



## Discipline: FPFA

**Educational Memorandum (Record of Counseling)** – A short informational memo describing the situation or behavior and what needs to be addressed and / or changed. Refer to any Lexipol or City of Fairfield Administrative Policies that were violated. This should be signed and dated by the employee. It is to be filed in the Department File for one year. A copy will be given to the employee. These do not activate FFBOR.

**Performance Improvement Plan (PIP)** – A performance improvement plan (PIP), is a tool to give an employee with performance deficiencies the opportunity to succeed. It may be used to address failures, to meet specific job goals or to change or improve behavior-related concerns. The PIP will include: a statement of observable behaviors that demonstrate poor performance; a discussion of what has been done to date to correct the issue; a plan of action, including what needs to be done, what the criteria is for successful completion; a timeline for completion; and what can be expected if successful or unsuccessful completion of the plan occurs. The PIP will be signed and dated by the employee and supervisor. It is to be filed in the Personnel and Department File. A copy will be given to the employee.

**Punitive Action** – FFBOR Government Code 3251(c) any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. Punitive action does not include counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other firefighter.

[FPFA MOU Section 16, Discipline Procedure: Article A; Definitions]

**Mandatory Pre-Interview Notice** – A memo stating that the employee is the subject of an Internal Affair Investigation (IAI). The memo should include the following; case number, who will be conducting the interview, how the interview will be conducted, a brief description of the allegation / policies violated, statement that the interview will be recorded and the employee will have access to recording and transcription, right for representation, advise employee of their rights outlined in FFBOR Government Code Sections 3250-3262, acknowledgement signature by employee and date signed. Employee will receive a copy of the signed memo and the original will be placed in the IAI Case File.

**Mandatory Pre-Interview Notice for Witnesses** – A memo stating the fire department is conducting an investigation, the employee is not a subject of the investigation and is being interviewed solely in the capacity of a witness. As a witness, the employee is not entitled to representation. An employee concerned that they may be more than only a witness should advise management and consult legal counsel. This should be signed and dated by the employee. Employee will receive a copy of the signed memo and the original will be placed in the IAI Case File.

**Notice of Proposed Discipline** – After Internal Affairs Investigation (IAI) is completed by the Support Services Deputy Chief (or their designee), it is referred to the Fire Chief (or their designee) for recommendation. The Fire Chief (or their designee) will prepare a memo to the employee with the disposition, a description of the actions proposed to be taken, a statement of the reasons for such action, including omissions on which the disciplinary action is based and policies violated, a statement advising the employee of the right to respond either verbally, or in writing to the proposed discipline, and a statement that a copy of the materials upon which the action is based is attached or available for inspection upon request.

[FPFA MOU Section 16, Discipline Procedure: Article B; Notice Procedures]

**The Disposition Options available:**

- **Sustained** – The allegation is supported by sufficient evidence to establish that the act occurred and that it constituted misconduct.
- **Exonerated** – Alleged act occurred but was lawful and proper.
- **Unfounded** – Alleged acts did not occur or did not involve department personnel.
- **Not Sustained** – There is insufficient evidence to sustain the complaint or fully exonerate the employee.
- **No Finding** – The complainant failed to disclose information necessary to further the investigation, or wished to withdraw the complaint.

In the event that the investigation determines that there was no misconduct by the employee, the Support Services Deputy Chief (or their designee) shall let the employee know in writing of the outcome as soon as possible.

**Written Reprimands** – A memo with a chronological history of the situation and what actions need to be taken to correct the behavior or actions. Refer to any Lexipol or City of Fairfield Administrative Policies that were violated. This should be signed and dated by the employee. It is to be filed in the Department File for two years. A copy will be given to the employee.

**Appeal of a Letter of Reprimand** – FPFA MOU Section 16, Discipline Procedure: Article C; Appeal of a Letter of Reprimand

**Suspensions, Demotions and Terminations** – A memo with chronological history of the situation, Lexipol and City Administrative Policies violated, and Disciplinary Action to be taken. This should be signed and dated by the employee. A copy of Suspensions, Demotions and Terminations will be placed in the Department File, a copy will be sent to HR to be placed in the Personnel File and a copy will be given to the employee.

**Appeal of Suspensions, Demotions and Terminations** – FPFA MOU Section 16, Discipline Procedure: Article D; Response to a Proposed Disciplinary Action Involving Discharge, Demotion or Suspension, Reduction in Salary, or Involuntary Transfers which Result in a Loss of Pay.

**Who Does FFBOR Apply To?** – Firefighter Procedural Bill of Rights Act (Government Code Sections 3250-3262) Applies to any firefighter employed by a public agency, including but not limited to any firefighter who is a paramedic or emergency medical technician, irrespective of rank. However, firefighter does not include any employee who has yet to complete the probationary period required by their employer as a condition of employment.

**How Much Time Does Management Have to Pursue Disciplinary Action Against a Firefighter?** – Firefighter Procedural Bill of Rights Act (Government Code Section 3242(d) of Firefighter Procedural Bill of Rights Act requires that no punitive action nor denial of promotion on grounds other than merit shall be undertaken against any firefighter for any act, omission, or other allegation of misconduct, if the investigation of the allegation is not completed within one year of the discovery of the allegation by a person otherwise authorized to initiate an investigation.

**Response to Adverse Comments** – This includes Educational Memorandums and Written Reprimands. – Firefighter Procedural Bill of Rights Act (Government Code Section 3256 states employee has 30 days within which to file a written response to any adverse comment entered in his or her personnel file. The written response shall be attached to and shall accompany, the adverse comment.