

Managing Disciplinary Challenges in the Fire Service

This 2-day program is intended for chiefs and fire officers who may have to investigate misconduct by firefighters, as well as union representatives who may need to advise members during an internal investigation. HR professionals and attorneys who represent fire departments and firefighter unions will also benefit from the program. The course looks at the causes for disciplinary problems and explains proven methods for conducting a fair and impartial investigation. Attendees will learn how to organize and conduct an investigation, interview witnesses, preserve evidence, and find the truth while respecting the honorable service that firefighters provide. The course will also provide an introduction to the professional standards concept, and look at the strategic steps that fire service leaders need to consider when addressing disciplinary issues. Due process, *Weingarten*, and *Garrity* are covered along with the impact of civil service, collective bargaining and firefighter bill of rights laws. The program incorporates numerous case studies pulled from today's headlines.

Course objectives:

Attendees will be able to:

- Identify the role that fire service culture plays in misconduct
- Identify the ten major disciplinary problem areas
- Explain the purpose of discipline and the reasons it often becomes obscured
- Explain the role that bias plays in the discipline process, and the available tools to manage bias
- Distinguish between a bell-curve type disciplinary challenge and an outlier type disciplinary challenge
- Explain how fire service discipline is often binary, and the strategic steps to ensure a fairer process
- Define professional standards and explain the difference between the professional standards philosophy and traditional internal affairs
- Define at will, due process and explain the difference between procedural and substantive due process
- Identify the 7 essential components of procedural due process
- Distinguish between pre- and post-deprivation processes, and explain the role of a *Loudermill* (or *Skelly*) hearing in complying with due process
- Identify the six steps to an ideal professional standards system
- Identify the five steps in the investigation process
- Define the term complaint as it is used in professional standards
- Explain how to organize an investigation and identify the options for referring an investigation internally and externally
- Conduct an interview of witnesses, including the complainant, civilian witnesses, non-accused employees and accused employees
- Explain basic search and seizure principles that apply to administrative investigations
- Explain the need to seek expert assistance for evidence collection
- Explain the *Weingarten* rule, identify when it applies, and explain the best practices for investigators to respect it
- Explain *Garrity* immunity, identify when it applies, and explain the best practices that investigators need to follow
- Explain the importance of using formal admonishments when interviewing employees; identify the four types of admonishments; and distinguish when each type of admonishment should be used
- Explain the role of the investigation report and what the report should include
- Identify the term "firefighter bill of rights" law and identify the states that have such a law

- Distinguish between facts and conclusions
- Define and distinguish complaints, charges, adjudications, and appeals
- Explain the common burdens of proof, and the requirements for just cause
- Explain how to appeal-proof a written ruling on discipline
- Explain the role of a disciplinary matrix and an administrative insight
- Identify when last chance agreements are appropriate
- Explain the best practices for an early intervention program
- Given a factual scenario, be able to develop an investigation plan

Attendees will receive a comprehensive manual and course certificate from Fire Service Legal Training Institute, Inc.

Course contact hours: 14 hours

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Day 1

1. Introduction 9:00-12:00 noon

- Introduction
- Fire and emergency service culture
- Discipline problem: the data and case studies

Professional standards philosophy 1:00 to 2:30pm

- Introduction to professional standards
- 6 steps to implement the ideal professional standards system
- Exercise: Shifting the Bell-Curve

2. Due Process 2:30 to 4:00pm

- Introduction to due process
- Due process: procedural and substantive
- 3 big questions: whether, how much, when
- 7 Essential components of procedural due process
- Substantive due process

3. Process of handling a complaint 4:00 to 5:00pm

- 5 steps in the investigation process
- Complaints and sources of complaints
- Acceptance of complaints
- Preliminary Investigation
- Special reports

Day 2

4. Organizing the Investigation Process 9:00 to 10:00am

- Investigative responsibility
- Internal & external referrals
- Initiation of the investigation

- Responsibility and tracking
 - Notice to complainant and accused
 - Investigation due dates and extensions
 - Developing the investigation plan
5. Evidence 10:00 to 10:30am
- Evidence and evidence handling
 - Spoliation
 - Fourth Amendment concerns
 - Case file
6. Interviewing Witnesses 10:30am to 12:00pm
- Identifying potential witness
 - Planning the interview process
 - Research each witness to be interviewed
 - Order of the interviews
 - Scheduling interviews
 - Representation during interviews
 - Lawyers
 - Weingarten
 - General interview techniques
 - Recording
 - Documentation
 - Admonishments
 - Narrative Based interview
 - Code of silence
7. Interviewing the Accused 1:00pm to 2:30 pm
- Introduction to Garrity
 - Compelled
 - Assured
 - Notice to the Accused
 - Admonishments
 - Interviewing The Accused Employee
 - Strategic considerations
8. Drafting the final report 2:30pm to 3:00pm
- Organizing the report
 - Objectivity and exculpatory evidence
 - Additional Thoughts on the Report
9. Adjudication 3:00 pm to 4:00pm
- Introduction to adjudication
 - Role of Investigators in the Adjudication Process
 - Burden of Proof
 - Just Cause
 - Disciplinary systems
 - Written decisions
 - Corrective Actions
 - Determining the Appropriate Corrective Action
 - Disciplinary Matrix

- Administrative Insight

10. Early Identification Programs: 4:00pm to 5:00pm

- Introduction
- Criteria for Early Identification
- Program Responsibility
- Reporting Formats
- Supervisory Responsibility
- Use of the Early Identification Information
- Summary