Accountability Rubric

Purpose

PF&R and the Union are committed to the highest levels of service, safety, integrity, transparency, and accountability in carrying out the duties required of the members of PF&R. However, sometimes members do not uphold these principles and require actions to address behavior that does not uphold the values, rules, and policies of PF&R. This Accountability Rubric is intended to provide clear guidance, both to management and to members, as to how misconduct will be handled, which includes principles of remediation, just cause, and progressive discipline. The intent of the PF&R and the Union is that this Rubric be construed in a manner which is consistent with these principles and the constitutional rights of members. Adoption and use of this rubric shall not operate as a limitation on the Union's ability to raise any issues of just cause in grievances and arbitration.

Concepts

After an investigation concludes and it is determined that a member has engaged in misconduct, the severity of that misconduct will be analyzed. Generally, less serious misconduct will be subject to lower levels of discipline than more serious misconduct.

Discipline may be increased if the member has engaged in behavior demonstrating a lack of accountability, has several rule violations stemming from one investigation, has a history of rule violations generally, or of coaching/counseling about the same kind of behavior.

Discipline may be decreased if the member has taken accountability for their misconduct or has a clean disciplinary history. PF&R also values keeping good employees and ensuring they can be successful in their careers, and therefore might offer retraining and remediation to the member in lieu of a portion of discipline imposed.

How to Use the Accountability Rubric

Step 1: Determine the Base Points

The decision-maker (generally, a non-represented manager in the member's chain of command) will analyze the member's rule violation against the Conduct Categories Chart to determine in which category the violation falls. Each category corresponds to a point value, which determines the level of discipline. The decision-maker will rely primarily on the category description to help identify the correct category and may consult the examples to help make a decision.

If the member has multiple violations, the decision-maker will analyze each rule violation against the Conduct Categories Chart and determine in which category each violation falls. The rule violation with the highest category will be used for the point value, and one additional point shall be added to account for the multiple violations.

For example:

> Allegation 1 involves the member being rude to a patient and is assigned 1 point. Allegation 2 involves a disclosure of confidential information and is assigned 3 points. Allegation 3 involves the member failing to complete the required documentation for a call and is assigned 2 points.
>
> Allegation 2 falls in the highest category. Therefore, 3 points are used as a starting point to determine the level of discipline. One point is added for the additional allegations, for a total of 4 points.

Step 2: Adjust the Points for Prior Discipline

The decision-maker then will look at the member's history of discipline. One point will be added if the member has any prior history of discipline (oral reprimands, written reprimands, suspensions, or demotions), no matter how many prior disciplines the member has. No points will be added if the member has never been previously disciplined (even if the member has prior coaching or counseling).

Step 3: Adjust for Aggravating and Mitigating Factors

Using the Aggravating and Mitigating Factors Chart, the decision-maker shall determine which listed aggravating and mitigating circumstances exist in the investigation, the member's personnel file, and (in the case of imposed discipline) the due process meeting. Mitigating factors are assigned a negative value, and aggravating factors are assigned a positive value.

The value of each found aggravating and mitigating factor shall be added together to determine a total aggravation/mitigation score.

If total aggravation/mitigation score is less than 0, then the discipline shall be mitigated by one point. If the aggravation/mitigation score is greater than 0, then the discipline shall be aggravated by one point. If the aggravation/mitigation score is equal to or less than -5, the decision-maker may, at their discretion, mitigate the discipline by an additional point, for a total of two points. If the aggravation/mitigation score is equal to or greater than 5, the decision-maker may, at their discretion, aggravate the discipline by an additional point, for a total of two points.

Step 4: Determine Corrective Action

The following total points, after totaling the base score, the additional points for previous discipline, and the aggravating/mitigating points, equal the following levels of corrective action:

1 = Coaching/Counseling (non-disciplinary)

2 = Oral Reprimand

3 = Written Reprimand

4 = 1- to 3-day suspension without pay*

5 = 3- to 5-day suspension without pay* and/or demotion

6 = Termination

If the Accountability Rubric produces a corrective action result that is not in keeping with principles of just cause and/or progressive discipline, the decision-maker may choose discipline that is in keeping with principles of just cause and progressive discipline. Should the decision-maker choose to adjust the corrective action result from the Accountability Rubric, they must draft a memorandum describing in detail the reasons for the decision. The memorandum will be addressed to the decision-maker's immediate supervisor and filed with the corrective action letter.

---

* Suspensions are based on a suppression-schedule workweek. If an employee works a 40- or 42-hour schedule, the equivalent number of hours to equal the same dollar amount for the suspension under a suppression schedule shall be imposed. The employee on a 40- or 42-hour schedule will be permitted to return to work or use a partial day of vacation to cover partial day suspensions as a result of the conversion from a suppression schedule. For example, if a member is given a 2-day suspension, and they are paid at the top-step firefighter rate, the financial cost of the suspension is $1593.60 (48 hours x $33.20 [suppression schedule rate]). The equivalent number of hours for a 40-hour schedule would be 37 hours ($1593.60 / $42.90 [40-hour schedule rate]).

Education-Based Alternatives

PF&R places high value on accountability, retraining, education, and continuous improvement for its members, and believes the accountability process should include opportunities for improvement as well as discipline. Therefore, management, at its discretion, may offer members education-based alternatives (EBAs) to the member's discipline. Nothing in this section limits management's discretion to assign similar types of training and education *in addition to* discipline received by the member.

EBAs are subject to the following conditions:

- For oral and written reprimands, management may elect to substitute four hours or eight hours, respectively, of EBAs to the member. The reprimand will be held in abeyance for the member to complete their EBAs, and upon completion, the level of discipline will be decreased by one level (e.g., an oral reprimand will be reduced to a counseling, and a written reprimand will be reduced to an oral reprimand). The member shall have three months to complete their EBAs assigned by management for oral and written reprimands.
- For suspensions, management may elect to substitute up to 50% of a suspension for EBAs. The member shall serve the portion of their suspension not subject to EBAs as scheduled by management. The balance of the member's suspension shall be held in abeyance for the member to complete their EBAs. The member shall have six months to complete their EBAs assigned by management for suspensions and may obtain a three-month extension from management for good cause.
- For demotions, management may elect to substitute up to 120 hours of EBAs in lieu of a permanent demotion. While completing the EBAs, the member will be placed in their demoted classification. After completing the EBAs, the member will be provisionally reinstated to their previous classification for 12 months and issued a written description of the expectations, performance, and behavior they are expected to model, consistent with the expectations of the member's reinstated classification and reasons for discipline. The member's progress in achieving the written expectations shall be monitored by their deputy chief or designee. Management retains discretion to permanently demote the member during their provisional reinstatement if the member does not meet the written expectations. After successfully completing the 12-month provisional reinstatement, the member will be permanently reinstated. The member shall have nine months to complete their EBAs assigned by management for a demotion and may obtain a three-month extension from management for good cause.
- For terminations, management may elect to substitute up to a 10-day suspension, 160 hours of EBAs, and a three- to five-year last chance agreement in lieu of termination. The member shall have nine months to complete their EBAs assigned by management for a termination and may obtain a three-month extension from management for good cause.
- EBAs may be completed during the member's leisure time while working a suppression schedule, during the member's work time if assigned and scheduled by management, or on the member's own time. The member shall not be entitled to overtime to complete their EBAs.
- If the member fails to timely complete their EBAs, the member's original discipline shall be imposed.
- The member may decline to accept management's offer of EBAs.

EBAs shall be related to the policy violation with an emphasis on education, training, rehabilitation, and other creative interventions to promote a positive change and avoid employee embitterment. Such assignments may include, but are not limited to, any of the following, as determined by management:

- Classes, trainings, conferences, seminars, or other similar education opportunities (for example: leadership training, Equity 101, one-on-one HRAR 2.02 training, anger management classes, communication skills classes, implicit bias training, etc.)
- Skills retraining at Training Division

- Self-study with a written and oral report presented to management
- Use of EAP or health insurance benefits for counseling (only if requested by the member)
- Working with a substance abuse professional (only if requested by the member)
- Mentorship or peer instruction
- Mediation and/or facilitated discussions to resolve interpersonal issues
- Work projects focused on the area(s) for improvement

Management's exercise of discretion regarding EBAs shall be subject to the duty of good faith and fair dealing and shall not be exercised in a manner which is discriminatory, retaliatory, or arbitrary or capricious. Grievance timelines for discipline shall be extended and commence once Management has made its determination regarding completion of EBAs.

Accountability Rubric

Step 1	Points for most serious violation, as determined by Conduct Categories Chart.		
	If additional allegations, add one point.		
	Total for Step 1		
Step 2	If the member has a prior history of any discipline (oral reprimand, written reprimand, suspension, or demotion), add one point.		
	Total for Step 2		
Step 3	Pick One:	Aggravating/Mitigating Factors Chart is less than 0? Subtract one point. – OR –	
		Aggravating/Mitigating Factors Chart is greater than 0? Add one point. – OR –	
		Aggravating/Mitigating Factors Chart equals 0? No points added.	
	Pick One: (Discretion)	Aggravating/Mitigating Factors Chart is equal to or less than -5? Subtract one additional point, at management discretion. – OR –	
		Aggravating/Mitigating Factors Chart is equal to or greater than 5? Add one additional point, at management discretion.	
	Total for Step 3		
Step 4	**Total points for Step 1, 2, and 3.**		
	1 point	Coaching/Counseling (non-disciplinary)	
	2 points	Oral Reprimand	
	3 points	Written Reprimand	
	4 points	1- to 3-day suspension	
	5 points	3- to 5-day suspension and/or demotion	

	6+ points	Termination

Conduct Categories Chart

	Category Description (START HERE) Conduct in violation of one or more City or PF&R policies that involves:	**Specific Examples** A non-exhaustive list of example misconduct; rely on the description of the category to define conduct.	**Points**
Category A	**<u>A violation of a policy which has minimal impact on operations; the safety of the public or others; relationships with the public or others; or the professional image of PF&R.</u>** Conduct which falls under this description includes but is not limited to: (1) a quality-of-service issue; (2) minor discourtesy; (3) minor or inadvertent failures to protocols which does not result in any harm	- Minor rude, inconsiderate, or unprofessional behavior - Minor or inadvertent failures to follow procedures which do not result in any harm	1
Category B	**<u>A violation of policy which has a foreseeable risk, or actual impact, on operations; the safety of the public or others; property; relationships with the public or others; or the professional image of PF&R.</u>** Conduct which falls under this description includes but is not limited to: (1) minor property damage or loss; (2) discourteous, rude, or unprofessional behavior; (3) procedural violations that impact operations or safety	- Failure to write required reports - Failure to perform job duties which does not impact quality of call service, such as house chores and administrative duties - Rude, inconsiderate, or unprofessional behavior which negatively impacts relationships with others (e.g., degrading language, raised voices or shouting inappropriate for context)	2

Category C	**<u>A violation of policy which has a significant foreseeable risk, or significant actual impact, on operations; the safety of the public or others; property; relationships with the public or others; or the professional image of PF&R.</u>** Conduct which falls under this description includes but is not limited to: (1) major property damage or loss; (2) discriminatory or harassing behavior based on protected class status; (3) conduct which is unintentional or negligent but carries a significant risk of harm; (4) inadvertent misuse of City resources; (5) inadvertent or negligent disclosure of confidential information	- Violations of HRAR 2.02 or 2.04 - Disclosing confidential information with unsafe technology practices - Negligent destruction of expensive City-owned equipment	3
Category D	**<u>A violation of policy which is substantially contrary to the values of PF&R or substantially interferes with or has an impact on operations; the safety of the public or others; property; relationships with the public or others; or the professional image of PF&R.</u>** Conduct which falls under this description includes but is not limited to: (1) conduct which is intentional or reckless and carries a significant risk of harm; (2) a serious lack of integrity, ethics, or character related to an employee's fitness to hold the position of fire fighter; (3) unethical behavior for personal gain; (4) insubordination; (5) retaliation; (6) controlled substance abuse (excludes offenses covered under Article 36); (7) discriminatory or harassing conduct based on protected class that is egregious, aggravated, or extraordinary	- Intentional abuse or misuse of City resources - Theft of City resources, public resources, or other employees' possessions - Failure to follow a direct supervisory order - Use of racial slurs and epithets - Unwanted sexual touching	4

Category E	**<u>A violation of policy which constitutes a willful disregard of PF&R values or substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law</u>**. Conduct which falls under this description includes but is not limited to: (1) a felony crime conviction; (2) domestic or workplace violence or threats of violence; (3) dishonesty that impairs faith in the member's integrity or which impacts the member's ability to perform their job functions; (4) public corruption for monetary gain; (5) gross abuse or misuse of authority; (6) job abandonment (3+ days no call/no show or unexcused unavailability)	- Conviction of crimes such as domestic violence, assault, illegal possession of a firearm, etc. - Dishonesty in application or background investigation - Serious violations of ethics	5

Aggravating/Mitigating Factors Chart

Mitigating Factors	**Value**
Unintentional conduct	-1
Self-reported violation	-1
Attempt to ameliorate or correct conduct (when not done as an attempt to conceal conduct)	-2
Positive attitude; accepts responsibility	-3
Motivated by public interest or well-being of others	-1
First time offense	-2
Any oral or written reprimands in the member's discipline history are older than five years with no subsequent misconduct	-1
Any suspension or demotion in the member's history are older than 10 years with no subsequent misconduct	-1
Total Mitigating Factor Value (negative score):	
Aggravating Factors	
Intentional conduct	+2
The conduct is undisputed, but the member does not accept responsibility	+1
Attempt to conceal conduct	+2
Motivated by personal interests	+1
Prior coaching, counseling, discipline, or other notice to employee for same or similar conduct	+2
Supervisory position	+1
Two or more incidents of discipline within previous five years	+1
Total Aggravating Factors Value (positive score):	
TOTAL (Mitigating plus Aggravating Values):	