



# Pleasant Valley Fire District District Policy



## Progressive Discipline Policy

**Purpose:** To establish policy and guidelines for Pleasant Valley Fire District's progressive discipline policy to identify and address department member discipline related problems. This policy applies to all district members or employees.

Acts of misconduct by any member or employee of the Pleasant Valley Fire District, in its sole discretion, determines what must be addressed by a course of discipline. Disciplinary actions and punishments may include the progressive discipline set forth in this policy. The Pleasant Valley Fire District takes a comprehensive approach regarding discipline and will make every attempt to consider all relevant factors before making decisions regarding discipline.

### **Policy:**

Conduct by a member of the Pleasant Valley Fire District that warrants discipline may fall under the general categories of insubordination or misconduct, which are defined as follows:

- Insubordination, which is defined as:
  - A proven inability to perform the role of an officer or member, poor job performance
  - The physical or mental inability to perform the role of an officer or member
  - Failing or refusing to obey the rules of the department
  - Refusing an order of the Board of Fire Commissioners
  - Failing to carry out the duties of office or membership
  - Sabotaging team or organizational activities
- Misconduct, which is defined as:
  - Behavior or actions that violate the Pleasant Valley Fire District Mission Statement
  - Violation of standards set forth in the "*Pleasant Valley Fire District Policies*"
  - Acting in a manner that brings disgrace upon the district
  - Conduct unbecoming a member of the district, that can be attributed to him/her as a member or an employee
  - Plea to or conviction of a misdemeanor or felony
  - Engaging in harassing conduct of any nature against another volunteer, officer, employee, or Commissioner

Discipline may be issued for conduct that falls outside of those identified areas, if appropriate. Equally important, the Pleasant Valley Fire District need not resort to progressive discipline but may take whatever action it deems necessary to address the issue at hand. This may mean that severe discipline may be imposed depending on the severity or reach of a situation.

Progressive discipline may be issued on district members and employees even when the conduct that leads to more serious discipline is not the same that resulted in less severe discipline. That is, violations of different rules shall be considered the same as repeated violation of the same rule for purposes of progressive action.

### **Discipline of Fire District Members and Employees**

Discipline for members and employees shall be in accordance with New York State General Municipal Law. The Chief Officers of the Pleasant Valley Fire District will notify the Board of Fire Commissioners of any disciplinary actions taken against any Pleasant Valley Fire District member or employee.

Members and employees are held to the highest standards for behavior and job performance. Progressive discipline is the exception rather than the rule for district members and employees.

### **Policy Regarding Discipline Less Than Long Term Suspension or Termination**

The Pleasant Valley Fire District will normally adhere to the following progressive disciplinary process, in situations where the punishment or termination is not sought.

1. **Verbal Caution:** A district member or employee will be given a verbal caution when he/she engages in problematic behavior. As the first step in the progressive discipline policy, a verbal caution is meant to alert the district member that a problem may exist or that one has been identified, which must be addressed. Verbal cautions will be conducted by the District Fire Chief, Assistant Fire Chief, Company Captain in charge. Verbal cautions will be documented and maintained by the District Chief or his/her designee for a period of not more than six (6) months.
2. **Verbal Warning:** A verbal warning is more serious than a verbal caution. A district member or employee will be given a verbal warning when a problem is identified that justifies a verbal warning or the district member/employee engages in unacceptable behavior during the period a verbal caution is in effect. Verbal warnings will be conducted by the District Fire Chief or Assistant Fire Chief and a Fire Commissioner at the discretion of the District Chief. Warnings will be documented and maintained by the District Chief or his/her designee for a period of not less than six (6) months.
3. **Written Warning:** A written warning is more serious than a verbal warning. A written warning will be given when a district member or employee engages in conduct that justifies a written warning or the district member/employee engages in unacceptable behavior during the period that a verbal warning is in effect. Written warnings will be conducted by the District Fire Chief. Written warnings are maintained by the District Fire Chief or his/her designee in a department member/employee personnel file and remain in effect for a period of not less than one (1) year.
4. **Suspension:** A suspension of duty is more serious than a written warning. A district member/employee will be suspended when he/she engages in conduct that justifies a suspension or the district member/employee engages in unacceptable behavior during the period that a written warning is in effect. A district member/employee suspension will be documented and regardless of the length of the suspension issued, will permanently remain in the department member/employee/s personnel file. Suspensions will be determined and executed by the District Fire Chief with notification to the Board of Fire Commissioners.
5. **Decision Making Leave:** Generally following a suspension, a district member/employee will be reprimanded and relieved from active duty for a stated time period. This is intended to help the district member/employee decide whether they should continue to maintain their position within the Pleasant Valley Fire District. If the member/employee returns, they will be expected to work harder than before to follow the Fire District guidelines and continue in their position without interruption. The other option with this leave, is the district member/employee may choose to separate themselves from serving with the fire district. The decisions making leave will be initiated and executed by the District Fire Chief with notification to the Board of Fire Commissioners.

### **Policy Regarding Removal or Termination**

This policy shall govern the removal of a Pleasant Valley Fire District employee, volunteer member or volunteer officer of the Fire District.

District employees, volunteer officer and members of the district shall not be removed by the fire district from office, or membership by such authorities or by any other officer or body, except for incompetence or misconduct, which are defined as follows:

- Insubordination, which is defined as:
  - A proven inability to perform the role of an officer or member, poor job performance
  - The physical or mental inability to perform the role of an officer or member
  - Failing or refusing to obey the rules of the department
  - Refusing an order of the Board of Fire Commissioners

- Failing to carry out the duties of office or membership
- Sabotaging team or organizational activities
- Misconduct, which is defined as:
  - Behavior or actions that violate the Pleasant Valley Fire District Mission Statement
  - Violation of standards set forth in the “*Pleasant Valley Fire District Policies*”
  - Acting in a manner that brings disgrace upon the district
  - Conduct unbecoming a member of the district, that can be attributed to him/her as a member or an employee
  - Plea to or conviction of a misdemeanor or felony
  - Engaging in harassing conduct of any nature against another volunteer or officer

**Temporary Suspension of Volunteers:** The District Chief shall hold the volunteer members and officers of the Pleasant Valley Fire District strictly accountable for neglect of duty and may suspend them for improper conduct, subject to the action of the Board of Fire Commissioners at its next meeting. At the meeting of the Board, the Board may vote to overturn the suspension or to continue the suspension up to one year, or to seek dismissal of the member or officer. If the Board of Fire Commissioners desire to impose a longer suspension up to one year, the board may initiate such proceedings on its own motion.

**Suspended Member Restrictions:** Members who are suspended may not, for the entire period of the suspension, attend any Fire District or Fire Company function other than is related to the affiliated hearing or investigation. Suspended members shall not in any way identify themselves as being affiliated with the district or company, such as by wearing insignia or other marked clothing. Such members may not be present on district’s property or in its vehicles. No benefits or privileges of membership may be exercised. Any violation of this rule shall permit the board to continue the suspension for an appropriate period, up to an additional two months. Nothing shall prohibit a suspended member from exercising any rights available to him/her as a member of the public as if he/she were not a member.

**Hearing Panel:** Either the Board of Fire Commissioners as a body, an officer appointed by the Commissioners, or a hearing panel appointed by the Commissioners, shall serve as the fact-finding panel. The Commissioners, officer or panel shall make a written record as to their findings of fact. No person that has knowledge of material disputed facts to the event(s) in question shall serve on the Board of Commissioners for this purpose or on a hearing panel.

**Notice of Charges:** The Chairman of the Board of Fire Commissioners, or his/her designee, shall provide the member with the notice of charges which provides all charges alleged with specific dates. The charges shall specifically state the charges and the specific conduct in question, as well as any specific rule violated if applicable. The notice and a copy of the charges shall be served personally. Such notice shall provide the member with at least ten (10) days and no more than thirty (30) days’ notice of an administrative hearing. The member shall be advised that it is permitted to submit a written response at any time before the hearing. The notice shall also state the time and place of the hearing and shall advise that the member may be represented by counsel. The notice shall also state the name of the hearing panel members. The member shall be afforded four (4) days from receipt of the notice to object to the members of the hearing panel, but the only reasonable objection is that a member of the committee is biased or was a witness. Upon receiving an appropriate objection which the Chairperson deems reasonable, a new member may be added to a hearing panel, or the individual will be removed from the decision-making body of the Commissioners. There must be at least three (3) remaining Commissioners to vote on the discipline.

**The Hearing:** There may be a prosecutor or officer charged with proving the charges. If no such position is filled, the Commissioners or hearing panel will simply run the hearing. At a hearing, the member will be permitted to present a defense to the charges. The board’s hearing panel will determine what the facts of the incident(s) are and will render a statement of facts for each charge. The member may present proof that could serve to mitigate

any punishment if he desires. A stenographer may be employed to record the hearing if the board, hearing panel or member/officer desires the same.

**The Decision:** The Board of Fire Commissioners shall decide the facts of the matter if no hearing panel was used and shall impose a suitable punishment that bears a rational relation to the offense. If an officer or hearing panel heard the facts of the matter, the record of the hearing shall be referred to the Commissioners for review within ninety (90) days from the close of such hearing along with recommendations for or against the punishment. The Commissioners need only consider the recommendations but need not adopt them. The Commissioners must adopt the statement of facts, however. No Commissioner that was a witness to the material events in question shall vote on this matter or have a voice in the matter. There must be a least three (3) Commissioners voting in favor of any punishment to impose a punishment.

**Suitable Punishment:** A member or officer may be suspended up to but no longer than one (1) year. An officer may be removed from the officer position for the remainder of the term. A member may be removed from membership.

**Appeal of the Hearing by a Volunteer Member or Officer:** A member shall have the right to appeal the hearing in the time permitted and under the procedure permitted by Article 78 of the Civil Practice Laws and Rules (CPLR).

Approved February 8, 2022