

		<b>MUKWONAGO FIRE DEPARTMENT</b>  <b>OPERATING PROCEDURES</b>	
Corrective Action		Approved by: Chief Jeffrey R. Stien	
POL #5	Draft Date: Unknown	Revision Date: 4-28-09, 4/24/12	Effective Date: 05/07/12

**PURPOSE:** To establish procedures for maximizing fire fighter and EMS personnel safety when responding and dealing with emergency medical calls.

**SCOPE:** This procedure is to be followed by all officers and members of this department. Authority to deviate from this procedure rests with the Chief of the Department who will be responsible for the results of any deviation.

#### **A. Purpose & General Policy**

The Mukwonago fire Department shall maintain a fair and equitable system to address department member's conduct or work performance. That is either substandard or is in violation of the departments rules, regulations, policies or guidelines.

##### 1. Definitions:

a. Department members are considered as follows:

- Probationary
- Active
- Honorary (*Note, this policy does NOT apply to the Honorary members.*)

b. Misconduct: A violation of the State, Federal Rules and Regulations, Departmental Policies and Guidelines, both written and verbal.

c. Unsatisfactory Work Performance: Failure to meet job standards or performance criteria as specified in the Mukwonago Fire Department Job Descriptions.

- d. Counseling: Counseling is an informal discussion between an officer and a department member for the purpose of performance improvement. It is not considered a part of the formal corrective action procedure. However counseling sessions may be documented and filed in a member's personal record and used for future reference when reviewing corrective action history.
2. Corrective Action, General:
    - a. Department officers are strongly encouraged to periodically review work performance with their members in order to help identify or provide proper course in order to correct any identifiable or potential concerns. That would necessitate formal corrective action.
    - b. If an allegation, complaint or unsatisfactory work performance is filed against a member of the department, corrective action may be initiated. Depending on the severity of the conduct, violation or performance issue and the members past performance, such action may include, but not limited to:
      - Verbal written reprimand
      - Written reprimand
      - Suspension
      - Lowering of Rank (Demotion), and
      - Termination from the Department
    - c. For all corrective action items, the "Corrective Action" form shall be prepared by the initiating officer.
    - d. Corrective action shall require the approval and signature of: one additional member of the command staff, as well as a Chief Grade Officer.

3. Corrective Action Types, Defined

- a. A verbal written reprimand may be issued by an officer to a subordinate for minor infractions of the Departments Policies and/or Guidelines.
  - When a verbal written reprimand is issued, the department member shall be made to understand that the action being taken is a form of corrective action. A written record of the reprimand will be placed into the member's personal file. The member must understand that any reoccurrence of the conduct could result in more formal action.
  - Verbal written reprimands do require the signature of a Chief Grade Officer.
- b. A written reprimand shall be imposed when such action is required as a first step. This penalty is for such violations wherein the department member has been issued previous verbal written reprimands.
- c. Suspension(s) shall be imposed when such action is required as a first step penalty for documented and verified violations. Suspensions may also be imposed for repeat violations wherein the department member has been issued previous written reprimands.
- d. Lowering of Rank may be imposed for serious violations of Department Policies and/or Guidelines when the conduct or work performance demonstrates that the department member is not capable of maintaining their responsibilities.
- e. Termination may be considered for serious violations of Department Policies and/or Guidelines when the conduct or work performance is such that continued employment would represent a significant risk to the Department.

4. Corrective Action, Due Process

- a. Prior to the administration of any corrective action, the Chief, or initiating officer shall classify the conduct based upon facts or evidence. They will then determine which of the offense(s), as listed in the Mukwonago Fire Department Policies or Guidelines manual, is the appropriate classification or statement governing the department member's conduct.

- b. To provide due process and ensure the fair implementation of the corrective process, the reviewing party as referenced above, should be able to answer all of the following questions in the affirmative:
- Did the department member know, or should have reasonably known, that the conduct would have lead to corrective action?
  - Was the rule, regulation, policy, guideline or order violated reasonably related to the orderly, efficient or safe operation of the Department?
  - Before administering discipline, was a good faith effort made to discover if the department member did in fact violate the policies and/or guidelines of the Department?
  - Was the investigation conducted legally, fairly and objectively?
  - Was sufficient evidence or proof obtained to substantiate the allegations against the Department Member?
  - Has the Department applied the policies and/or guidelines fairly?
  - Is the degree of discipline reasonably related to the severity of the conduct, offense and the department member's record?
  - Where any mitigating circumstances present? Where they considered?
  - Has the same degree of discipline been applied to prior incidents of similar conduct?
5. Officers Responsibilities
- a. Prior to the administration of any corrective action, the initiating officer shall review all facts and circumstances of the incident or performance issue, then conduct any investigation that is appropriate.
  - b. The initiating officer shall classify the conduct or issue. The officer shall review the planned course of remedial actions per the due process procedure as referenced in Section 4.
  - c. The initiating officer shall review and recommend penalties for the conduct, based upon the penalties referenced in Section 2.
  - d. Other than a verbal written reprimand, the initiating officer shall review the matter with the next level officer or as appropriate, with a Chief Grade Officer.
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- e. Upon review of all pertinent information, the initiating officer shall complete the letter of corrective action form and obtain all necessary approvals.
  - f. When reviewing the matter with the department member, the initiating officer may request that the next level officer be present. For serious violations of department policies and/or guidelines, the next level officer shall be present for such review.
    - For serious violations the Chief or Chief's designee may be present for such review.
    - The department member that is the subject of corrective action shall be entitled to representation at their request.
  - g. Upon completion of the disciplinary process, the Mukwonago Fire Department will supply written copies to the member and to the member's personal file. Copies will be distributed after the member signs the letter. Refusal by the member to sign the letter does not alter or change the disciplinary process. The member's signature on the letter shall only signify that a given issue was discussed and that the member has been informed of the corrective action.
  - h. Department members may appeal any corrective action through the procedures referenced in the Mukwonago Fire Department Joint Fire Commission.
  - i. The Department will determine the appropriate level of corrective action. This is based on guidelines provided in this policy and the department members past performance. Each situation will be reviewed on a case-by-case basis.
  - j. The Department reserves the right to establish the level of corrective action necessary based on circumstances revealed through the corrective action interview, previous corrective action history, extenuating circumstances, etc. The department has the right to resolve expressed concerns in manners outside of this policy. This action will be on a non-precedent setting basis.
6. Complaint/Misconduct Investigation
- a. Upon receipt of a formal written complaint or information from other sources, all information shall be gathered such as, but not limited to, personal knowledge, observation of misconduct or disobedience of an order. The initiating officer shall, as soon as practical, begin a preliminary investigation to determine if a violation has occurred.
  - b. The officer conducting the investigation shall notify a Chief Grade Officer that such an investigation is in progress.
  - c. The officer shall notify the Member of the complaint or allegation(s).
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- d. The preliminary investigation report, in conjunction with a letter of discipline if appropriate, shall be completed and forwarded to the Chief or Chief's designee as soon as possible. The report shall include a summary of the violation, allegations, all relevant documentation and any specific findings as referenced in Section 8.
  - e. Serious allegations of misconduct require that the Chief be notified in writing, of the circumstances as soon as practical.
  - f. For performance related issues where no specific investigation is required a corrective action letter and supporting documentation shall be submitted.
7. Command Review
- a. Upon receipt of a preliminary investigative report or complaint, the Chief shall:
    - Concur with the findings and order or approve corrective action.
    - Modify corrective action.
    - Remand the matter back to the officer for additional investigation.
    - Relieve the officer of the responsibility of the investigation and appoint a special investigator.
    - Exonerate or dismiss the matter.

8. Investigative Guidelines

These guidelines shall apply to all investigations (regardless of type) involving allegations of misconduct or rules violations.

- a. Interviews of department members shall take place at a reasonable hour and conducted at Station # 1. In addition, the department members shall be afforded the opportunity to have another department member serve as a representative during the interview process. If the department member declines representation, it shall be noted on the investigation report.
  - b. Department members being questioned shall be informed of the nature of the investigation. They will also be provided with sufficient information that will reasonably apprise them of the circumstances and or reasons for the investigation.
  - c. At no time shall the officer or investigator infringe upon the rights of the department member. This is provided for in the United States Constitution, Wisconsin State Statutes and any other Laws or Administrative Proceedings.
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- d. Any investigation that may warrant activity such as searches of personal property or retrieval of department property shall be done only after authorization has been obtained from the Chief and the Local Police Department. All situations involving search or seizure shall be performed in accordance with all appropriate laws and the local Police Department.
9. Investigative Findings
- a. Upon completion of preliminary or comprehensive investigations, which was initiated subsequent to a complaint made against a department member as a result of allegations of misconduct, a complete investigative report shall be prepared by an officer or investigator. Included in such a report will be the findings of the investigation and findings shall be documented as follows:
    - Exonerated: Alleged conduct occurred, but was lawful and proper.
    - Unfounded: Complaint false or without merit.
    - Not Sustained: Insufficient evidence to prove or disprove the allegation.
    - Sustained: Allegation supported by proper and sufficient evidence.
  - b. The findings as specified apply to investigations involving all Department Members.
  - c. The final investigative report shall be submitted to the Chief and reviewed as per section.
  - d. Should any possible criminal charges be considered, the Chief shall present the case to the local Police Department for further investigation.