
	BLACKWOOD FIRE COMPANY #1		
	General Order	1:1	
	Departmental Disciplinary Policy		
	Effective Date:	January 1, 2012	
	Supersedes:	All Previous	
Issuing Authority		President Michael D. Jones <i>MDS</i>	

Section 1 Departmental Discipline

1.1 Purpose

The Blackwood Fire Company has established this disciplinary process as a means of achieving the below listed objectives through the reasonable and consistent application of discipline to address breaches of their code of conduct:

- A. Ensure the highest professional standards for firefighting within the Company;
- B. Providing fellow members and citizens with a fair and effective avenue for redress of their legitimate grievances against members;
- C. Protect members from false charges of misconduct or wrongdoing and provide accused members with due process safeguards;
- D. Monitoring members' compliance with Company rules, regulations, policies and procedures;
- E. Identifying problem areas which require training or direction.

1.2 Factors

Disciplinary action shall be imposed to accomplish the purposes of the disciplinary process and shall take into account all of the aggravating and mitigating factors of the case, including the:

- A. Nature of the offense,
- B. Disciplinary record of the accused member,
- C. Need to deter the accused or other members from similar conduct,
- D. State of the accused member's mind at the time of the offense, and

E. Mitigating factors.

1.3 Disciplinary Action

Blackwood Fire Company members and employees, regardless of rank, shall be subject to disciplinary action according to the nature of the offense for violating their oath and trust by committing an offense punishable under the laws or statutes of the United States, the State of New Jersey or the Township of Gloucester Municipal Code; or failure, either willfully or through neglect or incompetence, to perform the duties of their rank or assignment; or for violation of any order, rule, procedure or written directive of the Company; or for failure to obey any lawful instruction, order or command of a superior officer. Disciplinary action in all cases will be decided on the merits of each case and in conformity with controlling laws and regulations.

1.4 Establishing Elements of Violation

Existence of facts establishing a violation of the law, ordinance, or rule is all that is necessary to support any allegation of such violation as a basis for disciplinary action. Nothing in this manual prohibits charging or disciplining members or employees merely because the alleged conduct or omission that supports the charge of a disciplinary action does not appear herein, in Company order, or in laws and ordinances within the cognizance of the Company.

1.5 Penalties

The Blackwood Fire Company shall establish a scale of progressive penalties that may be assessed against any member of the Company as disciplinary action. These actions and penalties may include any one or a combination of the following:

- A. Training,
- B. Counseling,
- C. Oral reprimand,
- D. Written reprimand,
- E. Monetary fine or reparation,
- F. Suspension,
- G. Demotion, or
- H. Termination.

1.6 Duration of Employment and Causes for Removal

Members of the Blackwood Fire Company shall severally hold their respective offices and positions and continue in their respective duties during good behavior, efficiency and compliance with the law. Any one of the following may be cause for removal from the service, although removals may be made for sufficient causes other than those listed:

- A. Neglect of duty,
- B. Incompetence or inefficiency,
- C. Incapacity due to mental or physical disability,
- D. Insubordination or serious breach of discipline,
- E. Intoxication while on duty,
- F. Chronic or excessive absenteeism (Unacceptable Average in any one Category),
- G. Disorderly or immoral conduct,
- H. Willful violation of any of the provisions of the rules and regulations or other statutes relative to the employment of public employees,
- I. The conviction of any criminal act,
- J. Negligence of, or willful damage to public property or waste of public supplies,
- K. Conduct unbecoming an employee in the public service,
- L. The use or attempted use of one's authority or official influence to control or modify the action, political or otherwise, of any person, or
- M. Untruthfulness.

1.7 Repeated Violations (Class 1 Offense)

Repeated violations of the rules of conduct shall be indicative of a member's disregard of the obligations of all members and shall be cause for dismissal. This shall apply regardless of the severity of the offense, regardless of any reckoning period, and regardless of whether the violations are of the same type.

1.8 Relationship of Penalties to Offense

The information contained herein is intended to guide the President in administering fair and uniform punishment for violations of the rules and regulations of the Company. The suggested penalties shall in no way limit the discretion or set the penalty that the President may elect to impose.

1.9 Classes of Offenses - Recommended Penalties.

The penalties listed herein are representative of the severity of the offense. This list serves as a guideline for determining the appropriate degree of penalty, NOT a limitation on the penalty that may be imposed for any offense.

- A. Class 1 Offense - Violation of any rule designated as a Class 1 Offense may result in disciplinary action as follows:
1st offense - dismissal
- B. Class 2 Offense - Violation of any rule designated as a Class 2 Offense may result in disciplinary action as follows:
1st offense-reprimand to dismissal
2nd offense-reprimand to dismissal
3rd and/or subsequent offense-dismissal
- C. Class 3 Offense - Violation of any rule designated as a Class 3 Offense may result in disciplinary action as follows:
1st offense-reprimand to 30 days suspension
2nd offense-reprimand to dismissal
3rd and/or subsequent offense-dismissal
- D. Class 4 Offense - Violation of any rule designated as a Class 4 Offense may result in disciplinary action as follows:
1st offense - reprimand to 20 days suspension
2nd offense - reprimand to dismissal
3rd offense and/or subsequent - 20 days suspension to dismissal.
- E. Class 5 Offense - Violation of any rule designated as a Class 5 Offense may result in disciplinary action as follows:
1st offense - reprimand to 5 days suspension
2nd offense - reprimand to 30 days suspension
3rd and/or subsequent offense - 5 days suspension to dismissal

1.10 Reckoning Period

The reckoning period is defined as the period of time following an administrative finding of guilt as defined herein, during which the member must remain free of the same type of violation for which guilt was found. This period shall begin with the date of the disposition of the first violation. Second, third and subsequent violations of the same type during the reckoning period shall be treated as second, third and subsequent violations. Similar violations occurring after the expiration of the reckoning period shall be considered as first occurrences with regard to penalty. Removal of any record of disciplinary action maintained in a member's personnel file is prohibited, even after the expiration of a set reckoning period.

10:1.11 Suspensions, Fines and Demotion for Disciplinary Purposes

Members may be suspended, fined or demoted due to inefficiency, incompetence, misconduct, negligence, insubordination, or for other sufficient cause.

Section 2 Disciplinary Procedure

2.1 Authority to Discipline

Except as otherwise provided in any applicable N.J.S.A. and the Township of Gloucester Municipal Code, the primary disciplinary authority and ability rests with the President of the Fire Company. With the exception of oral reprimands and emergency suspensions, Blackwood Fire Company discipline must be recommended to, or approved by, the President.

For the purpose of investigating offenses, finding guilt, and recommending penalty to the President, an Investigating Committee, consisting of not less than five (5) members but not to exceed fifteen (15) members, shall be appointed at the start of each fiscal year by the incoming President. This committee shall consist of one (1) Line Officer, one (1) Executive Officer, and at least three (3) members holding no elected position within the Company. One (1) member of this committee shall be selected by majority vote of the Committee to serve as Chairman or Hearing Officer.

2.2 Establishing a Violation

Existence of facts establishing a violation of the law, ordinance, or rule is all that is necessary to support any allegation of such violation as a basis for disciplinary action. Nothing in this manual prohibits disciplining or charging members and employees merely because the alleged act or omission does not appear herein if such conduct is otherwise without lawful purpose and violates some law, ordinance, or rule governing the member's conduct at the time it occurred.

2.3 Discipline by Supervisory Personnel

Supervisory personnel may take the following disciplinary measures:

- A. Counseling,
- B. Oral reprimand,
- C. Written reprimand (subject to the approval of the President),
- D. Emergency suspension until such a time that the Investigating Committee can reasonably meet, or
- E. Written recommendations for other penalties.

2.4 Emergency Suspensions

Members shall not be suspended or suffer any loss in benefits until after the member has had a hearing and has been found guilty, except in cases of severe nature when a Line Officer deems the suspension of the member of immediate necessity for the safety of the public or the welfare of the Company.

Any Line Officer may immediately suspend a member from duty if they determine one of the following exist:

- A. The member is unfit for duty; or
- B. The member is a hazard to any person if permitted to remain on the job; or
- C. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or
- D. The member has been formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job, or directly related to the job.

2.5 Follow-up on Emergency Suspensions

A member receiving an emergency suspension shall be required to report to the Investigating Committee at a mutually convenient time scheduled not more than seven (7) days following imposition of the suspension. The Line Officer imposing or recommending the suspension shall also report to the Investigating Committee at the same time.

2.6 Reports of Disciplinary Action Taken or Recommended

Whenever any disciplinary action is taken or recommended, a written report must be submitted immediately to the President containing the following information:

- A. The name, rank, and badge number of the person being disciplined,
- B. The date, time and location of the incident,
- C. The section number and name of the violated rule,
- D. A complete statement of the facts of the misconduct,
- E. The punishment imposed or recommended, and
- F. The written signature, badge number, rank and/or title of the preparing officer and or member and position in relation to the member being disciplined.

2.7 Endorsement and Forwarding of Disciplinary Reports

Any disciplinary complaint directly affecting or resulting from any operational aspect of the Company shall be directed to the Chief who shall forward it to the President for further investigation.

2.8 Informing the Person Being Disciplined

The member being disciplined shall be so informed of the charges, in writing, as provided by any applicable N.J.S.A. The member shall be granted all procedural rights and safeguards as provided by law.

- A. Except as otherwise provided by law, no permanent member or officer of the Blackwood Fire Company shall be removed from his/her office or position for political reasons or for any cause other than incapacity, misconduct, or disobedience of rules and regulations established for the government of the Blackwood Fire Company, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office or position therein, except for just cause as herein before provided and then only upon a written complaint setting forth the charge or charges against such member or officer.
- B. Said complaint shall be filed with the President or immediate supervisor at the time of the incident and a copy shall be served upon the member so charged, with notice of a designated hearing thereon by the proper authorities, which shall not be less than ten (10) nor more than thirty (30) days from date of service of the complaint. A failure to comply with said provisions as to the service of the complaint shall require a dismissal of the complaint.

2.9 Misconduct Observed by Other Personnel

Whenever any commanding officer observes or is informed of the misconduct of another member which indicates the need for disciplinary action, he/she shall take authorized and necessary action and render a complete written report of the incident and action taken to his/her commanding officer in accordance with Blackwood Fire Company policy and procedures.

2.10 The Authority of Investigating Committee Personnel

Members assigned to an investigation are the direct representative of the President and, as such, shall receive the cooperation of all members of the Company while conducting their investigations. The sole responsibility of the investigating individuals shall be the gathering of all the facts regarding the allegations. In so doing, he/she must remain objective and thorough when submitting a report. Opinions, conclusions or personality shall not be interjected into the case. By adhering to the foregoing principles, the case can be concluded with optimum fairness for all persons concerned.

2.11 Citizens Complaints against Members

All complaints shall be accepted in a courteous, understanding and professional manner and in accordance with Blackwood Fire Company policy and procedures.

Section 3 Disciplinary Hearings

3.1 Charges

Whenever an internal investigation establishes probable cause that an officer/member is guilty of violating a Company rule or regulation, penalty for which is to be permanently reflected on the member's personnel record, charges shall be prepared by the proper authority and personally served upon the respective member. The charges shall contain the:

- A. Name and title of the officer/member against whom the action is being instituted,
- B. Rules, regulations, policies and/or procedures violated,
- C. Specification of the alleged facts upon which the charges are based,
- D. Notification if the officer/member is being suspended pending the determination of the hearing,
- E. Penalties to which the member is being exposed as a result of the alleged charges, and

F. Signature and official title of the proper authority.

The notice of charges (Preliminary Notice of Disciplinary Action) shall direct that the officer/member charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of a plea. Such date for entry of a plea shall be set within a reasonable time, at least five (5) days after the date of service of the charges.

3.2 Waiver of Hearing

Any member charged with a violation of these rules and regulations shall be entitled to waive a hearing and enter a plea of guilty as charged. Said waiver shall be in express terms and signed by the charged party after he/she has had the charges read to him/her and certifies an understanding of all specifications therein. This waiver shall be witnessed by the President and the Chairman of the Investigating Committee. If the member charged enters a plea of guilty, the President shall permit the member to present factors in mitigation prior to assessing a penalty. Conclusions of fact and the penalty imposed will be noted in the member's personnel file after he has been given an opportunity to read and sign it. The Investigating Committee will cause the penalty to be carried out and complete all required forms.

3.3 Hearings

- A. The disciplinary hearing shall be scheduled during the business day or evening, but no sooner than ten (10) days and no later than thirty (30) days after said notice of disciplinary action is personally served upon said member, subject of course to the granting of reasonable requests for postponements by said member.
- B. Where a disciplinary hearing has been postponed at the request of the respective member pending the determination of criminal or quasi-criminal charges filed on the basis of the same factual situation which gave rise to the Company charges, said Company hearing must be held within thirty (30) days after the Company receives final notice of such disposition. The duty to advise the Company that said judicial determination has been made is that of the respective member.
- C. "Personal service" is actual service upon any member as well as actual service upon any member of his/her family over eighteen (18) years of age residing in the residence of said member.
- D. Every member formally charged with a violation of Blackwood Fire Company rules and regulations shall have the opportunity to testify in his/her own defense, produce relevant evidence in support of his/her defense, produce

competent witnesses to testify to relevant matters in support of his/her defense and cross-examine any witnesses who have testified.

- E. The President may prosecute the complaint or allow his duly qualified designee to represent him/her.
- F. The hearing officer or his/her designee may serve in the capacity of hearing officer or appoint a qualified representative to serve as hearing officer to prepare findings of fact and recommendations as to and type of punishment, if any.
- G. In order that all parties may be afforded a fair and equal opportunity to be heard and that the hearing officer may be completely informed in the matter and enabled to render a proper determination based on all the facts and applicable laws and rules, all hearings shall be conducted in an informal manner, without reference to any formal rules or procedure.
- H. The hearing officer may, at his/her discretion, clear the hearing room of all persons, including witnesses not under examination or testifying. When the evidence pertains to a scandalous or indecent conduct of any sort, or is such that its public disclosure would not be in the best interest of the public and might do irreparable harm to any person or persons not a party to the hearing, the hearing officer may exclude all persons not having a direct interest in the matter being heard.
- I. The hearing officer shall admit all testimony having reasonable, probative value, but shall exclude immaterial, irrelevant or unduly cumulative testimony.
- J. The hearing officer shall give effect to the rules of privilege as provided by law, but no person shall be excused from testifying or presenting evidence on the ground of possible self-incrimination.
- K. The member is presumed innocent and the burden of proof is upon the Company to prove the member's guilt by a preponderance of the credible evidence presented during said hearing. All hearings may (in the discretion of the respective hearing officer) be recorded by:
 - 1. a certified shorthand reporter; or
 - 2. stenographer, duly sworn to make an accurate stenographic recording of the proceeding; or
 - 3. sound recording device to be operated under the supervision and direction of the hearing officer.
- L. After considering all the evidence in support and in defense of the particular charge of misconduct, the respective hearing officer, in deliberation with the

remainder of the committee, shall consider the same and render a verdict as soon as practical thereafter.

- M. Although the verdict may be verbal at the time of the hearing, the determination must be reflected upon a final notice of disciplinary action that must be personally served upon the respective member as soon as practical after the termination of said disciplinary hearing.
- N. Although the verdict shall be rendered in the manner referred to above, where the sentence or penalty is in excess of five (5) days suspension said sentence or penalty shall not be imposed or carried out until the time for filing of an appeal as provided in section has elapsed.

3.4 Plea Agreement

Prior to a final determination by the hearing officer, a plea agreement may be permitted with said agreement being endorsed by the President in writing with copy distribution to all concerned parties. Said plea agreement may contain, but is not limited to any penalty listed or not in this disciplinary code as deemed appropriate by the President.

3.5 Appeals

- A. Any member of the Company who has been tried and convicted upon any disciplinary charge or charges may obtain review through the Board of Fire Commissioners.
- B. Such review shall be obtained by serving a written notice of the application therefore upon the hearing officer within ten (10) days after the written notice to the member of the conviction. The hearing officer shall transmit to the Commission a copy of the record of such conviction, and of the charge or charges for which the member was tried.
- C. The Commission shall hear the case *de novo* on the record below and may either uphold, reverse or modify such conviction. If the member shall have been removed from his position, the Commission may direct that he/she be restored to such position and all rights pertaining thereto, and may make such other ordered judgment as they shall deem proper.
- D. Any member may supplement the record with additional testimony subject to the rules of evidence.

Section 4 Members Rights During Disciplinary Process

4.1 Hearing

Each member is entitled to a hearing before the President or his/her designee, for any charge.

4.2 Level of Proof

No member shall be found guilty of violating a rule or regulation unless the hearing officer finds that a preponderance of credible evidence substantiates the specific charges of the particular case.

4.3 Confidentiality

Other than the official findings and attendant penalties, every internal investigation and subsequent Company hearing shall be considered privileged and confidential information and same shall not be made public and/or released to any non-governmental agency.

4.4 Scope of Interrogation

Although every member has a duty to answer truthfully and directly all questions and submit to any and all forms of investigative efforts when so ordered or questioned by a supervising or commanding officer, said duty only applies to questions and investigations that directly relate to one's official duties or on one's fitness for continued membership. All questions and investigative efforts must be limited to the investigation of matters in which the Company has a legitimate interest.

- A. No questioning or investigative effort shall be initiated arbitrarily for personal or other reasons that are unrelated to the maintenance of Company efficiency or integrity.
- B. All questions and investigative efforts shall be limited in scope to activities, circumstances, and events that pertain to a member's conduct which may form the basis for disciplinary action under one or all the following categories:
 - 1. Commission of a crime or quasi-criminal offense of misconduct that would be grounds for removal.
 - 2. Not being qualified for continued membership with the Company.
 - 3. Violation of a Blackwood Fire Company Rule or Regulation

- C. All questioning or other investigative efforts shall be completed with reasonable dispatch and, where practical, said employee should be made as comfortable as possible so as not to offend the concepts of procedural and substantive due process of law.

4.5 Due Process

Although the Company can utilize any form of investigative procedure pursuant to an internal investigation that is fair and reasonably calculated to achieve its objective, the nature or utilization of same must not violate the basic concepts and substantive due process of law.

4.6 Coercion

Although cooperation of a member is demanded under threat of disciplinary action (including job forfeiture), said member shall not be questioned or subjected to investigative efforts under circumstances that would render such statements void as being coerced. Prolonged interrogation, threats of force, hostility, or over aggressiveness by interrogators shall render any statements or member's response void for all purposes.

4.7 Conduct of Investigating

At no time during an internal investigation, shall any member be subjected to offensive language, nor shall he be threatened with dismissal or other disciplinary punishment. No promise or reward shall be offered as an inducement to answering questions. Nothing herein is to be construed as to prohibit the investigating officer from informing the member that such conduct can become the subject of disciplinary action resulting in disciplinary punishment.

4.8 Advisement of Member

Exclusive of the normal reporting duties incidental to the performance of official duties, no member shall be expected to answer questions or submit to other forms of investigative efforts until being advised of the following:

- A. Whether he/she is being questioned or required to submit to investigative efforts as a suspect or a witness,
- B. The identity of his/her interrogator as well as the identity of all persons present at the time of the interrogation, and
- C. The nature of the investigation and facts sufficient to inform the member of the existing allegations.

4.9 Time Limitations

Consistent with state statute and policy, a formal charge must be filed against a member within a reasonable time after which the existence of the alleged or suspected misconduct is made known, or should have been made known, to the President. For the sake of this policy, reasonable shall be understood as not exceeding thirty (30) days, unless otherwise specified.

4.10 Representation

Members and employees are entitled to have a representative of their choice, at their own expense, in attendance during an internal investigation interview. The investigator shall allow any member a reasonable amount of time for the desired representative to attend. The representative shall be an observer only and may not actively participate in the interview.

4.11 Polygraph (Class 2 offense)

No member shall be ordered or asked to submit to a polygraph (lie detector) test for any reason. Such test may be given, however, if requested by the member.

4.12 Drug and Alcohol Tests

A member may be ordered to submit to a blood test, urinalysis, a chemical breath tests, or any other test to determine the percentage of alcohol or drugs in the blood for any reason except as otherwise provided by specific statutory law. Such test(s) must be given if requested by the member.

4.13 Physical Tests

Members that are the subjects of internal investigations, may be compelled to submit to various physical tests or procedures to gather evidence.

4.14 Refusal to Submit to Physical or Drug and Alcohol Tests

Members that refuse to perform or participate in a lawfully ordered physical, drug and/or alcohol test will be disciplined for their refusal to do so.

4.15 Reassignment Pending Disposition of Charges

As a general rule, when a member is charged with a violation of a Blackwood Fire Company rule or regulation, said member shall continue to perform the assigned duties of his/her position until such time as the judicial determination duly rendered pursuant to a Blackwood Fire Company hearing necessitates a discontinuance of same. However, where the nature of the member's position is such that the public trust relationship, when considered against the alleged charge

of misconduct, would dictate the immediate temporary termination of such duties, said member shall be temporarily suspended, pending the Blackwood Fire Company hearing referred to above.