



ADMINISTRATIVE REGULATION (AR)

CONDUCT, PERFORMANCE AND DISCIPLINE (Revised from AR-00012)

FESSAM #7A.3

Effective: 06/01/2016

I. SCOPE:

This Administrative Regulation applies to all Loveland Fire Rescue Authority ("LFRA") divisions and all LFRA employees, including Regular full-time, Regular part-time, Probationary, Temporary and Seasonal employees. Under no circumstances should this policy be construed to create "for cause" employment for Probationary, Temporary, or Seasonal employees. See the Administrative Regulation "Pay and Employment Decisions" for more information on "for cause" employment.

II. PURPOSE:

This Administrative Regulation ensures that all LFRA employees comply with and understand the standards of conduct and performance expectations, counseling and discipline process, and possible consequences for inappropriate behavior, unsatisfactory work performance, or failure to achieve or maintain minimum job requirements.

III. DEFINITIONS:

- **Serious discipline** refers to any action, *in conjunction with discipline*, which adversely affects an employee's base pay, including terminations, suspensions without pay, demotions and involuntary reductions in base pay.
- **Business days** refers to Monday through Friday, but excludes LFRA designated holidays.
- **Base Pay** refers to the hourly wage for a position's budgeted hours, not including any additional payments such as overtime, benefits, stipends, and/or bonuses.

IV. POLICY:

This policy identifies performance and conduct expectations and discipline measures that are typically used by LFRA. However, it does not preclude pursuing other actions such as performance improvement plans. *Although there is an implied progression in the discipline outlined in this policy, any discipline may be taken at any time depending upon the nature, frequency and/or severity of the problem.* An employee may be issued more than one of the same type of discipline depending on factors such as the nature of the problems, the time period between incidents and the employee's overall employment record.

With the exception of Verbal Counseling, records of any disciplinary action shall be placed in the employee's personnel file in the Human Resources Department for the duration of his/her employment. Copies of these records shall be available to the employee upon request. LFRA will make a concerted effort to maintain the confidentiality of disciplinary records. *However, LFRA may be required by law to release copies of these documents.*

Supervisors are encouraged to review the disciplinary documents contained in their employee's files periodically. If performance or conduct significantly improves, the supervisor is encouraged to acknowledge the improvement in a written memo which will be added to the



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employee's personnel file. While the discipline will permanently remain as a part of the employment record, subsequent discipline may be affected by written feedback provided by the supervisor.

Disciplinary actions that do not adversely affect an employee's base pay or that involve temporary, seasonal or probationary employees, are not subject to the procedures outlined in the Administrative Regulation "Due Process".

Standards of Conduct and Performance

LFRA strives to achieve its vision through employee dedication to its core values of Commitment, Compassion and Courage, focusing on the Four R's of Response, Readiness, Resources and Relationships. Employees are expected to demonstrate these values each day in their LFRA roles.

Examples of performance or conduct that may warrant disciplinary action are listed below. This list is not all-inclusive; other actions similar in kind to those listed and/or that have a negative impact on an employee's performance or the effective functioning of LFRA may result in disciplinary action. Individual departments may have rules of conduct that further describe performance or conduct that may warrant disciplinary action.

- 1) Any official action taken by a LFRA employee concerning any matter as to which the employee has a conflict of interest.
- 2) Any deliberately false statement made on an application for employment or any other form or application submitted to or required by LFRA, or deliberate omission of information that might affect the applicant or employee unfavorably.
- 3) Conduct detrimental to customer service or LFRA operation.
- 4) Unauthorized possession of any property belonging to LFRA, another employee, a customer or visitor, or the unauthorized removal of such property from LFRA premises.
- 5) Improper use of LFRA equipment, property or resources.
- 6) Violation of any federal, state, or local law when the misconduct would interfere with an employee's performance of his/her job or undermine public trust in the integrity of LFRA. LFRA may find a violation of its policies and/or procedures whether or not a conviction occurs.
- 7) Behavior or actions that interfere with a fellow employee in the performance of his/her duties, or that disrupt the operations of LFRA.
- 8) Unauthorized use, abuse or possession of intoxicants, narcotics, or other drugs while on duty as a LFRA employee, except for proper use of medications prescribed for the



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employee by a physician. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited; however, the use of any substance that may adversely affect an employee's ability to perform their job safely must be reported to supervisory personnel in accordance with AR-00039 Drug-Free Workplace.

- 9) Being impaired or under the influence of alcohol or drugs while on duty as a LFRA employee.
- 10) Misusing or damaging property belonging to LFRA, another employee, a visitor or a customer.
- 11) Fighting or attempting bodily harm to another employee, customer, or visitor while on duty as a LFRA employee.
- 12) Unauthorized possession of weapons or explosives on LFRA premises.
- 13) Indecent, vulgar, threatening, insulting, or abusive language or conduct while on duty as a LFRA employee.
- 14) Falsifying LFRA records, documents, and schedules and/or lying about a job-related matter. Failure to accurately record work at all times (including working "off the clock"), falsifying timekeeping or payroll records, or permitting others to do the same.
- 15) Working overtime required to be paid under the FLSA without authorization (except in emergency situations).
- 16) Unauthorized absence from work, failure of employee to communicate with supervisor, excessive unapproved absences, excessive tardiness and/or failure to report to work or call in.
- 17) Sleeping on duty (except when appropriate for 24 hour shift personnel), wasting time or leaving the workplace during working hours without permission.
- 18) Any no call, no show for 2 consecutively scheduled shifts is considered job abandonment and voluntary resignation (exceptions may include emergency FMLA or medical leave).
- 19) Failure to cooperate in a LFRA investigation.
- 20) Failure to report immediately any accident that occurs while on duty as a LFRA employee, or while using LFRA equipment, which results in personal injury or property damage.



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- 21) Violating a safety rule or safety practice, or creating or contributing to unsafe working conditions which includes disabling, destroying or otherwise rendering ineffective any type of safety equipment or security system.
- 22) Smoking in restricted areas.
- 23) Insubordination or refusal to perform work assignments.
- 24) Unsatisfactory work performance.
- 25) Mishandling or unauthorized disclosure of confidential LFRA information.
- 26) Failure to maintain any certification, licensure or credentials that are required for an employee's position with LFRA.
- 27) Failure to maintain a professional appearance, uniform or attire.
- 28) Violation of LFRA's "Violence in the Workplace" Administrative Regulation.
- 29) Violation of LFRA's "Harassment" Administrative Regulation.
- 30) Violation of LFRA operational and/or administrative policies.

As this list is not all-inclusive, any other action by an employee which in the judgment of any supervisor or division manager warrants discipline or discharge and which a reasonable person would expect to result in discipline either because it affects the employee's performance, the effective functioning of LFRA, including other employees, or undermines public trust in the integrity of LFRA.

Basis For Mandate:

- LFRA Employees; Other Provisions Concerning Conflicts of Interest
- Internal governance

V. PROCEDURE:

Typical Counseling and Disciplinary Actions

Verbal Counseling – This is a meeting between the supervisor or designee and the employee which includes a description of the problem, expectations for improvement and potential consequences for failure to improve. Following this discussion, the supervisor or designee will provide the employee with a follow-up memo and provide a copy of the memo to Human Resources.

Written Warning - This is a written warning documenting a performance or conduct problem. The supervisor or designee completes the disciplinary action form, in conjunction with



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Human Resources, and discusses the problem, corrective action and potential consequences for failure to improve. Following this discussion, the form is placed in the employee's file in the Human Resources Department. All employees who receive a Written Warning will be asked to sign the disciplinary action form. If an employee refuses to sign, the supervisor will document the refusal.

Final Written Warning** - This is a written warning documenting a repetitive or serious performance or conduct problem. The supervisor or designee completes the disciplinary action form, in conjunction with Human Resources, and discusses the problem, corrective action and potential consequences for failure to improve. Following this discussion, the form is placed in the employee's file in the Human Resources Department. All employees who receive a Final Written Warning will be asked to sign the disciplinary action form. If an employee refuses to sign, the supervisor will document the refusal.

Suspension with Pay** – May be given in conjunction with a Written Warning or Final Written Warning. The employee may be suspended with pay when: (1) time is needed for LFRA to investigate the facts and circumstances before a disciplinary decision is made; or (2) when a supervisor or designee decides to give an employee time ("decision day(s)") to consider his/her employment with LFRA or to develop plans for improvement.

Suspension without Pay** – May only be given: (1) in conjunction with a Written Warning or Final Written Warning; (2) during an investigation into conduct or poor performance which, would likely result in termination or other serious disciplinary action; or (3) when the supervisor or designee believes the employee, who is facing serious disciplinary action needs decision day(s) to consider his/her employment with LFRA. A *de minimis* suspensions (2 days or less) without pay does not require Due Process, but does require the "Notice and Opportunity to Meet" procedures for Regular full-time and Regular part-time employees as outlined below.

Reduction in Pay** - A reduction in base pay may only be given in conjunction with a Final Written Warning.

Involuntary Demotion** – The involuntary reassignment of an employee to a lesser position. An involuntary demotion may only be given in conjunction with a Final Written Warning and only if an appropriate position is available (a position will not be created).

Termination** – This is a decision to end an employee's work relationship with LFRA as a result of serious conduct or performance issues. The decision to pursue termination procedures are the responsibility of department managers or their designee.

*****Required Process for Supervisors Regarding Disciplinary Action***

A. If the proposed action involves a potential loss of base pay, please refer to LFRA's Administrative Regulation "Due Process".



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B. Termination without a prior Final Written Warning may only be imposed by the LFRA Fire Chief, who shall consult with the Human Resources Director prior to taking action. A Final Written Warning without a prior Written Warning may only be imposed by a division manager or their designee who shall consult with the Human Resources Director prior to taking action. If the Human Resources Director does not agree with the division manager or their designee, the issue will be resolved by the LFRA Fire Chief or his/her designee based on input from both the Human Resources Director and the employee's division manager or their designee.

Discipline Notice and Process

Probationary, Temporary or Seasonal Employees

When a Probationary, Temporary or Seasonal employee has received discipline he or she may dispute the discipline through the Administrative Regulation "Open Doors Program".

If a Probationary, Temporary or Seasonal employee has received serious discipline, he or she is not afforded due process as outlined in the Administrative Regulation "Due Process", but may dispute the serious discipline as above.

Regular Full-Time and Regular Part-Time Employees

When a Regular full-time or Regular part-time employee has received discipline which does not result in a loss of base pay he or she may dispute the discipline through the Administrative Regulation "Open Doors Program".

Serious Discipline Notice and Process

When a Regular full-time or Regular Part-time employee has received serious discipline he or she is afforded the procedures as outlined below.

Notice and Opportunity to Meet

Generally, prior to imposing any serious discipline against an employee, the division manager or his/her designee will provide the employee with:

- Notice of the proposed action ("notice"), which shall include the basis for taking action ("charges"); and
- An opportunity to respond to the charges in an informal meeting.

Jointly, the division manager or his/her designee and the Human Resources Director may determine that more or less procedural protections are appropriate. For instance, in some situations, an employee may be informed of the charges against him/her at the time of the meeting. In other circumstances, an employee may only be provided with an opportunity to respond to charges after serious discipline is imposed.



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Representation at the Meeting

Although the employee may be accompanied by a representative, the employee must speak on his/her own behalf and may not use his/her representative to ask, or respond to, questions.

Decision

The division manager or his/her designee shall submit a written decision to the employee and Human Resources Director within five (5) business days of the meeting. If the division manager or his/her designee needs additional time to consider the decision, he/she shall communicate the need for an extension to the employee and Human Resources Director within five (5) business days of the meeting. The serious discipline will be effective the date when delivered to the employee. For purposes of this policy, a decision shall be considered delivered on the date it is verbally communicated to the employee or, if not communicated verbally, on the date the written decision is mailed to the employee at his/her last known address.

If the decision includes termination, the termination shall act as a suspension without pay until the employee has exhausted the appeal procedure set forth in the Administrative Regulation "Due Process", or fails to avail himself or herself of such appeal procedure within the time allotted below. The suspension without pay shall convert to a termination upon either:

- The expiration of the appeal period, whereas the termination becomes effective the date the decision was delivered; or
- The date in which the hearing officer renders a decision upholding the termination.

For the procedures to appeal a serious discipline, please refer to the Administrative Regulation "Due Process".

Notwithstanding anything in this Administrative Regulation to the contrary, the LFRA Fire Chief shall at all times have the right to impose discipline or serious discipline directly, instead of such action being taken by the employee's division manager or his/her designee. When an employee has received discipline from the LFRA Fire Chief, he/she may dispute the discipline through the Administrative Regulation "Open Doors Program". When the LFRA Fire Chief is considering directly imposing serious discipline, he/she shall follow the procedure set forth in the Administrative Regulation "Due Process" with respect to direct serious discipline by the LFRA Fire Chief.

VI. OTHER RELATED REGULATIONS & PROCEDURES:

Reduction-in-Force	Effective: 1/1/2016
Open Doors Program	Effective: 1/1/2016
Pay and Employment Decisions	Effective: 1/1/2016
Due Process	Effective: 1/1/2016



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Drug-Free Workplace	Effective: 1/1/2016
Harassment	Effective: 1/1/2016
Violence in the Workplace	Effective: 1/1/2016

VII. LFRA FIRE CHIEF SIGNATURE:

Mark Miller, Fire Chief