

Table One		Use of LEAD Credits to Offset Actual Unpaid Suspension
Suspension Days	Minimum Credits	Maximum LEAD Credits to Offset Suspension
1-10 Days	2-20 LEAD Credits	If offered, LEAD shall be available to offset the first 10 suspension days
11-15 Days	22-30 LEAD Credits	If offered, LEAD shall be available to offset the first 10 suspension days LEAD may be offered to offset days 11 through 15 of a suspension with the approval of the PSD Commander
16-30 Days	32-60 LEAD Credits	If offered, LEAD shall be available to offset the first 10 suspension days LEAD may be offered to offset days 11 through 15 of a suspension with the approval of the PSD Commander LEAD may be offered to offset days 16-30 of a suspension with the recommendation of the PSD Commander and the approval of the Fire Chief

Table Two		Examples of LEAD Alternatives
Suspension	LEAD Credits and Suspension	
1 Day	LIFE Class (Mandatory; 2 LEAD Credits) LEAD Evaluation (No Credit)	
2 Days or 4 LEAD Credits	LIFE Class (Mandatory; 2 LEAD Credits) Anger Management (8 hours – 2 LEAD Credits) LEAD Evaluation (No Credit)	
5 Days or 10 LEAD Credits	LIFE Class (Mandatory; 2 LEAD Credits) 7 Habits (24 hours – 6 LEAD Credits) Technical Refresher Course (8 hours – 2 LEAD Credit) LEAD Evaluation (No Credit)	
5 Days or 10 LEAD Credits	LIFE Class (Mandatory; 2 LEAD Credits) Tools for Tolerance (8 hours – 2 LEAD Credit) Verbal Judo (8 Hours – 2 LEAD Credit) 16 Hrs Volunteer Service at _____ (4 LEAD Credits) LEAD Evaluation (No Credit)	

Table Two	Examples of LEAD Alternatives
Suspension	LEAD Credits and Suspension
12 Days or 14 LEAD Credits and 5 Day Suspension	LIFE Class (Mandatory; 2 LEAD Credit) Anger Awareness (8 hours – 2 LEAD Credit) 40 Hrs Volunteer Service at Women's Shelter (10 LEAD Credits) 5 day Suspension without Pay LEAD Evaluation (No Credit)

At a minimum, the LEAD Proposal will inform the member that:

1. A "Learning and Education as an Alternative to Discipline" Proposal is being offered to the member by the Department to resolve a current disciplinary matter;
2. That LEAD is an optional alternative to the unpaid suspension being proposed by the Department.
3. That to fulfill LEAD, the member will have to attend specified courses and complete the mandatory LEAD Evaluation form;
4. That if the member agrees to participate in LEAD, a LEAD Agreement will be generated by the Professional Standards Division to document the terms and requirements of this LEAD Proposal.
5. That all courses or approved equivalent LEAD activities to fulfill the LEAD Agreement shall be done on his or her own time.
6. That the member will be required to actively participate in and complete all LEAD courses and/or approved equivalent LEAD activities detailed within the LEAD Agreement.
7. That the member's failure to comply with the full and complete agreed upon terms of the LEAD Agreement will result in the imposition of the entire discipline and that a partial completion of the LEAD agreement will not mitigate any portion of the proposed discipline.
8. That the member's agreement to voluntarily participate in LEAD will not prevent the suspension days from being recorded in PSD's Disciplinary Tracking System (DTS) or in disciplinary documents filed in the member's Personnel Services Section (PSS) file and with the Board of Fire Commissioners.
9. That participation and completion of the conditions of the LEAD Agreement as an alternative to formal discipline will result in the fiscal impact of the suspension

- being reduced in part or in full, depending on the terms of his or her LEAD Agreement.
10. That for purposes of progressive discipline, any subsequent disciplinary action will be evaluated as a prior offense, as if the member actually served his or her suspension, despite the fact that he or she did not actually serve the suspension and/or incur the financial loss because of the suspension.
 11. That until the member makes an election to settle the disciplinary matter through LEAD, the member's rights will be preserved;
 12. That the member may seek representation to assist in reviewing his or her case and/or the LEAD Proposal to assist in making a voluntary decision as to LEAD;
 13. That the member has 10 normal business days from the date of service to provide a decision on the alternative LEAD options and that once the ten-day period has elapsed, the Department may refuse to offer LEAD as an option unless the totality of facts as determined by the Fire Chief warrants that alternative.
 14. That if the member accepts LEAD, he or she will be required to waive his or her right to appeal his or her discipline via a Board of Rights and Arbitration.
 15. That the member will be required to complete all conditions of the LEAD Agreement within the specified time period, or the member will be required to serve the full suspension and loss of pay.

LEAD may be available to a member as part of Pre-Disposition Resolution, in a written LEAD Proposal when the member is notified of the Department's intent to impose discipline (i.e. the Skelly package) or after the member has been served with a Skelly package.

The member has the opportunity to review the LEAD Proposal and must notify the PSD Commander within 10 normal business days of service if the member chooses to participate in LEAD. Once the ten-day period has elapsed, the Department may refuse to offer LEAD as an option unless the totality of facts as determined by the Fire Chief warrants that alternative.

A draft of the proposed LEAD Proposal Memorandum is attached as Attachment Number Three.

Acceptance of LEAD Proposal and LEAD Agreement

The member must agree to participate in LEAD and notify the PSD Commander within 10 normal business days of service of the LEAD Proposal. Upon notification of the member's acceptance of the LEAD Proposal, the PSD Commander will use the LEAD

Proposal to codify the LEAD terms and requirements in a LEAD Agreement. Once the member and the Fire Chief have reviewed and signed the LEAD Agreement, the disciplinary matter will be resolved and the formal disciplinary process ended unless there is a future breach of the LEAD Agreement by the member.

Use of LEAD in Alcohol and Domestic Violence Complaints

Since introducing Education Based Discipline in 2008, the Los Angeles County Sheriff's Department has expanded EBD as an alternative in alcohol related and domestic violence cases. The Sheriff's Department uses their Employee Support Services Bureau (ESSB) to evaluate courses or classes that their employees attend that may be voluntary or court-ordered following the incident.

If the LEAD concept is approved by the Board of Fire Commissioners, PSD is recommending that LEAD not be immediately extended to alcohol or domestic violence related offenses. However, PSD does believe that extending LEAD to disciplinary actions related to alcohol or domestic violence complaints should be considered at a later date after the LEAD concept is implemented and evaluated.

Utilizing LEAD in Conjunction with Pre-Disposition Resolution

A member who has been notified they are the subject of a disciplinary complaint may request to resolve the complaint through LEAD at any time. A request for LEAD may be made in conjunction with a request for Pre-Disposition Resolution (PDR) or may occur after an investigation has been completed, allegations are sustained and disciplinary action is proposed. However, in the event it is requested as part of Pre-Disposition Resolution, the Department reserves the right to refuse or delay LEAD until the full extent of the underlying complaint is determined.

Implementation and Evaluation

Implementing LEAD as a standalone program within the Los Angeles Fire Department would be a tremendous undertaking and effort, given the variety of training programs which have to be researched, vetted or created to address the different behavioral description categories involved. Fortunately, the Los Angeles County Sheriff's Department has invited LAFD to utilize the training courses that they use in their EBD Program, including their mandatory 8-hour LIFE program.

PSD will evaluate whether LEAD has been accepted by members as a viable alternative to formal discipline by monitoring triggers such as the number of "member-requested Board of Rights", the number of disciplinary cases taken to arbitration and the time expended by PSD and the chain of command in investigating complaints. Further, the perception of the members who utilize LEAD will be assessed via the LEAD Evaluation instrument.

Should LAFD decide to fully embrace LEAD, the Department should consider creating a Fire Service version of the LIFE class and explore what other alternative courses addressing the six behavioral description categories may be available to better address the mission and the culture of the Fire Service.

THE NEXT STEP: CREATING THE RIGHT ENVIRONMENT

One of the clear messages from this report is that the punishment itself is not the answer to managing and controlling the behavior of employees. In fact, the ideal scenario for the employer, its employees and the community is to create an environment in which the formal disciplinary process to deal with employee mistakes and misconduct is both the last option and the one least used. Creating that environment requires the collaboration of different Department units who play the critical roles within the organization related to these functions. These areas include:

- The Hiring Process
- Training
- Clear Expectations to All Members
- Effective Supervision
- Performance Standards and Review
- Complaint Reception and Investigative Procedures
- Technology
- Organizational Culture.

These factors, which are not all-encompassing, support PSD's belief that the disciplinary process is one small but important part in the interplay among numerous processes to create an environment where members follow the Department's rules and policies without the need for formal discipline.

While the Department is working towards creating the right environment, there are additional innovations used in the public sector which may identify individuals or workplaces with behavior concerns and/or tension and allow the Department to put non-punitive resources towards resolving those concerns before they become disciplinary in nature. Two that are suggested here are workplace environment intervention and early intervention systems.

WORKPLACE ENVIRONMENT INTERVENTION

In almost all of the workplace environment complaints received by the Professional Standards Division, there is a history of conflict and unrest at that particular workplace which lay unresolved for months or years leading to the event underlying the complaint. The chain of events leading to the filing of the complaint often did not rise to actual hazing, horseplay or discrimination but built up over time, resulting in a tension filled workplace filled with deep seeded anger and resentment. Perhaps most perplexing is the fact that a supervisor and/or manager was aware of what was happening but did nothing to intervene or resolve the issues early on.

Generally, once a party reaches the point of filing a complaint, the degree of tension and unrest has risen to the point where discussion and informal negotiations are no longer possible. Further, the fact that a complaint was filed often compels PSD to conduct a formal investigation under the City's and Department's zero-tolerance policies. The opportunity to resolve a minor dispute between members at the lowest level has long passed.

The Professional Standards Division believes that an investment of time and resources to identify a potentially problematic workplace environment early on, and to attempt to mediate and resolve their issues, is a realistic preventative measure that the Department should strongly consider.

EARLY INTERVENTION SYSTEMS

The purpose of an Early Intervention System (EIS) is to identify employees at risk of engaging in misconduct and to treat their problematic behavior through remedial interventions. Early intervention systems are primarily preventative in nature, focusing on the identification and management of members who have not yet engaged in misconduct, but who are showing signs that their behavior which, if left unchecked, could escalate in the future, thus leading to potential misconduct.

In some instances, problematic or risk-taking behavior by members will be evident and observable to supervisors. However, in other circumstances, the outward signs of a problem behavior may be difficult to detect. Because of this difficulty, existing Early Intervention Systems normally rely on predetermined behavioral indicators to generate electronic flags when a member's actions are deemed to have fulfilled certain criteria indicating the existence of problematic behavior.

As well as helping public agencies manage risk and prevent misconduct, early intervention systems can be beneficial for individual members as they are given an opportunity to correct problematic behavior before they become part of a disciplinary complaint.

CONCLUSION:

Currently, the disciplinary model for the LAFD uses punitive action as its primary (and often only) tool to correct members' behavior after they violate our rules and regulations. Imposing punitive action alone, especially after a prolonged and delayed complaint investigation, may leave the member angered or upset by the process. For cases where the member will remain with the LAFD, PSD recommends that Pre-Disposition Resolution and Learning and Education as an Alternative to Discipline (LEAD) be implemented and evaluated. Carefully chosen strategies may correct the unwanted behavior with training and education without solely resorting to punitive action, giving the member the tools and understanding to avoid a recurrence of the misconduct.

As stated above, PSD is not the answer to creating an environment in which the formal disciplinary process to deal with employee mistakes and misconduct is both the last option and the one least used. That requires the collaboration of numerous Department entities to support the first line supervisor in using non-disciplinary options to encourage members to follow Department policies and rules. Two of these options (Work Environment or Ombuds Office and Early Intervention System) would assist supervisors outside of the disciplinary process and should be considered as alternatives outside of the recommendations in this report.

Board report prepared by Assistant Chief Dean Ulrich, Professional Standards Division and Chief Special Investigator Paul Hayashida, Professional Standards Division.

Attachments

LAFD PENALTY GUIDELINES FOR SWORN MEMBERS DRAFT

JANUARY 1, 2008

DRAFT

Act of Misconduct	1 st Offense	2 nd Offense	3 rd Offense	1	2	3	4	5	6
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ALCOHOL / NARCOTICS & DRUG USE									
A1 On duty, under the influence of alcohol *	B-D	E	E	1			4	5	
A2 Violation of <i>Conditions of Continued Employment Contract</i> for alcohol, drugs, narcotics *	D-E	E	E	1			4	5	
A3 Ingestion, possession or commerce of any illegal drug, on or off duty	E	E	E						
A4 Purchased alcoholic beverage on duty for personal use	E	E	E						
A5 Knowingly transported a person to buy/obtain illegal narcotics/drugs *	E	E	E						
A6 Knowingly present where illegal narcotics/drugs being used	A-E	A-E	A-E	1			4	5	
A7 Knowingly allowed illegal or improper use, possession or commerce of any controlled substance, including prescribed drugs	A-E	D-E	E	1		3	4	5	
A8 Knowingly allow minor to consume alcoholic beverage	A-E	D	E			3	4	5	
A9 Off duty, public drunkenness **	A-B	B-C	D-E	1			4	5	
A10 On duty, possessed alcoholic beverage	A-B	C-D	E	1			4	5	
A11 Unfit for duty due to prior consumption of alcoholic beverage	A-B	C-D	E	1			4	5	

V - Verbal Warning A - Reprimand to 5 Day Suspension B - 6-10 Day Suspension
 C - 11-15 Day Suspension D - 16-30 Day Suspension E - Board Of Rights (Suspension-Termination)

* No Statute ** 10 Years Statute **NOTE: Unless indicated otherwise, misconduct violations have a 5-year statute**

LEAD Factors: 1 – Problem Solving and Self-Management 2 – Skill Enhancement 3 – Boundary Recognition
 4 – Substance Misuse/Abuse Awareness 5 – Character Reinforcement 6 – Mitigating/Aggravating Factors

ATTACHMENT NUMBER ONE

Action Item Menu Item A: Problem Solving and Self-Management		
Class	Description	Contact Information
LIFE Class (8 hours)	<u>Mandatory class for EBD participants.</u> Decision making class.	EBD Unit ebd@lasd.org (562) 946-7006
Deputy Leadership Institute (16 hours)	Two day leadership development program which expands on the principles and perspectives, its goal is to help students recognize and adopt leadership potentials.	PDU OAll Pelenakeke Salesulu (562) 906-5429
7 Habits of Highly Effective People (24 hours)	Designed for all levels and classifications of motivated law enforcement professionals. A three-day workshop that engages in personal & interpersonal growth and development	RCPI (562) 946-7188 (fee of \$200 per student)
Imagine 21 (32 hours)	Self-empowerment classes are based in cognitive psychology and designed to help attendees achieve their visions, goals and objectives.	RCPI (562) 946-7903
Professional Development (Ethical Decision Making) (8 hours)	Participants will address the ethical application of their values and engage in meaningful discussions about principles and character development.	EBD Unit ebd@lasd.org (562) 946-7006
Anger Management & Effective Communication (8 hour)	Participants will be able to enhance their communications skills which will assist them in the management and supervision of inmates. (This class is taught in conjunction with the Custody Training Officer School)	Custody Training HQ Unit (213) 974-7000
Behavior Stress Management (4 hours)	Training in behavior techniques that will allow employees to better identify and manage stress.	Employee Support Services Bureau (ESSB) (213) 738-3500
Anger Awareness-Management (4 hours)	Training in principles and techniques aimed at defusing tense situation and assisting individuals in self-regulation.	Employee Support Services Bureau (ESSB) (213) 738-3500
Relationship Management-Conflict Resolution (4 hours)	Training in principles and techniques of managing conflict in a variety of different relationships (co-worker, marital, friend, supervisor, etc.).	Employee Support Services Bureau (ESSB) (213) 738-3500
Dealing with Difficult People (4 hours)	Training in identifying and responding appropriately to co-workers whose personality types pose interpersonal challenges.	Employee Support Services Bureau (ESSB) (213) 738-3500
Basic Tactical Communications (8 hours)	Basic communications skills needed to effectively communicate with inmates in a custody setting.	Custody Training HQ Unit (213) 974-7000

LOS ANGELES  FIRE DEPARTMENT

BRIAN L. CUMMINGS
FIRE CHIEF

[DATE]

DRAFT

TO: [MEMBER]

FROM: Commander, Professional Standards Division

SUBJECT: **“LEARNING AND EDUCATION AS AN ALTERNATIVE TO
DISCIPLINE (LEAD) PROPOSAL
DTS CASE NUMBER 00-000000-01**

This memorandum details a “Learning and Education as an Alternative to Discipline (LEAD) Proposal being offered to you by the Department to resolve your disciplinary matter under DTS Case Number 00-000000-01.

This LEAD Proposal is an optional alternative to the unpaid suspension described in the F-225 dated [DATE] entitled “PROPOSED DISCIPLINARY ACTION that you served with regarding this DTS Case 00-000000-01.

The Commander, Professional Standards Division is offering LEAD as an alternative to your [NUMBER] day unpaid suspension. The LEAD agreement will include the following courses (or their equivalent as determined by PSD Commander) and action items as an alternative to your suspension:

1. Attend and complete the Lieutenants’ Interactive Forum for Education (LIFE) Class (8 hours)
2. Attend and complete the [COURSE NAME] course ([No.] hours)
3. Attend and complete the [COURSE NAME] course ([No.] hours)
4. Write an LEAD evaluation reflecting on your experience with the LEAD process

If you voluntarily agree to participate in LEAD, a LEAD Agreement will be generated by the Professional Standards Division to document the terms and requirements of this LEAD Proposal.

All courses or approved equivalent LEAD activities to fulfill the conditions of the LEAD Agreement shall be done on your own time.

ATTACHMENT NUMBER THREE

You will be required to actively participate in and complete all LEAD courses and/or approved equivalent LEAD activities detailed within the LEAD Agreement. Failure to comply with the full and complete agreed upon terms of the LEAD Agreement will result in the imposition of the proposed discipline as stated in the F-225 dated [DATE] entitled "PROPOSED DISCIPLINARY ACTION" that you received regarding this investigation. A partial completion of the LEAD agreement will not mitigate any portion of the proposed discipline as stated in the F-225 dated [DATE] entitled "PROPOSED DISCIPLINARY ACTION".

Your agreement to voluntarily participate in LEAD will not prevent the suspension days from being recorded in PSD's Disciplinary Tracking System (DTS) or in disciplinary documents filed in your Personnel Services Section (PSS) file and with the Board of Fire Commissioners. However, by completing the LEAD Agreement in full, DTS will reflect that the punitive action was completed, in part or in full, through LEAD. Participation and completion of LEAD as an alternative to formal discipline means that the fiscal impact of the suspension will be reduced in part or in full, depending on the terms of your LEAD Agreement.

For purposes of progressive discipline, any subsequent disciplinary action will be evaluated as a prior offense, as if the member actually served his or her suspension, despite the fact that you did not actually serve the suspension and/or incur the financial loss because of the suspension.

Your rights are preserved, while you choose between suspension of pay or LEAD. You have the right to seek representation to assist in reviewing your case and/or your LEAD options.

You have ten business days from today to provide a decision on the alternative LEAD options. Once the ten-day period has elapsed, the Department may refuse to offer LEAD as an option unless the totality of facts as determined by the Fire Chief warrants that alternative. If you accept LEAD, you will be required to waive your rights to appeal your discipline via a Board of Rights and Arbitration. You will be required complete all conditions of the LEAD Agreement within the specified time period, or you will be required to serve the full suspension and loss of pay.

If you have any questions, please contact the Professional Standards Division during normal business hours at (213) 978-2107.

[NAME], Assistant Chief
Commander, Professional Standards Division