

# Exhibit A

## 33.052 Firefighter Bill of Rights

(A) Purpose. The purpose of this ordinance is to formally establish a firefighter bill of rights. The bill of rights provides basic protections for the firefighters regarding personnel disciplinary and promotional actions.

(B) Definitions. As used in this ordinance:

- (1) "Firefighter" means a public servant vested by law with the primary duty of fighting fires and providing fire protection services to a municipality;
- (2) "Formal proceeding" means a proceeding heard before any officer, committee, or other body of municipal government with the authority to take disciplinary action against a firefighter; and
- (3) "Official departmental charges" means a written document from the fire chief or other lawful authority notifying the accused firefighter that charges of misconduct have been made and setting forth the specifics of the alleged misconduct.
- (4) "Pre-disciplinary Hearing" is a brief, formal meeting where the firefighter has an opportunity to respond to proposed disciplinary action before it is finalized.

(C) Disciplinary proceedings. When a firefighter is under investigation for alleged improper conduct with a possible result of termination, demotion, or other disciplinary action causing loss of pay or status, the following minimum standards may apply:

- (1) Adverse inference shall not be drawn and no punitive action shall be taken from a refusal of the firefighter being investigated to participate in the investigation or be interrogated other than when the firefighter is on duty or is otherwise fully compensated for the time spent in accordance with municipal and departmental overtime policy, state law, and federal law.
- (2) An interrogation of a firefighter shall take place at:
  - (a) The office of those conducting the investigation;
  - (b) The place where the firefighter reports for duty; or
  - (c) Another reasonable place as the investigator may determine.
- (3) The firefighter being investigated shall be informed at the commencement of his or her interrogation of:
  - (a) The nature of the investigation;
  - (b) The identity and authority of the person or persons conducting the investigation; and
  - (c) The identity of all persons present during the interrogation;
- (4) During the interrogation of the firefighter, questions will be posed by or through only one (1) interrogator at a time.

- (5) An interrogation of a firefighter in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the firefighter.
- (6) No threat, harassment, promise, or reward shall be made to a firefighter in connection with an investigation in order to induce the answering of any questions that the firefighter has a legal right to refrain from answering, but immunity from prosecution may be offered to induce such a response.
- (7) Interrogations
  - (a) An interrogation of a firefighter in connection with an investigation against him or her shall be recorded in full.
  - (b) The firefighter may make his or her own independent recording of the interrogation and have one (1) witness of his or her choosing present who shall be:
    - (i) An attorney; or
    - (ii) A member of the fire department who is not related in any way to the matter under investigation;
- (8) A formal proceeding with the authority to administer disciplinary action against a firefighter shall not be held unless official departmental charges are brought;
- (9) Notice of charges.
  - (a) Official departmental charges shall contain the:
    - (i) Specific conduct that is alleged to be improper;
    - (ii) Date and the approximate time of the alleged misconduct;
    - (iii) Witnesses whose information provided the basis for the charges; and
    - (iv) Specific rules, regulations, orders, or laws alleged to have been violated.
  - (b) If additional potential violations or witnesses emerge during the investigation, a supplemental notice of charges shall be issued to the firefighter as soon as practicable.
- (10) Predisciplinary hearings
  - (a) A firefighter under official departmental charges is entitled to a pre-disciplinary hearing before the fire chief, if a disciplinary action is being considered.
  - (b) The firefighter may have one (1) witness of his or her choosing present at the hearing; the witness shall be:
    - (i) An attorney; or
    - (ii) A member of the fire department who is not related in any way to the matter under investigation;
  - (c) The pre-disciplinary hearing occurs following the conclusion of the investigation

- (i) The department makes a tentative disciplinary recommendation.
    - (ii) The firefighter receives notice and attends the pre-disciplinary hearing.
  - (d) The pre-disciplinary hearing provides an opportunity to:
    - (i) Notify the employee of proposed discipline.
    - (ii) Outline the circumstances or findings that support disciplinary action.
    - (iii) Allow the firefighter to explain, present mitigating facts, or dispute the findings.
  - (e) After the pre-disciplinary hearing, the department finalizes its decision and administers the disciplinary action.
  - (f) Notification of personnel action. Except under exigent circumstances, a firefighter shall be notified of the pending action by written official departmental charges a reasonable time before the action is taken when a personnel action may result in a loss of:
    - (i) Pay;
    - (ii) Benefits; or
    - (iii) Status.
- (11) A formal proceeding under which a firefighter may be penalized shall not be brought except upon charges signed by the person making those charges.

(D) Disclosure not required for promotion or assignment. A firefighter shall not be required to disclose any of the following information as it relates to the firefighter or a member of the firefighter's household for the purpose of promotion or assignment:

- (1) An item of his or her property;
- (2) Income;
- (3) Assets;
- (4) Debts; or
- (5) Expenditures.

(E) Participation in political activities. Except when on duty or acting in his or her official capacity, a firefighter of a municipality shall not be:

- (1) Prohibited from engaging in political activity; or
- (2) Denied the right to refrain from engaging in the political activity.

(F) No retaliation for exercise of rights; Other legal remedies.

- (1) A firefighter shall not be penalized or threatened with a penalty for exercising his or her rights under this subchapter.
- (2) This subchapter is not an exclusive legal remedy for a firefighter with

respect to any rights a firefighter has under this subchapter.

- (3) Retaliation against an employee who, in good faith, reports a concern, participates in an investigation, or cooperates in any inquiry or proceedings is strictly prohibited.