

SYLVAN BEACH FIRE DISTRICT  
DISCIPLINE AND ABSENTEEISM POLICY

This policy governs the removal or suspension of a volunteer member of the fire department. This procedure is in addition to and not in place of any action the fire department may take pursuant to its bylaws.

Absenteeism. Members who do not attend at least one meeting or emergency call or fail to complete annual training set by the Board of Commissioners during the previous year, may be removed from the active role. Affected members will be notified by mail and email (if available) and may appeal in writing or at a Board meeting. Removal for absenteeism is an administrative action, not disciplinary.

Members of the department may not be removed by the district from office, or membership as the case may be except for incompetence or misconduct.

Misconduct. Misconduct shall include, but not be limited to:

1. Insubordination.
2. Failing or refusing to obey the rules or policies of the district or department.
3. Refusing a lawful order of an officer.
4. Failing to carry out the duties of office or membership.
5. Acting in a manner that brings disgrace upon the district or the fire department.
6. Plea or conviction of a misdemeanor or felony
7. Engaging in harassing conduct toward any person
8. Any careless or reckless conduct that creates an unsafe condition or causes damage to equipment or public or private property.
9. Any willful or malicious acts that cause damage to property.

Incompetence. Incompetence shall include, but is not limited to:

1. A proven inability to perform the role of an officer or member.
2. The physical or mental inability to perform the role of an officer or member.

3. Gross negligence in the performance of duties as a member or officer on one occasion that is not correctable through training.
4. A demonstrated unwillingness to improve competence through training.
5. Failure to meet the requirements for any position or office as stated in policies.

Short-Term Suspension. Line officers are authorized to suspend a member for insubordination, misconduct at a scene, or actions that could threaten life, safety, or property. The Chief should be notified as soon as possible; after reviewing the underlying facts, they may modify, terminate, or continue the suspension.

At the next Board of Commissioners meeting, the board will review the short-term suspension, which may be terminated or extended up to a maximum of forty-five (45) days.

When appropriate, the Board of Commissioners may initiate and impose a short-term suspension on its own initiative based on a resolution at a meeting. In addition to unsafe acts, this includes violations of District rules, regulations, policies, and state or local laws.

Suspended member restrictions. During their suspension period, members may only attend department functions related to the affiliated hearing or investigation. Suspended members shall not respond to calls and are prohibited from being present on district property or in its vehicles. Any breach of these rules may result in an extension of the suspension for an appropriate duration by the board.

Long-term suspension/removal. When the Board of Commissioners reasonably believes that an act or issue is appropriately addressed by a suspension of more than forty five (45) days or removal from the department, the subject member shall be entitled to due process as described in the procedures below.

Arbitrator. The Board of Commissioners shall retain an Arbitrator from NYS PERB or the American Arbitrators Association when considering a long-term suspension or removal. The Arbitrator will conduct necessary fact finding and hearing(s). The decision reached by the Arbitrator shall be final and binding upon the District and the member. A member may only appeal this decision in the time permitted and the procedures allowed under Article 78 of the Civil Practice Rules and Law.

Notice of Hearing. The Chairman of the board, or a designee, shall provide the member with a Notice of Hearing, served personally, no less than ten (10) days and no more than (30) days prior to the hearing.

The Notice of Hearing shall:

- 1) State the time and place of the hearing
- 2) State the name of the Hearing Officer
- 3) Include a statement that the member shall have four (4) days from service to object to the Arbitrator. The only allowed objection is bias or a witness to the event. Upon receiving an objection that the Chairman deems reasonable, the Arbitrator may be replaced.
- 4) Advise the member they may be represented by counsel
- 5) Include a detailed statement of charges to include:
  - a) Date, time and location of the event
  - b) The policies or rules violated
  - c) Whether the charge is misconduct or incompetence
  - d) Relevant facts

The hearing. There may be an officer or person designated with proving the charges; the burden of proof is the responsibility of the district. At a hearing, the member will be permitted to present a defense to the charges and may cross examine witnesses. The Arbitrator will determine what the facts of the incident(s) are and will render a statement of facts for each charge. The member may present reasons that could serve to mitigate any punishment if so desired. The member may audio tape any proceedings if they desire. Hearings will not be open to the general public.

Suitable punishment. A member or officer may be removed from the department or suspended up to but no longer than one year. An officer may be suspended from office up to one year.

Appeal of the hearing. A member may appeal the hearing in the time permitted and under the procedures permitted by Article 78 of the Civil Practice Laws and Rules.

The adoption of the foregoing resolution or policy was duly put to a vote and upon roll call the vote was as follows:

VOTE

Joe Benedict, Chairman \_\_Yes\_\_

Tom Agans, Commissioner \_\_Absent\_\_

Duane Bloss, Commissioner \_\_Yes\_\_

Chad Brinck, Commissioner \_\_Yes\_\_

Duane Jackson, Commissioner \_\_Yes\_\_

The resolution was thereupon declared duly adopted.

A handwritten signature in black ink, appearing to read 'Molly Marchetti', is written over a horizontal line.

Molly Marchetti

Secretary/Treasurer

Sylvan Beach Fire District

Dated: January 27, 2025