


LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

June 5, 2017

BOARD OF FIRE COMMISSIONERS
FILE NO. 17 - 071

TO: Board of Fire Commissioners
FROM:  Ralph M. Terrazas, Fire Chief
SUBJECT: EDUCATION-BASED DISCIPLINE GUIDELINES

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

As part of the proposed Public Service Discipline model, the Fire Department is seeking approval from the Board of Fire Commissioners (BOFC) of guidelines for education-based discipline within settlements. Since Summer 2015, the Department has been employing education-based discipline on a pilot basis to resolve discipline. Education-based discipline substitutes relevant coursework for all or part of the recommended suspension days in cases where circumstances of a case meet the eligibility criteria for settlement (as detailed in Board Report 17 - 072) and education-based discipline is deemed appropriate.

This report explains the process and procedure to be employed when determining the appropriate conditions for inclusion of education-based discipline within a disciplinary settlement.

RECOMMENDATION

That the Board:
Receive and approve the report.

FISCAL IMPACT

Actual cost savings are yet to be determined.

The inclusion of education-based discipline within settlements that either eliminate or reduce the number of suspension days in exchange for requiring the members to attend courses is expected to result in cost savings to the Department. Instead of incurring overtime costs to cover a member's period of suspension, the member will be required

to attend courses while off-duty. The actual cost savings for this aspect of settlements is yet to be determined.

For settlements involving education-based discipline, there is no cost to the Department or the member for the courses offered by the Los Angeles Sheriff's Department on the current approved course list. There may be a cost for future courses added to the approved course list. The potential cost is yet to be determined.

DISCUSSION

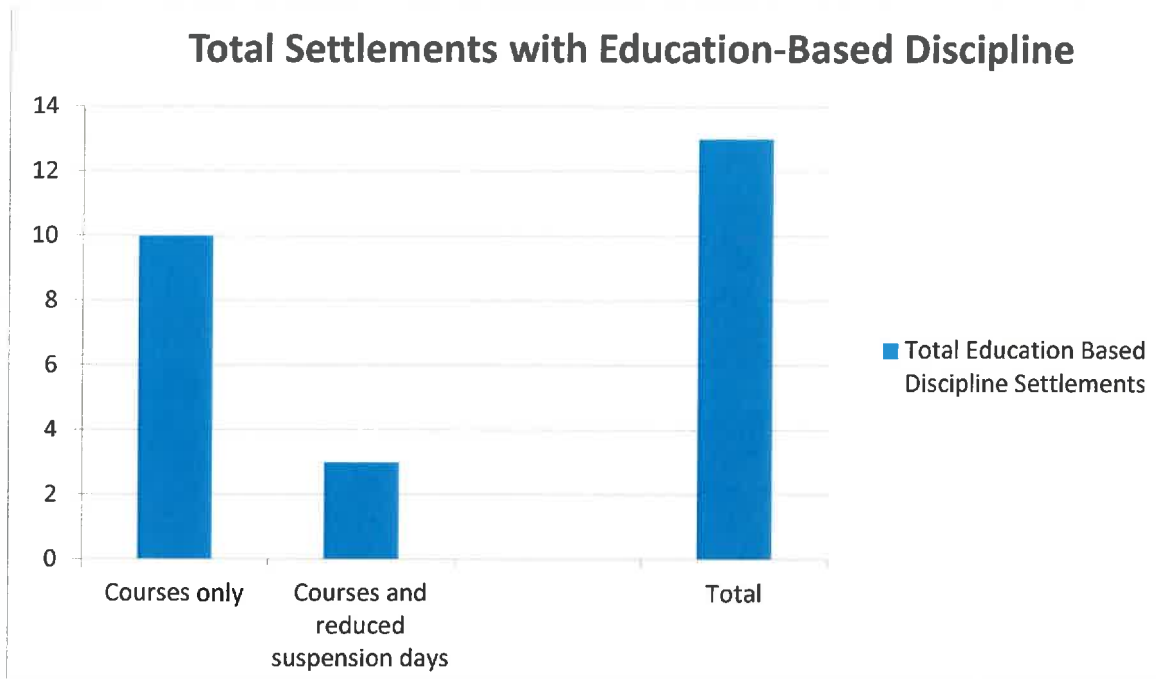
As part of the development of a public service discipline model, in late 2015 the Department began piloting a program for incorporating education-based discipline into settlement agreements. In the context of settlement agreements, training refers to remediation of operational skill deficiencies and education-based discipline refers to remediation of behavioral problems (e.g. anger management).

The purpose of education-based discipline is to prevent the recurrence of misconduct by helping the member improve their skills and/or behavior. All members are expected to provide the public with the highest level of service and professionalism. The approved courses target problem areas and provide the members with tools to better approach conflict in the workplace, adversity on the job, and team building, as some examples.

Education-based discipline benefits both the member and the Department. By allowing for coursework that can support a member in improving their performance, that member has the opportunity and resources to more fully realize his/her value as a member of the LAFD.

Education based discipline is a recognized approach consistent with *Douglas v. Veterans Administration* 5 M.S.P.B. 280 (1981) (decision of the Merit System Protection Board outlining the factors to determine the appropriate penalty for employee misconduct.)

To date, the Department has resolved thirteen cases with settlement agreements that included education-based discipline. Of the thirteen cases, two members did not complete their coursework, one member retired from service prior to completion, and the other member failed to complete the coursework within the one-year deadline, and received the original proposed suspension days. None of the members who entered into settlement agreements with education-based discipline and completed the required coursework have returned to the discipline system to date and some have thanked the Department for providing valuable courses which helped them better do their jobs. Since most of these thirteen education-based discipline settlements are less than one year old, it is not possible to conclusively determine their effectiveness at this point.



As detailed in BOFC Report # 17 - 072, the Department has identified settlement criteria to be considered when assessing the appropriate level of discipline for particular cases.¹ These criteria are used to ensure that settlements are approached with consistent, fair procedures, which are well documented.

In addressing the thirteen cases through the pilot process, the Department considered the following:

1. Assessment of each case using the five settlement factors to determine eligibility.
2. Determination of the most appropriate course or courses that would satisfy the goal of the Department and meet the needs of the involved member.

These cases were then settled by mutual agreement between the member and the Department through a formal settlement agreement that included education-based discipline.

To date, the courses which have been used in settlements have been offered at no cost to our members or the City by the Los Angeles Sheriff's Department. There may be a cost attendant to future courses added to the approved course list. The Department is

¹ The Department identified the following five criteria to consider when evaluating a case to determine the appropriate settlement proposal:

1. Whether the misconduct harmed the public service;
2. Whether the misconduct is likely to recur;
3. Whether the misconduct or the harm caused by the misconduct is serious;
4. Whether the Department is likely to prevail with formal discipline; and
5. Whether alternative sanctions would adequately deter future conduct.

asking the BOFC to adopt the proposed policy (attached as Exhibit 1) setting forth the current approved course list and the procedure for adding additional courses to the approved course list.

Approved courses are selected by the Commander, Professional Standards Division for inclusion on the approved course list. They are then proposed for an individual member depending on the misconduct charged in the discipline case, to most closely match the additional resources the member needs to effect change in behavior. The procedure for selecting and approving courses and for determining the appropriate coursework for particular discipline cases is detailed in the attached policy (see Exhibit 1). Members must attend required courses while off-duty and on their own time.

When education-based discipline is accepted through a settlement agreement, a member is expected to enroll in the first reasonably available course and is required to begin coursework within four months of execution of a settlement agreement. The member is allowed a one year window to complete the required coursework and to provide proof of completion to the Department. The member may request, for good cause shown, a reasonable extension to begin or complete the courses required in the settlement agreement.² For example, if the member faced a serious illness, which prevented the member from attending the required courses as originally scheduled, the member would be able to request an extension of time to complete the courses.

If a member fails to begin or complete the required courses within the allowed timeframes and without good cause, the suspension days (or other discipline) that are held in abeyance under the settlement agreement will be imposed.

Per the guidelines proposed in BOFC Report # 17 – 072, the Independent Assessor will review disciplinary settlement agreements (including those that impose education-based discipline) on an ongoing basis to determine the quality and effectiveness of the settlements as well as their adherence to BOFC-approved guidelines. The Independent Assessor will provide a report on settlements to the BOFC at least annually. The Department also plans to develop an evaluation process for the individual members who complete approved courses to provide feedback about the effectiveness of the courses they attend. The data from these evaluations will be provided to the Office of the Independent Assessor at least annually (or upon request) for review.

² Good cause means according to *Black's Law Dictionary, Second Edition*, "that from a legal point of view there are sufficient grounds to act."

CONCLUSION

The Department is requesting approval from the BOFC to include education-based discipline as a component of settlement agreements. The Department has high expectations for education-based discipline as one element of settlement agreements that will help the Department maintain high standards of service.

Board report prepared by Karen Richter, Acting Commander, Professional Standards Division, and Erin Joyce, Chief Special Investigator, Professional Standards Division.

Attachment

POLICY EDUCATION-BASED DISCIPLINE

PURPOSE: When a member of the Los Angeles Fire Department (Department or LAFD) has been found to have engaged in misconduct and is facing suspension or termination from duty, the member and the Department may enter into a settlement agreement if the LAFD determines that an alternative form of discipline will better serve the individual and the Department to modify an employee's behavior and maintain high standards of professionalism. Alternative forms of discipline may include education-based discipline, which can substitute for all or part of the recommended suspension days.

This policy sets forth the criteria for determining which courses can be included in the Department's education-based discipline program (Program), determining which course(s) will be selected for the member to attend, and procedures for course completion.

APPLICABILITY: The criteria and procedures set forth in this policy apply to all cases in which a member has been served with a suspension from duty, or has been directed by the Fire Chief to a Board of Rights, and the Department and the individual member have agreed to an alternative to the discipline originally imposed, which includes education-based discipline. Settlement Agreements must adhere to policy and procedures approved by the Board (BOFC #17-072) before education-based discipline can be applied.

DEFINITION: *Education-based discipline* is coursework aimed at changing behavior by providing tools for improving skills, preventing recurrence of misconduct, and enhancing professionalism. Classes may also address substance use and abuse.

A. PROCEDURE FOR DETERMINING COURSE ELIGIBILITY FOR INCLUSION IN THE EDUCATION-BASED DISCIPLINE PROGRAM

1. Before including a course in the Program, the Department shall obtain a comprehensive syllabus for the course. The syllabus must include the name of the agency which sponsors the course, the name, phone number and email address for someone who can be contacted about the course, learning objectives, methods for instruction and instructional activities.
2. The Commanding Officer of Professional Standards Division (PSD) shall determine if the course is suitable for inclusion in the Program.
3. The syllabus must be provided to the Office of the Independent Assessor for review before the course is included in the Program. At his/her discretion, the OIA may request formal review and approval by the Board of Fire Commissioners.
4. A syllabus for each course included in the Program shall be kept by PSD and a current list shall be appended to this policy and updated quarterly.

B. CRITERIA FOR DETERMINING WHICH COURSES WILL BE ASSIGNED AS PART OF THE SETTLEMENT AGREEMENT

1. The goal of education-based discipline is to improve the member's behavior and performance, and to prevent the recurrence of misconduct. Courses assigned as part of the education-based discipline program must closely match the misconduct in the discipline case and reflect the resources the member may need to effect change in his/her behavior.
2. As part of the settlement memorandum required in the Policy for Settlement Agreements, the Commanding Officer of PSD shall include the justification for assigning the member the chosen course(s).

C. REQUIREMENTS FOR COURSE COMPLETION

1. The member must enroll in the agreed upon course(s) at the first available time it is offered after execution of the settlement agreement.
2. The member must begin coursework, no later than four months (120 days) after execution of the settlement agreement.
3. All coursework must be completed, and proof of completion provided to PSD, within one year from the date of the execution of the settlement agreement.
4. The member may request a reasonable extension, upon a showing of good cause, for requirements C.1 – 3. This request must be submitted in writing to the Commanding Officer of PSD as soon as the member is aware of circumstances requiring the extension.
5. The Commanding Officer of PSD will make a decision whether or not to grant an extension and for how long.
6. All coursework shall be completed off-duty, on a member's own time and at the member's own expense. The Department shall not pay for the course fee nor for the time a member spends to attend the course.
7. Members are required to complete a Department-provided course evaluation form upon completion of the coursework.
8. Provisions C.1 – 6 of this policy shall be articulated in every settlement agreement in which education-based discipline is included.

List of Approved Courses for Education-Based Discipline
June 6, 2017

Course Name	Presenting Agency	Contact
Anger Awareness	Los Angeles County Sheriff's Department	
Behavior Stress Management	Los Angeles County Sheriff's Department	
Dealing with Difficult People	Los Angeles County Sheriff's Department	
Ethics	Los Angeles County Sheriff's Department	
LIFE Decision Making Process	Los Angeles County Sheriff's Department	
Relationship Management/Conflict Resolution	Los Angeles County Sheriff's Department	
Team Management	Los Angeles County Sheriff's Department	
Cultural Diversity	Museum of Tolerance	