



RALPH M. TERRAZAS
FIRE CHIEF

September 4, 2015

BOARD OF FIRE COMMISSIONERS
FILE NO. 15-097

TO: Board of Fire Commissioners
FROM: Ralph M. Terrazas, Fire Chief *Ralph M. Terrazas*
SUBJECT: MODIFICATIONS TO DISCIPLINARY PROCESS OVERVIEW

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 Withdrawn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

The Fire Department is seeking to modify its discipline philosophy from a punitive model to a model of public service.

This report is an overview of the Department's plans to implement this new philosophy of discipline. A subsequent report will be presented to the Commission outlining the specifics of each component of the plan to implement a public service model of discipline.

RECOMMENDATION

That the Board:
Receive and file this report.

FINDINGS

Background

Following the 2006 City Controller and City Personnel Audits, the Board of Fire Commissioners approved an Audit Action Plan (Board of Fire Commissioners Report 06-041-S Audit Action Plan, 05/02/2006) addressing the concerns of the two audits. In the next two years, the Board of Fire Commissioners, the Department, and LAFD Stakeholders, consisting of labor and other Department organizations, conferred and collaborated to create the framework for the present disciplinary process.

The resulting 2008 Audit Implementation Plan (BFC# 08-026), as approved by the Board of Fire Commissioners, directed the Department to implement many of the Controller's and Personnel Department's recommendations vetted by the Stakeholders. As to the "Complaint and Disciplinary Process", the 2008 Audit Implementation Plan

authorized the creation of the Professional Standards Division (PSD) and the following mandates, among others:

1. All complaints alleging misconduct must be thoroughly investigated.
2. If the investigation sustained one or more of the allegations by preponderance of evidence, propose discipline consistent with the Disciplinary Guidelines;
3. Avoid settling disciplinary actions by lowering the proposed penalty unless changes in the evidence or the investigation required settlement;

These and the other related mandates have created a punitive model of discipline in the Department.

The Department has discussed the need to modify the discipline process with the Commission in the past. Most recently, at the Board of Fire Commissioners' meeting on January 21, 2014, the Board of Fire Commissioners directed the Fire Chief to explore updates to the discipline process approved in the 2008 Audit Implementation Plan to allow the Department to adjudicate minor complaints with other alternatives such as corrective action or training and counseling, even when there is a relevant disciplinary guideline, in conjunction with the Independent Assessor.

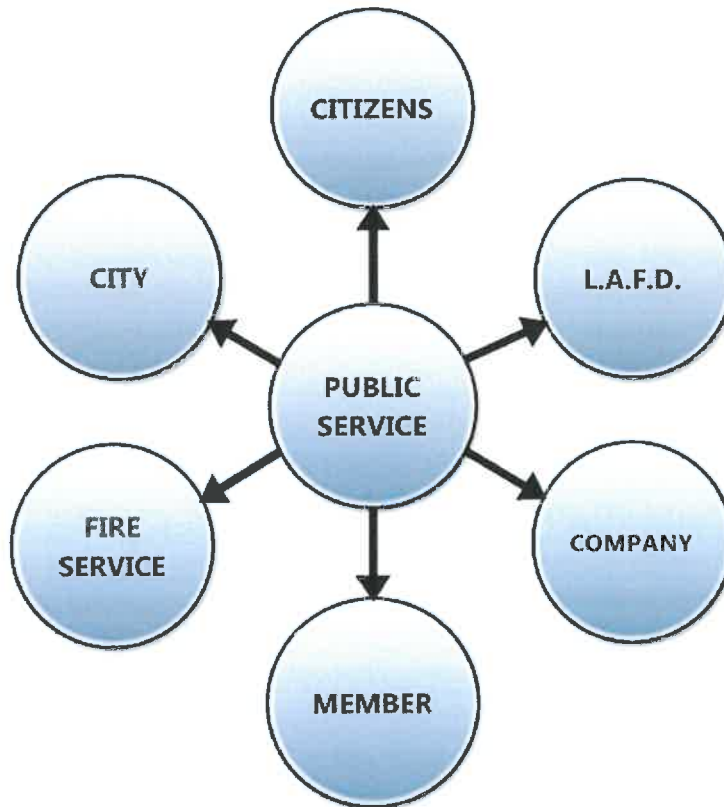
In addition to complying with the Commission's directive on this issue, the Department is also is formulating an Alternative Plan to Discipline and a model that permits settlements of cases, where appropriate.

Public Service Discipline Model

The "Public Service Discipline" model is based on four core concepts and provides the Department with structure in determining the appropriate level of corrective and/or punitive action necessary to modify a member's behavior while maintaining a high level of public service.

- | | |
|----------------|--|
| Concept One: | The Department's first and foremost consideration is maintaining its high level of public service to the City and the public; |
| Concept Two: | The Department's second consideration is to balance the interests of the City, the public, the Fire Service, the Department, its members and the accused member; |
| Concept Three: | Third, the Department strives to use the appropriate level of corrective and/or punitive action that will ensure the delivery of public service and correct the member's long-term behavior to conform to the Department's expectations; |

Concept Four: Finally, in determining the appropriate level of corrective and/or punitive action, the Department considers (1) the harm to the public service; (2) the circumstances surrounding the incident and (3) the likelihood of reoccurrence.



Proposed Modifications to the Discipline Process

1. **Alternative Plan for Discipline:** In most instances where a member fails to follow the Department's policies and rules, corrective action of a non-punitive nature, such as counseling, training or oral warning by the immediate supervisor, may be appropriate. The purpose of corrective action is to (1) educate the member about their actions and the relevant policy, rule or procedure and (2) encourage the member to correct their behavior to conform to the Department's expectations before it becomes significant and enters the formal disciplinary arena. Corrective action allows the member to modify their behavior with supervisory guidance and support without resorting to formal discipline.

Where the member cannot or will not modify their behavior to conform to the Department's expectations or where the nature of the misconduct requires the imposition of formal discipline, punitive action may be necessary.

2. Adjudicate minor complaints with other alternatives such as corrective action or training and counseling, even when there is a relevant disciplinary guideline: The 2008 Audit Implementation Plan mandated that the Department initiate an investigation of all complaints, regardless of the nature and seriousness of the allegations.

Although most complaints will require some investigation, a substantial body of complaints which, with a different process of complaint review by a subject matter expert, can be resolved with directed training which will correct the member's behavior and ensure continued public service. These complaints involve a technical violation of a policy or rule which results in minimal harm. One example is a good faith mistake which violates one of the many EMT or paramedic protocols but does not affect the delivery of patient care.

3. Settle discipline cases, where appropriate: In accordance with the considerations expressed in the public service model of discipline, the Department may settle specific types of disciplinary actions as defined by Department policies, procedures and protocols. The Department will consider several defined and articulated factors in determining if a case is appropriate for settlement. An example of some of these factors is:
 - The degree that the misconduct harmed the public service;
 - The risk of harm to the public service;
 - Whether the proposed settlement will correct the member's long-term behavior to conform to Department expectations and prevent future misconduct;
 - The member's past disciplinary history;
 - The potential for the member's rehabilitation.

CONCLUSION

The Professional Standards Division has been consulting with the Independent Assessor and Fire Commissioners to adopt a public service philosophy and model for discipline. A report will be presented to the Commission with a detailed explanation of each of these proposed modifications at a future meeting.

Board report prepared by Kristin M. Crowley, Acting Commander, Professional Standards Division.