.
- (d) A supervisor investigating any complaint should:
 1. Make reasonable efforts to obtain names, addresses and telephone numbers of additional witnesses.
 2. When appropriate, provide immediate medical attention and take photographs of alleged injuries as well as accessible areas of non-injury.

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- (e) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Administration and the Duty Officer for direction regarding his/her role in addressing the complaint.
- (f) Supervisors who receive a citizen complaint that can be resolved immediately should do so. Follow-up contact with the person who made the complaint should be made within 24 hours of the District receiving the complaint. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Duty Officer.
- (g) Unresolved citizen complaints shall be forwarded to the Duty Officer to determine whether to contact the person who made the complaint or assign the complaint for investigation.
- (h) The supervisor shall ensure that the procedural rights of the accused member are followed.
- (i) Within three days after assignment, the complainant should be informed of the investigator's name and the complaint number.
- (j) Interviews of the complainant should be conducted during reasonable hours.

1016.6.2 INVESTIGATION PROCEDURES

The following procedures shall also be followed with regard to any accused member covered by FBOR (Government Code § 3253):

- (a) Before an investigator begins an interview to obtain facts and statements, the District should:
 - 1. Provide the rank, name and command of the officer or other person in charge of the interrogation, the interrogating officer and all other persons to be present during the interrogation.
 - 2. Provide the date, time and place of the interview.
 - 3. Provide the member a written description of the nature of the investigation.
- (b) Interviews of accused members shall be conducted at a reasonable hour, at a time when the firefighter is on duty, unless an imminent threat to the safety of the public requires otherwise. If the member must be interviewed while off-duty, the member shall be compensated.
- (c) An investigator should not interview a member at that person's home without the member's prior permission.
- (d) No more than two interviewers should ask questions of an accused member to prevent confusion or misunderstandings.
- (e) All interviews shall be for a reasonable period or duration taking into consider the gravity and complexity of the issue being investigated and the member's personal needs shall be accommodated.

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- (f) No member shall be subjected to offensive or threatening language nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator.
- (g) Absent circumstances preventing it, the interviewer should record all interviews of members and witnesses. The member may also record interviews. If the member has been previously interviewed, a copy of that recorded interview should be provided to the member prior to any subsequent interview. After their interview, the member shall also be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those portions that are otherwise required by law to be kept confidential.
- (h) If, prior to or during the interview, it is contemplated that the member may be charged with a criminal offense, the member shall be advised of his/her constitutional rights. This admonishment shall be given regardless of whether the member was advised of these rights during any separate criminal investigation.
- (i) A member subjected to interviews that could result in punitive action shall have the right to have a representative of his/her choosing during any interrogation. To ensure a full, fair and effective investigation and to protect the integrity of the investigation, members may be directed not to discuss the investigation with anyone other than the investigator, their representatives, and/or legal counsel.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be compelled to submit to a deception detection device/polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

1016.6.3 INVESTIGATION FORMAT

Investigations of formal complaints should be timely, detailed, complete and essentially follow this format:

Introduction - Include the identity of the member, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary of allegations - List the allegations separately, including applicable policy sections, with a very brief summary of the evidence relevant to each allegation.

Evidence as to each allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation and include comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

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Exhibits - A separate list of exhibits (e.g., recordings, photos and documents) should be attached to the report.

1016.6.4 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances dictate that allowing the accused to continue to work would adversely affect the mission of the District, the Fire Chief or the authorized designee may temporarily assign an accused employee to administrative leave. The Fire Chief or authorized designee shall notify the Administration in writing of the employee's administrative leave and the cause for the leave.

1016.7 POST-INVESTIGATION PROCEDURES

Upon completion, the report should be forwarded to the Fire Chief through the chain of command of the involved member. Each level of command should review and include their comments in writing before forwarding the report. The Fire Chief may accept or modify the classification and recommendation for disciplinary action contained in the report.

1016.7.1 DIVISION CHIEF RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Chief of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Fire Chief, the Division Chief may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Fire Chief, the Division Chief shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1016.7.2 RESPONSIBILITIES OF THE FIRE CHIEF

Upon receipt of any written recommendation for disciplinary action, the Fire Chief shall review the recommendation and all accompanying materials. The Fire Chief may modify any recommendation and/or may return the file to the Division Chief for further investigation or action.

Once the Fire Chief is satisfied that no further investigation or action is required by staff, the Fire Chief shall determine the amount of discipline, if any, to be imposed.