




# **Pine-Strawberry Fire District Employment Practices 3.9**

<b>Subject: Disciplinary Appeal Procedure</b>	<b>Page: 1 of 8</b>
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<b>Board Chair Signature &amp; Date:</b>  <b>4/17/2025</b>	

## **I. POLICY:**

A. It is the Pine-Strawberry Fire District (PSFD) philosophy and policy that members are afforded due process in relation to disciplinary actions.

## **II. PURPOSE:**

A. The purpose of this policy is to provide PSFD members a procedure to file appeals for 2 types of disciplinary actions:

1. Disciplinary action that does not result in any loss to the member (i.e., verbal warning, written warning, or reprimand).
2. Disciplinary action that results in a loss to the member (i.e., loss of wages, loss of benefits, demotion, or loss of employment).

## **III. SCOPE:**

- A. This policy applies to formal disciplinary actions only.
- B. This policy does not apply to suspension pending investigation.
- C. This policy applies to any formal disciplinary action initiated on or after the effective date of this revision.

## **IV. PROCEDURES:**

- A. Appeals for disciplinary action that do not result in any loss to the member:
1. Issuing supervisor responsibility:

- a. Inform the member of their right to appeal the disciplinary action, above the level of counseling, when issuing the disciplinary action.
- b. Provide the member with a copy of the appeal procedures.
- c. Provide the member with unredacted copies of all documents relating to the disciplinary action.
- d. Inform the member who the next level supervisor the appeal can be filed with.
- e. If the issuing supervisor is the Fire Chief, then the next level supervisor is a 3 member review panel.
  - (1) The review panel members will be made up of 2 PSFD captains and a mutually agreed upon person.
  - (2) The review panel members must be impartial and not involved in the disciplinary action.
  - (3) The Fire Chief will select 1 member of the review panel.
  - (4) The member will select 1 member of the review panel.
  - (5) The third member will be a person mutually agreed upon by the member and Fire Chief.

2. Member's responsibility:

- a. The member may file the appeal to the next level supervisor.
- b. The appeal must be filed in writing, within 10 business days after receiving the disciplinary action, to the next level supervisor above the supervisor who issued the disciplinary action. If the Fire Chief issued the disciplinary action, the member must file the appeal with the Fire Chief and include the name of the 1 review panel member who the member desires to serve on the review panel.
- c. The appeal must include facts related to the disciplinary action, justification for the appeal, and all documents related to the disciplinary action.

3. Supervisor's responsibility:

- a. Must notify the member of receipt of their appeal within 2 business days after receiving the appeal and related documents.

b. Must review the appeal and related documents within 7 business days after receiving the member's appeal and related documents.

c. Must notify the member of their decision within 8 business days and provide a written copy of their decision within 10 business days after receiving the member's appeal and related documents.

4. Fire Chief's responsibility for appeals if the Fire Chief is the issuing supervisor:

a. Must notify the member of receipt of their appeal within 2 business days after receiving the appeal and related documents.

b. Must establish the review panel within 5 business days after receiving the appeal and related documents.

c. Must provide the review panel copies of the written appeal and all supporting documents presented by the member.

5. Review panel's responsibility:

a. Must notify the member of their receipt of the appeal within 2 business days after receiving the appeal and related documents.

b. Must hold a meeting of the appeal panel within 5 business days after receiving the appeal and supporting documents.

c. Must notify the member of their determination in writing within 10 business days of receiving the appeal and related documents and provide a written copy within 14 business days.

d. The review panel's determination can be to affirm, reverse, or modify the disciplinary action.

(1) The review panel determination must be based on facts, evidence, law, District Policy, or SOG's.

f. The determination of the review panel is final.

6. Nature of review panel meeting:

- a. The review panel will maintain order and direct its meeting to a timely and just conclusion.
- b. The meeting shall be informal.
- c. The meeting will be primarily based on the documentaion provided by the issuing supervisor and the member.
- d. The review panel shall allow both the member and issuing supervisor the opportunity to make verbal statements to support their presented documentation.
- e. Technical rules of evidence and court procedures shall not apply, execpt that irrelevant, immaterial, or unduly repetitious material may be excluded.
- f. Evidence protected by the rules of privilege recognized by law may also be excluded.
- g. A recording of the hearing shall be made by electronic or other means.

7. Extenuating circumstances may arise that prevent the issuing supervisor or the review panel from responding within the established time limits.

- a. In such an event, the issuing supervisor or the review panel must notify the member of the delay in writing prior to the expiration of the time limit.
  - (1) The time limit can only be increased by 7 business days for a total of 21 business days.

B. Disciplinary action that causes a loss of wages, loss of benefits, demotion, or loss of employment:

1. Notice of appeal:

- a. The member shall submit a written notice of appeal to the District Board Chairperson (Chairperson), who is responsible for seeing that all processes are followed, or Board Clerk (Clerk) and to the Fire Chief within 10 business days after notation of the disciplinary action.
- b. The notice of appeal shall state the facts upon which it is based, identify the remedy requested, and attach all related documents.

c. If the member does not submit a timely and compliant notice of appeal, the member waives the right to pursue an appeal.

d. Within 10 business days after receiving a timely and compliant notice of appeal, a representative from the Fire Board, or the Fire Chief, will notify the member in writing that the Fire Board will appoint a 3 member Hearing Board.

(1) The Hearing Board will consist of 1 Fire Board member or a third-party selected by the Fire Board and 2 other individuals appointed by the Fire Board to hear the appeal.

(2) The Fire Board has sole discretion on who to appoint to the Hearing Board, although the Fire Board will strive to appoint a Hearing Board who are impartial and not involved in any issues raised in the appeal.

(3) The Hearing Board will select 1 member as the presiding Hearing Officer.

(4) The Hearing Board may employ an attorney for advice upon the hearing and evidence.

## 2. Notice of hearing:

a. If the appeal is filed within the establish time line, the Hearing Officer shall provide a notice of hearing to the member and the Fire Chief, and shall convene the hearing within 20 business days of the date of the notice of hearing.

b. Within 3 business days of receipt of the notice of hearing from the Hearing Officer, the member will inform the Hearing Officer and the Fire Chief how the member intends to be represented at the hearing.

c. The notice shall include the name, mailing address, and telephone number of the representative.

d. Within 5 working days of receipt of the notice of hearing, the member and the Fire Chief shall each provide the Hearing Officer with copies of all documents to be used as evidence at the hearing and a list of witness who are expected to testify.

e. Upon request by the member, the Fire Chief shall provide, at least 5 days prior to the hearing, copies of all records, policies, and other documents that are pertinent to the appeal and subject to disclosure under the Public Records Law, A.R.S. § 39-121 to § 39-124.

3. Nature of hearing:

- a. The Hearing Officer will maintain order and direct the proceedings to a timely and just conclusion.
- b. All testimony at the hearing shall be given under oath administered by the Hearing Officer.
- c. The hearing shall be informal, and technical rules of evidence and court procedures shall not apply, except that irrelevant, immaterial, or unduly repetitious material may be excluded.
- d. Evidence protected by the rules of privilege recognized by law may also be excluded.
- e. If requested by the member, the hearing shall be a public hearing.
- f. A recording of the hearing shall be made by electronic or other means.
- g. The member may self-represent or be represented by legal counsel or anyone else at their own expense.
- h. The Fire Chief may self-represent or be represented by District legal counsel.
- i. If the Fire Chief is the appellant, they will be considered the member.

4. Witnesses:

- a. Each party is responsible for ensuring that its witnesses attend the hearing.
- b. Neither the Board, the Hearing Officer, or the Fire Chief has the power to issue subpoenas or otherwise compel the attendance of witnesses.
- c. Neither party shall be permitted to depose the other party's witnesses before the hearing.
- d. The Hearing Officer may exclude from the hearing room any witness not under examination at that time; however, the Hearing Officer may not exclude the member, the Fire Chief, or their representatives.

5. Continuance of hearing:

- a. The hearing may be continued at the request of either the member or the Fire Chief.
- b. A request to continue the hearing must be submitted to the Hearing Officer in writing at least 5 business days before the scheduled hearing date.
- c. The Hearing Officer shall notify all concerned parties if a continuance is granted.
- d. Failure of the member requesting the appeal to comply with these guidelines, and failure to appear at the time and place of the hearing, may result in dismissal of the appeal.

6. Withdrawal of appeal:

- a. The member may submit a written notice of withdrawal of an appeal at any time before the hearing.
- b. The notice of withdrawal shall be in writing and shall be submitted to the Hearing Officer and the Fire Chief.
- c. Upon receipt, the Hearing Officer shall cancel the hearing and notify all parties involved.
- d. The member may not refile a withdrawn appeal.

7. Settlement of appeal:

- a. The member and the Fire Chief may settle the appeal at any time before the Hearing Board renders its decision.
- b. If the parties reach an agreement, it shall be put in writing and signed by the member and the Fire Chief.
- c. If a settlement is reached, the Fire Chief shall immediately notify the Hearing Officer so the hearing can be cancelled.

8. Hearing Board decision:

- a. Within 10 days after the completion of the hearing, the Hearing Board shall issue its decision in writing and shall forward the written decision to the member and the Fire Chief.

b. The Hearing Board may affirm, reverse, or modify the disciplinary action that was the basis of the appeal.

c. The decision of the Hearing Board shall be supported by a preponderance of the evidence presented during the hearing.

**C. Appeal to the Office of Administrative Hearings:**

1. Upon receipt of the final decision following the process set forth above for disciplinary action that results in loss, the impacted member may file an appeal to the Office of Administrative Hearings (OAH).

2. The member must submit to the Fire Chief written notice of their intent to appeal to the OAH within 5 business days after the member receives the final decision from the Hearing Board, as applicable and as set forth above.

3. The Fire Chief will inform the Fire Board of the member's appeal to the OAH.

4. The member is responsible for contacting the OAH and filing their appeal and requesting a hearing.

5. The procedures for the appeal will be those in effect with the OAH or as otherwise set by the Administrative Law Judge.

6. All costs of the OAH will be the responsibility of the non-prevailing party.

7. The decision of the Administrative Law Judge from the OAH is final, binding, and non-appealable.