

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

No. 24-cv- 1:24-cv-450

DUSTIN ROBERT JONES,

Plaintiff,

v.

THE CITY OF GREENSBORO and
GREENSBORO FIRE
DEPARTMENT,

Defendants.

NOTICE OF REMOVAL
28 U.S.C. §§ 1331, 1441, 1446
(Federal Question Jurisdiction)

Guilford County Superior Court
State of North Carolina
24CV010949-400

**TO: The United States District Court for the Middle District of
North Carolina**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1441,
and 1446, Defendant The City of Greensboro¹ and the improperly named
Defendant Greensboro Fire Department² hereby remove this civil action from
the Superior Court for Guilford County (Case No. 24CV010949-400), North
Carolina, to this Honorable Court, the United States District Court for the
Middle District of North Carolina, Greensboro Division.

¹ The City of Greensboro's proper legal name is "City of Greensboro."

² The Greensboro Fire Department is not a separate entity capable of being sued under North Carolina law. However, given that it is a named party in Plaintiff's Complaint, Defendants notice, pursuant to 28 U.S.C. § 1441, that the action purportedly against the Greensboro Fire Department is also being removed to this Court. In seeking removal, Defendants do not waive any arguments regarding proper party identification or capacity to be sued.

This Court has original jurisdiction over this action under 28 U.S.C. § 1331 because the face of the Complaint asserts a free speech retaliation claim under the First Amendment to the United States Constitution, pursuant to 42 U.S.C. § 1983. (Compl. ¶¶ 27-42 (attached as Exhibit A to this Notice)). Under 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the Complaint’s related state law claims. Venue is proper in this Court because the United States District Court of the Middle District of North Carolina is the federal judicial district covering Guilford County, North Carolina where the state court action was originally filed. *See* 28 U.S.C. §§ 1441(a), 1446(a); *see also id.* § 113(b).

I. Background

1. Plaintiff is a former member of the Greensboro Fire Department (“GFD”), having served as a firefighter and as a captain of GFD. (Compl. ¶¶ 5, 7).

2. Plaintiff’s employment with GFD was terminated on May 12, 2023 because of, among other reasons, his continued inappropriate use of social media in violation of policy. (Compl. Ex. 3, p. 3; Compl. ¶¶ 9, 11, 17-20).

3. On May 9, 2024, Plaintiff filed a complaint in Guilford County Superior Court captioned *Dustin Robert Jones v. The City of Greensboro and Greensboro Fire Department* (Case No. 24CV010949-400) and had civil

summonses issued as to each Defendant. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint and civil summonses are attached hereto as Exhibit A.

4. In that Complaint, Plaintiff alleges that this termination was in violation of 1) his rights under the First Amendment to the United States Constitution; 2) his rights under Article 1, Section 14 of the North Carolina Constitution; 3) alleged rights under N.C. Gen. Stat. § 160A-169; 4) alleged rights under N.C. Gen. Stat. § 153A-99; 5) his purported right under North Carolina law to not be wrongfully discharged in violation of public policy; and 6) his purported contractual rights under GFD's Directives. (Compl. ¶¶ 27-72). Plaintiff also asserts a standalone purported "cause of action" for punitive damages. (*Id.* ¶¶ 73-77).

II. Grounds for Removal

5. "[A]ny civil action brought in State court of which the district courts of the United States have original Jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." *See* 28 U.S.C. § 1441(a).

6. This Court has "original jurisdiction over of all civil actions arising under the Constitution[or] laws . . . of the United States," 28 U.S.C. § 1331, as

implicated by the face of the Complaint and its claim for relief under the First Amendment pursuant to 42 U.S.C. § 1983. (Compl. ¶¶ 27-42).

7. Plaintiff's first claim for relief is that Defendants violated his "First Amendment Rights to Free Speech As Guaranteed By the First Amendment of the United States Constitution and 42 U.S.C. 1983." (Compl., p. 3). He alleges that "Defendants' actions in limiting the Plaintiff's means of speech, and later terminating the Plaintiff's employment because of his constitutionally-protected speech and political association, abridged his rights to freedom of speech and political association in violation of the First and Fourteenth Amendments of the U.S. Constitution." (*Id.* ¶ 32).

8. This Court thus has original jurisdiction over this civil action as it arises under the Constitution of the United States.

9. This Court also has supplemental jurisdiction over Plaintiff's additional claims asserted under North Carolina state law.

10. "[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form a part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a).

11. Plaintiff's claims under Article 1, Section 14 of the North Carolina Constitution, under N.C. Gen. Stat. § 160A-169, under N.C. Gen. Stat. § 153A-99, for wrongful discharge in violation of public policy, for breach of contract, and for punitive damages, (Compl. ¶¶ 27-77), share a common nucleus of operative fact with Plaintiff's First Amendment claim: his termination from GFD and the events supporting his termination. Those state law claims are so related to his First Amendment claim that they form a part of the same case or controversy.

III. Notice of Removal is Timely

12. Plaintiff's Complaint was filed on May 9, 2024, and the City of Greensboro City Attorney's Office first received a copy of the filed Complaint on or about May 10, 2024.

13. Defendants were officially served May 15, 2024.

14. Accordingly, removal is timely under 28 U.S.C. § 1446(b).

IV. All Defendants Consent to Removal

15. The City and GFD (although a non-independent component of the City and therefore improperly named as a defendant) consent to removal. 28 U.S.C. § 1446(b)(2)(A).

V. Notice to Plaintiff and State Court

16. Pursuant to 28 U.S.C. 1446(d), the undersigned certifies that a copy of this Notice of Removal will be served on Plaintiff and filed promptly with the Clerk of Superior Court for Guilford County.

VI. Non-Waiver of Defenses

17. This Notice of Removal is not intended as an admission of fact, law, or liability. By filing this Notice of Removal, Defendants do not waive any defenses, objections, or the ability to file any motion.

WHEREFORE, Defendants respectfully give notice that the above-styled action pending in the Superior Court for Guilford County, North Carolina, has been removed therefrom to this Court pursuant to its original jurisdiction over claims arising under the Constitution and laws of the United States.

This the 30th day of May, 2024.

/s/ Patrick M. Kane

Patrick M. Kane

N.C. Bar No. 36861

pkane@foxrothschild.com

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Greensboro, NC 27401
Telephone: 336.378.5200
Facsimile: 336.378.5400

*Counsel for Defendants City of
Greensboro and Greensboro Fire
Department*

CERTIFICATE OF SERVICE

This is to certify that the foregoing document was duly served in this action by depositing a copy thereof in the United States mail, first class, postage prepaid, addressed to the following counsel of record:

John G. Kreider
Taylor K. Squires
Kreider Law, PLLC
1175 Revolution Mill Drive, Suite 3
Greensboro, NC 27405
jgkreider@kreider.law
(336) 550-1210

This the 30th day of May, 2024.

/s/ Patrick M. Kane

Patrick M. Kane
Attorney for Defendants

Exhibit A

STATE OF NORTH CAROLINA

GUILFORD

County

RECEIVED

File No. 24CV010949-400

In The General Court Of Justice

District Superior Court Division

Name Of Plaintiff

DUSTIN ROBERT JONES

Address

1175 REVOLUTION MILL DRIVE, SUITE 3

City, State, Zip

GREENSBORO NC 27405

City Clerk's Office

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

VERSUS

Name Of Defendant(s)

THE CITY OF GREENSBORO
GREENSBORO FIRE DEPARTMENT

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

THE CITY OF GREENSBORO
NANCY VAUGHAN-MAYOR
PO BOX 3136
GREENSBORO NC 27402-3136

Name And Address Of Defendant 2

THE CITY OF GREENSBORO
CHRIS WILSON-CITY MANAGER
PO BOX 3136
GREENSBORO NC 27402-3136



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!
¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Jonathan G. Kreider
Kreider Law
1175 Revolution Mill Dr., Suite 3
Greensboro NC 27405

Date Issued

5/9/2024 6:32:24 pm AM PM

Signature

/s/ Phillip Wheeler

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

X

Legal
2 originals: clerks
5/15/24

STATE OF NORTH CAROLINA

File No. 24CV010949-400

GUILFORD County

In The General Court Of Justice
District Superior Court Division

Name And Address Of Plaintiff 1
DUSTIN ROBERT JONES
C/O KREIDER LAW
1175 REVOLUTION MILL DRIVE, SUITE 3
GREENSBORO NC 27405

GENERAL CIVIL ACTION COVER SHEET

INITIAL FILING SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

Name And Address Of Plaintiff 2

VERSUS

Name And Address Of Defendant 1
THE CITY OF GREENSBORO

Name And Address Of Attorney Or Party, If Not Represented
JONATHAN G. KREIDER
1175 REVOLUTION MILL DRIVE
SUITE 3
GREENSBORO NC 27405

Summons Submitted
Yes No

Telephone No. Cellular Telephone No.

Name And Address Of Defendant 2
GREENSBORO FIRE DEPARTMENT

NC Attorney Bar No. 38299 Attorney Email Address

Initial Appearance in Case Change of Address

Summons Submitted
Yes No

Name Of Firm KREIDER LAW Fax No.

Counsel For
All Plaintiffs All Defendants Only: (list party(ies) represented)

Jury Demanded In Pleading Complex Litigation Stipulate to Arbitration

TYPE OF PLEADING

- (check all that apply)
Amend (AMND)
Amended Answer/Reply (AMND-Response)
Amended Complaint (AMND)
Assess Costs (COST)
Answer/Reply (ANSW-Response) (see Note)
Change Venue (CHVN)
Complaint (COMP)
Confession Of Judgment (CNFJ)
Consent Order (CONS)
Consolidate (CNSL)
Contempt (CNTP)
Continue (CNTN)
Compel (CMPL)
Counterclaim (CTCL) Assess Court Costs
Crossclaim (list on back) (CRSS) Assess Court Costs
Dismiss (DISM) Assess Court Costs
Exempt/Waive Mediation (EXMD)
Extend Statute Of Limitations, Rule 9 (ESOL)
Extend Time For Complaint (EXCO)
Failure To Join Necessary Party (FJNP)

- Failure To State A Claim (FASC)
Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
Improper Venue/Division (IMVN)
Including Attorney's Fees (ATTY)
Intervene (INTR)
Interplead (OTHR)
Lack Of Jurisdiction (Person) (LJPN)
Lack Of Jurisdiction (Subject Matter) (LJSM)
Modification Of Child Support In IV-D Actions (MSUP)
Notice Of Dismissal With Or Without Prejudice (VOLD)
Petition To Sue As Indigent (OTHR)
Rule 12 Motion In Lieu Of Answer (MDLA)
Sanctions (SANC)
Set Aside (OTHR)
Show Cause (SHOW)
Transfer (TRFR)
Third Party Complaint (list Third Party Defendants on back) (TPCL)
Vacate/Modify Judgment (VCMD)
Withdraw As Counsel (VDCN)
Other (specify and list e each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

(Over)

24CV010949-400

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24 CVS

GUILFORD COUNTY

DUSTIN ROBERT JONES,)
)
 Plaintiff,)
)
 Vs.)
)
 THE CITY OF GREENSBORO and)
 GREENSBORO FIRE DEPARTMENT,)
)
 Defendants.)

**COMPLAINT and
DEMAND FOR JURY TRIAL**

NOW COMES the Plaintiff, Dustin Jones, by and through his undersigned counsel, Jonathan G. Kreider of Kreider Attorneys at law, and hereby alleges and states as follows:

JURISDICTIONAL ALLEGATIONS:

1. The Plaintiff is a citizen and resident of Guilford County, North Carolina.
2. Defendant City of Greensboro (hereinafter referred to as the "City"), is organized by city charter under North Carolina General Statutes § 160A, with its principal office and place of business in Greensboro, Guilford County, North Carolina. Here it maintains and administers a fire department known as the Greensboro Fire Department (hereinafter referred to as the "GFD" or the "Department").
3. The parties are properly before this Court. This Court has jurisdiction over the parties and the subject matter herein.

GENERAL ALLEGATIONS:

4. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
5. Prior to joining the Greensboro Fire Department, the Plaintiff served his country for five (5) years as a 2nd Class Petty Officer (E-5) in the United States Navy.
6. The Plaintiff was hired by Guilford County to be a Firefighter for the City of Greensboro, Greensboro Fire Department, on January 1, 2007. The Plaintiff was an upstanding employee, and developed an excellent reputation among his colleagues and within his community.

7. The Plaintiff, a decorated firefighter Captain with over sixteen (16) years of service, received numerous accolades for his life-saving efforts and performance while employed by the City, including six (6) Medical Life Save Awards between 2011 to 2022; the American Red Cross "Salute To Heros" award for an off duty life save in N. Myrtle Beach on February 27, 2012; the Greensboro Fire Department Technical Rescue Award for life savings actions taken on January 3, 2016.
8. While employed by the Greensboro Fire Department, the Plaintiff furthered his education by receiving additional training and certification in Aircraft Rescue and Fire Fighting, High Rise Fire Operation, and North Carolina Fire Officer 3.
9. The Plaintiff was unofficially reprimanded on multiple occasions for the speech that he shared on his Facebook page. The Department subjected Plaintiff to an "informal coaching session" regarding his social media usage, on or about March 10th, 2021.
10. On November 18th, 2022, the Plaintiff was called in for a meeting with Maria Hicks-Few and Deputy Fire Chief, Dwayne Church. This meeting was to discuss a social media post where the Plaintiff shared a video of the Guilford County Sheriff, Danny Rogers, expressing his personal, political opinions about the Sheriff, a public and elected official.
11. On February 7th, 2023, the Plaintiff met with Fire Chief G. J. Robinson, III about what was characterized as an "offensive post" made by the Plaintiff on his Facebook page.
12. In both meetings, the Plaintiff was instructed to stop sharing his political views.
13. This instruction has a chilling effect on the Plaintiff and others similarly situated to the Plaintiff.
14. The Plaintiff took these meetings as further evidence that his employment was being threatened if he did not comply with the Defendants' request to cease sharing political speech on his social media platforms.
15. The political speech shared on the Plaintiff's Facebook page was intended to communicate something of value to public discourse, and promote conversation on a public forum. Said posts were shared on the Plaintiff's personal social media platform.
16. The Department did not conduct an official investigation, or produce an investigatory report related to the Plaintiff's allegedly offensive Facebook posts.

17. On May 12th, 2023, the Plaintiff received a termination letter issued by Greensboro Fire Chief G.J. Robinson III is attached hereto and incorporated by reference as “*Exhibit 1.*” Appended to the termination letter are the social media posts in question.
18. The termination letter concluded that the Plaintiff violated Department policies 03.15.05 and 03.15.10, which govern supervisors’ role, responsibilities, and penalties.
19. On May 18th, 2023, the Plaintiff sent a letter of appeal to the Greensboro City Manager. Said letter is attached hereto and incorporated by reference as “*Exhibit 2*”.
20. On May 26th, 2023, the Plaintiff received a letter from the Greensboro City Manager upholding the dismissal. Said letter is attached hereto and incorporated by reference as “*Exhibit 3*”.
21. The Greensboro Fire Department and the City of Greensboro did not follow their own disciplinary procedures in terminating the Plaintiff. They offered no progressive discipline instead opting for termination where it was not warranted pursuant to the Department’s own policies. A true and accurate copy of the Department’s Disciplinary policy, as it existed at the time of the Plaintiff’s Facebook posts, is attached hereto and incorporated by reference as “*Exhibit 4*”.
22. The Plaintiff’s Facebook posts were not affiliated with, or related to, the Greensboro Fire Department or the City of Greensboro in any manner.
23. The Plaintiff’s Facebook posts caused no internal disruption within the Department.
24. The Plaintiff’s Facebook posts did not affect his ability to work with, or get along with, other coworkers.
25. The Plaintiff’s Facebook posts were made while he was off-duty and operating in his individual capacity.
26. Prior to his termination, the Plaintiff successfully performed all duties and responsibilities of his position. His Facebook posts had no impact on his ability to perform or interact with his coworkers.

FIRST CAUSE OF ACTION:

**VIOLATION OF THE PLAINTIFF’S FIRST AMENDMENT RIGHTS TO FREE
SPEECH AS GUARANTEED BY THE FIRST AMENDMENT OF THE UNITED
STATES CONSTITUTION AND 42 U.S.C. 1983**

27. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
28. The First Amendment of the United States Constitution guarantees individuals the right to free speech, of which political speech is highly protected. 42 U.S.C. 1983 shields persons against discrimination by state actors based on the rights guaranteed by the United States Constitution.
29. The First and Fourteenth Amendments of the United States Constitution, via 42 U.S.C. Section 1983, prohibit municipalities like the Defendant from terminating an employee for their constitutionally-protected speech.
30. The First Amendment prohibits the implementation and enforcement of overbroad restriction of public employees' speech, because such overbroad restrictions on speech tend to chill constitutionally protected speech through the Fourteenth Amendment and 42 U.S.C. Section 1983.
31. The Plaintiff's Facebook posts were constitutionally protected forms of free speech, as they were forms of public speech on matters of public concern. Plaintiff's speech on his Facebook page addressed matters that were presently the subject of public attention, related to political, social, and other concerns to the community for purposes of U.S.C.A. Const. Amend. 1; 42 U.S.C.A. § 1983.
32. The Defendants' actions in limiting the Plaintiff's means of speech, and later terminating the Plaintiff's employment because of his constitutionally-protected speech and political association, abridged his rights to freedom of speech and political association in violation of the First and Fourteenth Amendments of the U.S. Constitution.
33. The Defendants, acting in their individual capacity and in their official capacity as city officials, suppressed the Plaintiff's exercise of free speech, particularly political speech.
34. The actions of the Defendants and its agents, representatives, and employees were intentional and in disregard of the rights and sensibilities of the Plaintiff.
35. Upon information and belief, the viewpoints expressed by the Plaintiff on the Plaintiff's social media platform was a substantial and motivating factor which furnished the basis for his dismissal from public employment.
36. As demonstrated by the termination letter attached in *Exhibit 1*, the Plaintiff's termination was improperly motivated based on speculative concerns stated by the Defendants of offending the residents of Guilford County.

37. As demonstrated by the letter upholding dismissal attached in *Exhibit 3*, the Plaintiff's dismissal was improperly motivated and upheld based on the "net effect these posts to dehumanize, delegitimize, disparage and disrespect those who are different from you."
38. The Plaintiff's interest as a citizen in commenting on matters of public concern outweigh the Defendants' interest in promoting an efficient work environment.
39. The termination letter issued by the Defendants lack a sufficient basis to support an inference that the Plaintiff's social media posts negatively impacted his performance as Fire Captain, or negatively impacted efficiency within the Department.
40. The Plaintiff's consistently high-achieving performance history demonstrates his ability to effectively perform and execute his duties as Fire Captain, further promoting efficiency within the Greensboro Fire Department.
41. The enforcement of the Department's policies were overbroad and in violation of the First Amendment because these policies restrict a substantial amount of constitutionally-protected speech without sufficient justification for doing so.
42. As a direct and proximate result of the Defendants' unlawful termination action, the Plaintiff has sustained injuries and damages in an amount in excess of \$25,000.00 including, but not limited to: the loss of earnings, mental and emotional distress, humiliation, and embarrassment.

SECOND CAUSE OF ACTION:

**VIOLATION OF THE PLAINTIFF'S RIGHTS TO FREE SPEECH AS GUARANTEED
BY THE NORTH CAROLINA CONSTITUTION ARTICLE 1, SECTION 14**

43. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
44. Throughout the Plaintiff's employment by the Greensboro Fire Department, the Plaintiff maintained a constitutional right to freedom of speech pursuant to the Constitution of North Carolina, Article 1, Sections 14 and 36.
45. The termination of the Plaintiff's employment from the Greensboro Fire Department was done in violation of N.C. Const. Art. 1, § 14.

THIRD CAUSE OF ACTION:

VIOLATION OF N.C.G.S. § 160A-169

46. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
47. The Plaintiff was a “city employee” as defined by N.C.G.S. § 160A-169.
48. The Defendants restricted Plaintiff’s freedom to engage in political activity by threatening and ultimately taking adverse employment action against the Plaintiff for his protective political speech.
49. As a direct and proximate result of the Defendants’ violation of N.C.G.S. § 160A-169, the Plaintiff has sustained injuries and damages in an amount in excess of \$25,000.00.

FOURTH CAUSE OF ACTION:

VIOLATION OF N.C.G.S. § 153A-99

50. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
51. The Plaintiff was a “county employee” as defined by N.C.G.S. § 153A-99.
52. The Defendants restricted Plaintiff’s freedom to engage in political activity by threatening and ultimately taking adverse employment action against the Plaintiff for his protected political speech.
53. The enforcement of the policies of the Greensboro Fire Department as referenced in “*Exhibit 1*” and “*Exhibit 3*,” conflict with the provisions of N.C.G.S. § 153A-99.
54. As a direct and proximate result of the Defendants’ violation of N.C.G.S. § 153A-99, the Plaintiff has sustained injuries and damages in an amount in excess of \$25,000.00.

FIFTH CAUSE OF ACTION:

**WRONGFUL TERMINATION FOR PARTICIPATION IN LAWFUL
ACTIVITIES**

55. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
56. North Carolina recognizes an exception to the employment-at-will doctrine by identifying a cause of action for wrongful discharge in violation of public policy.

57. Defendants' decision to terminate Plaintiff's employment was in retaliation for Plaintiff's differing political views expressed on his Facebook page, in violation of the public policy of this State and under the Constitution of North Carolina and under the United States Constitution.
58. The Plaintiff has a right to due process of law under the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 19, 35, and 36 of the North Carolina Constitution.
59. Termination of the Plaintiff violates substantive due process rights since it is based upon constitutionally impermissible grounds, further terminating Plaintiff's employment for sharing political speech on his social media platforms.
60. The Plaintiff's termination was done for unlawful reasons and in contravention of public policy.
61. Defendants' actions as herein described, were malicious and in willful and wanton disregard of Plaintiff's rights under the North Carolina Constitution and the United States Constitution.
62. The Plaintiff was directly and proximately injured by Defendants' violations that resulted in the termination of the Plaintiff on May 12, 2023.
63. As a direct result of Plaintiff's wrongful discharge in violation of public policy, has suffered emotional pain, damage to his reputation, loss of compensation and tangible job benefits, and has sustained and will continue to sustain irreparable injury and other damages.

SIXTH CAUSE OF ACTION:

BREACH OF CONTRACT

64. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
65. The Plaintiff was an employee of the Defendants.
66. The Department maintains the Greensboro Fire Department Directives outlining the disciplinary procedure for its employees. See "*Exhibit 4.*"
67. As an employee Defendant has a contractual right to enforce the directives and mandate punishment within its directives.
68. The directives should be enforced equally amongst all employees.

69. In the case at bar, the Defendants used the same or similar conduct to punish the Plaintiff from no punishment within the rubric to Level 5 punishment, the most serious offense level, "Class-D Egregious Offense" resulting in his termination.
70. The Defendants did not use Level 1, 2, 3 or 4 punishment that would not result in his termination.
71. This is a material breach of contract.
72. As a direct result of Defendants' breach of contract, the Plaintiff has sustained injuries and damages in an amount in excess of \$25,000.00.

SEVENTH CAUSE OF ACTION:

PUNITIVE DAMAGES

73. The allegations contained in the preceding paragraphs are incorporated by reference and re-alleged as if fully set forth herein.
74. The Defendants' conduct and described in this pleading outline conduct that is outrageous and aggravated.
75. Alternatively, the conduct described in this pleading outline conduct that is malicious, willful or wanton.
76. The Defendants' conduct is conduct that should be punished for their egregiously wrongful acts and to deter the Defendants from committing similar wrongful acts in the future.
77. The Plaintiff is entitled to punitive damages as a result of the Defendants' conduct pursuant to N.C.G.S. § 1D-1 *et. seq.*

DEMAND FOR JURY TRIAL:

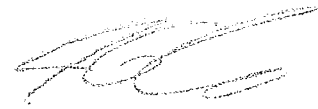
The Plaintiff demands a trial by jury for all issues so triable.

WHEREFORE, the Plaintiff respectfully prays unto the Court for the following relief:

1. That this verified Complaint be received and accepted as an Affidavit of the Plaintiff;
2. That the Plaintiff be granted a declaratory judgment declaring the Defendants' actions unlawful and in violation of the Plaintiff's First and Fourteenth Amendment rights to free speech and free association pursuant to Title VII, 42 U.S.C. § 1983, and Article I Sections 1, and 14 of the North Carolina Constitution;

3. That the Plaintiff be granted a preliminary and permanent injunction reinstating the Plaintiff, and enjoining any further retaliation against the Plaintiff because of, or on the basis of, his constitutionally-protected political speech;
4. That the Plaintiff be granted actual damages in the amount equal to the wages, fringe benefits, and other benefits the Plaintiff lost due to the retaliatory conduct of the Defendants;
5. That the Plaintiff be granted an award of compensatory damages sufficient to compensate him for his mental anguish, embarrassment, humiliation, and damage to his personal and professional reputation as a result of the Defendants' actions;
6. That the Plaintiff be granted an award of punitive damages, as a result of the reckless indifference with which the Defendants violated Plaintiff's right to free speech and political association;
7. That the costs of this action, including the Plaintiff's reasonable attorney's fees, be taxed against the Defendants herein;
8. That the Plaintiff have and recover all other remedies permitted by law, including remedies in equity and in law; and
9. That the Plaintiff be granted such other and further relief as this Court deems just and proper.

This is the 30 day of April, 2024.



Jonathan G. Kreider
NC Bar No: 38299
Taylor K. Squires
NC Bar No: 60346
Attorneys for Plaintiff

OF COUNSEL:
KREIDER LAW, PLLC
1175 Revolution Mill Drive, Suite 3
Greensboro, NC 27405
T: (336) 550-1210
F: (336) 868-2417

STATE OF NORTH CAROLINA)
)
GUILFORD COUNTY)

VERIFICATION

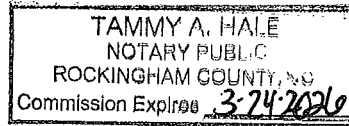
The undersigned, being first duly sworn, deposes and says that:

I am the Plaintiff in the above-styled action, I have read the foregoing **COMPLAINT** and know the contents therein; that the same is true of my knowledge, except as those matters therein set out on information and belief, and as to those matters, I believe them to be true.

This the 30 day of April, 2024.

Dustin Robert Jones
DUSTIN ROBERT JONES

SWORN TO and subscribed
before me this the 30 day
of April, 2024.



Tammy A. Hale
NOTARY PUBLIC

My Commission Expires: March 24, 2026



GREENSBORO FIRE DEPARTMENT

Captain Dustin Jones,

After several informal coaching sessions and even disciplinary action, you have continued the use of social media in a way that does not comport with the policies of the Greensboro Fire Department. As you are aware, we have addressed this issue on three separate occasions since 2021, and we are disappointed that you have continued to violate the policies of the Greensboro Fire Department.

It is important that all employees of the Greensboro Fire Department conduct themselves in a professional and respectful manner, both in the workplace and in their online presence. Your comments and posts on social media have not reflected this standard, particularly in light of your supervisory role within the Fire Department.

We understand that social media is a personal platform, but it is still important to remember that you are a representative of the Greensboro Fire Department, and your actions can reflect upon us. It is the policy and expectation that all employees exercise good judgment and discretion in their online activity.

On March 10, 2021, you were given a Coaching Session for posting photographs to social media from an emergency incident you responded to that involved a residence with apparent "hoarding" conditions.

On November 18, 2022, you were called in for a meeting with Maria Hicks-Few and Chief Church about a social media post where you shared a video of the Guilford County Sheriff and made some critical remarks about the Sheriff.

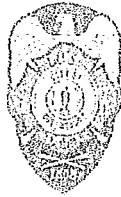
On February 7, 2023, Chief Robinson met with you about an offensive post to your social media, reiterated how these posts are perceived by the residents of Greensboro, and reminded you of our disciplinary policy regarding the use of social media.

In all three meetings, you were asked to stop making posts on social media that are offensive to residents, the Greensboro Fire Department, and the City of Greensboro. It was also reminded that you self-identify as a Greensboro Firefighter on your account because of several photographs you posted in uniform.

Nevertheless, since those meetings you have continued to make offensive posts to social media and to violate policy. As a result of your social media activity, I have determined that the following provisions from Greensboro Fire Department Directive 03.15 have been violated:

3.15.05 SUPERVISORS ROLES & RESPONSIBILITIES

- 2. Always conduct yourself in a manner that positively reflects on you, the department, and the fire service in general
- 4. Support the concept of fairness and the value of diversity, equality and inclusion.



GREENSBORO FIRE DEPARTMENT

5. Avoid situations that would adversely affect the credibility or public perception of the fire service profession.

14. Never discriminate based on age, ethnicity, religion, color, marital status, national origin, familial status, gender or sex, gender expression, gender identity, genetic information, hair texture and hairstyle commonly associated with race or national origin, mental or physical disability, military status, political affiliation, race or sexual orientation.

16. Responsibly use social networking, electronic communications, or other media technology opportunities in a manner that does not discredit, dishonor, or embarrass the City of Greensboro, the Department, the fire service, and the public. Failure to resolve or report inappropriate use of media applications and social websites equates to condoning unacceptable behavior.

The posts have become increasingly offensive and discriminatory, and I have determined your conduct to be egregious to the point that it erodes public trust and negatively impacts or interferes with the day to day operations of the Fire Department. As a result, and in accordance with the following directive, I have made the determinate to terminate your employment, effective immediately:

3.15.010 PENALTIES

4. In instances where an allegation against an employee is so egregious that it erodes public trust and negatively impacts or interferes with the day to day operations of the Department, the Fire Chief may dismiss the employee without following the procedures set forth in this policy or convening a review board. This action is appealable to the City Manager.

As stated in the policy, this decision is appealable to the City Manager.

Chief G.J. Robinson III
Fire Chief
Greensboro Fire Department

Date: Nov 12, 2023

To the Greensboro City Manager,

This letter is my appeal of the decision by Fire Chief G. J. Robinson, III to terminate me.

My name is Dustin Jones. I am a military veteran and, up until April 12, 2023, was a Captain with The City of Greensboro Fire Department with over 16 years of service. I proudly served my country for 5 years alongside some of the best people in the world. I served beside people of different color, gender and nationalities. I served beside those of different religious beliefs, political beliefs and sexual orientation. The color of one's skin or the lifestyle they chose to live did not have affect on how I treated them or the service to our country. We stood beside each other in service to our country. I have also served the City of Greensboro for over 16 years. I have had the honor and pleasure to work for, with and lead men and women of all different walks of life, races, political and religious views. We too stood beside each other in service to our community. When the emergency tones went off, it did not matter in who or what you believed. It didn't matter the color of your skin nor your sexual orientation. We went to work, served the citizens of Greensboro and fought beside one another.

In the Navy I was promoted through the ranks to 2nd Class Petty Officer (E-5) and placed in charge of personnel and equipment on a surveillance aircraft. I served and led with integrity, honor and commitment and was honorably discharged in 2005. In 2007 I was hired by The City of Greensboro Fire Department. Since being hired, I have been awarded with multiple life saves, technical rescues and awarded medals from the American Red Cross and Woodsmen of America for service to our community. I was also recognized by the City of N. Myrtle Beach and given a lifesaving award for performing CPR on an infant on the beach while on vacation with my family.

I have volunteered on youth ball teams, the youth group at church and at my children's school. I have also served with the NC Baptist Men and been on mission trips to Romania to assist with the orphanages. I was also part of a mission group that collected coats for the homeless in NYC and then traveled there to deliver them on the streets to people in need. My wife and I went through the process of getting licensed by the state of North Carolina in foster care and ultimately fostered a bi-racial brother and sister for over 2 years.

Over the last 2 years, I feel like I have been targeted and made an example of because of my posts on social media. In March of 2021 I posted a picture of a fire scene with my crew, showing no identifying factors to the address or to who may live there. The post was made in showing pride in the job well done by my crew. I was told to take it down and was given a coaching session that is not in my personnel file.

The fire department pays a social media specialist who has taken pictures of emergency scenes specifically to post on the fire department's social media platforms. During COVID, the City of Greensboro Facebook page posted memes stating that to wear a mask showed love and compassion. I took a screenshot of those posts and reposted, stating that just because you don't wear a mask does not mean you are not loving or compassionate. Once again, I was told to remove my post with no reason given and no disciplinary action was taken.

Also, during COVID, the Interim City Manager sent out a city-wide email open to reply where he admitted that both vaccinated and unvaccinated employees could carry catch and transmit the virus. I respectfully replied to his email, addressed it only to him, and asked some questions about the mandate. The Interim City Manager replied back to me answering those questions. Within hours, I received a text from my Battalion Chief asking what game I was playing and I was told I was not allowed to email the Interim City Manager. When asked why, the answer first given was that I just couldn't. I was later told that I had to follow chain of command and I could not go outside the fire department.

In November of 2022 during the reelection campaign, I reposted a video that had been taken of Sheriff Rogers dancing in the streets at the A&T homecoming parade. In that repost, I commented "this is the clown in charge of your public safety". There was absolutely nothing racist about my post and was only my political view that I thought Sheriff Rogers is a joke when it comes to public safety. Someone filed a GSO Cares complaint on me stating my post was racist and I was told to remove my post which I did. I was then called into the Fire Administration Office where I had to meet with Maria Hicks-Few and basically prove myself not to be a racist. I was not told who made the complaint nor given a copy of the complaint. I was then read the definition of clown and told because black people have been called monkeys and monkeys perform in the circus with clowns that my comment was racist. It was also said that because clowns wear heavy makeup it could be compared to a white person dressing up in "black face". Once again, this was an informal conversation and no documentation was created nor any disciplinary action taken.

Then, in February of 2023, I took a screenshot of a headline from Fox News where a young man had been beaten and killed by the Cops in Tennessee. I shared the headline with the comment "will we see another George Floyd situation". According to Chief Robinson, someone took my post to the City Council saying I was trying to incite a riot. He then went to the City Attorney and City HR who could not find fault in the post. Chief Robinson said it was then sent to him and he was told he needed to run it through the fire department policy to see if I had violated any policies. He said he could not find anything wrong with it. During the meeting Chief Robinson told me that I had a target on my back and that I needed to be careful. He stated that he supported my right to free speech but there was an individual or groups of individual out there wanting to see me fired. This again was an informal conversation where nothing was documented and no disciplinary action taken. I was not asked to take down this post. Since then, I have made other posts that were referenced in my termination meeting but were never brought to my attention nor any disciplinary action taking against me for them.

It is in my opinion that I was wrongfully terminated and I am appealing the termination and asking to be reinstated by the City of Greensboro Fire Department to the same rank of Captain. I believe the proper steps laid out in the progressive discipline policy were not followed and that the termination based on egregious behavior is unwarranted. I also believe there is a double standard being held and that others, including, in more than three instances, persons of color, have posted things to their social media platforms while identifying themselves as City of Greensboro employees that would be considered very offensive yet, they have not been terminated.

My job is to fight fires and save lives. Nothing I have posted on social media detracts from my performance. In fact, I believe that I am upholding my obligations as a firefighter. Let me

give you one example -- if it was 1955, and we were living in a "separate but equal South", I believe I would have been very vocal and critical about the horrible injustices of such a system. However, by doing that, I would have been making comments that were offensive to some white people at the time. Would you have supported my termination then?

Respectfully,

Dustin R Jones

③



OFFICE OF THE CITY MANAGER

May 26, 2023

Dustin Jones
5001 Hunters Path Court
Greensboro, NC 27409
VIA Email to: dustinj00@aol.com

Dear Dustin:

I received your appeal of dismissal request dated May 18, 2023. I am writing to respond to your appeal of dismissal from employment. On appeal, I am tasked with the responsibility of reviewing the record in this matter. My decision is based on review of the following: your history in the Fire Department; screenshots of what was posted on your Facebook page (social media); the Fire Department's Directives on Social Media and supervisor conduct; and the numerous feedback and coaching sessions provided to you by your Fire Department Leadership concerning your social media posts. Based on my review, I am upholding the Fire Department's decision to dismiss you from employment.

On appeal you state that you proudly served in the United States Navy with people of many different backgrounds. In addition, you are active in volunteer efforts. You have even opened your home to foster children of a different background from you. I sincerely thank you for these acts of service to our country and our community. My review and decision in no way undermines that service.

Captains serve a critical role in fostering and maintaining a culture of mutual respect in our organization. They have the responsibility of holding their team members accountable for failures to meet this expectation. Just as significantly, leaders are also expected to model respect for others. I find that your dismissal was appropriate because your misuse of social media and disrespectful treatment of others continued despite repeated coaching sessions and opportunities to improve. You were either unable or unwilling to meet the expectations the City of Greensboro has of its leaders.

In 2021, you responded to a structure fire. While there, you took pictures showing hoarding conditions and posted those pictures on a social media platform. You were coached by your

leadership team. You offered that your intention was to not disrespect others. You were directed to review the Fire Department's Social Media Directive and to speak to your team members about the Directive. You signed the coaching document acknowledging that "...if you engage in any misconduct or your duty performance becomes unsatisfactory, you may be subject to further corrective action."

In 2022, the City received an anonymous report to its ethics hotline raising concerns about one of your social media posts. Someone had posted a video of the Guilford County Sheriff participating in North Carolina A&T State University's homecoming parade. You commented "[t]his is the clown in charge of keeping you safe. Freaking Joke." In a comment attached to a separate post about the Sheriff's participation in the parade you stated "I can't reply. I might get my hand smacked." Your subsequent comments on the surface seemed to reveal an awareness of your responsibility to be respectful of others. However, the smiling face emoji you posted alongside of those comments appeared to make light of this responsibility.

Fire leadership met with you in November 2022 about this incident. You were reminded again of your responsibilities surrounding social media. In particular, you were instructed that all employees must uphold the Fire Department's value of respect for an individual and avoid making disrespectful statements about employees, residents, other agencies, etc. Your leadership admonished you to go back to the station and study the Fire Department's Social Media Directive. You were cautioned that they did not want to see similar behavior from you in the future. You conceded that your behavior was wrong and that you should not have made the post.

On February 7, 2023 Fire leadership met with you about yet another disruptive post made to your social media account regarding the killing of Tyre Nichols. Rather than take this coaching to heart you appear to have grown defiant. In the aftermath of that meeting you posted "[t]o those watching me...keep watching..."

In the weeks following, several more of your posts or re-posts came to the attention of your leadership team. These posts contained the language as outlined below and attached.

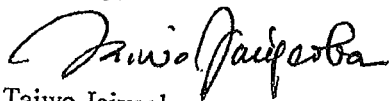
1. If I ever offended you, I'm sorry...that you're a little bitch.
2. Straight Pride, it's natural, it's worked for thousands of years and you can make babies
3. If this is a woman [captioned to a picture of Rachel Levine], this is a fishing pole [captioned to a picture of an assault rifle].
4. You know what's insane...A white person can paint their face black and be accused of being a racist. Yet a man can dress as a woman and be called a hero...[shrug emoji].
5. ...I identify as invisible. I'm TRANSPARENT...My pronouns are who/where?

The net effect of these posts is to dehumanize, delegitimize, disparage and disrespect those who are different from you. Organizational culture is defined in large part by what behaviors are tolerated. We simply cannot tolerate this type of behavior from a leader of this organization.

You claim that there are others who have engaged in similar behavior on social media, but were not dismissed from employment. I questioned Fire leadership about these other cases. I learned that there have been other troubling social media posts from Fire employees. However, those employees received coaching and actually changed their behavior. As I noted earlier, your disrespectful behavior continued despite repeated coaching sessions and reminders.

You self-identify as a member of the Greensboro Fire Department on your social media account as a result of your numerous photos in the assigned uniform. As a supervisor you were a representative of the City. Statements by a supervisor that have the effect of disparaging and disrespecting team members, some of whom are gay, lesbian, bisexual or transgender, interfere with the City's interest in maintaining an efficient operation. For all of these reasons I am upholding your dismissal.

Sincerely,



Taiwo Jaiyeoba
City Manager

Att.: Facebook posts

cc: Personnel file of Dustin Jones

③

11:05



Dustin Rachel Jones

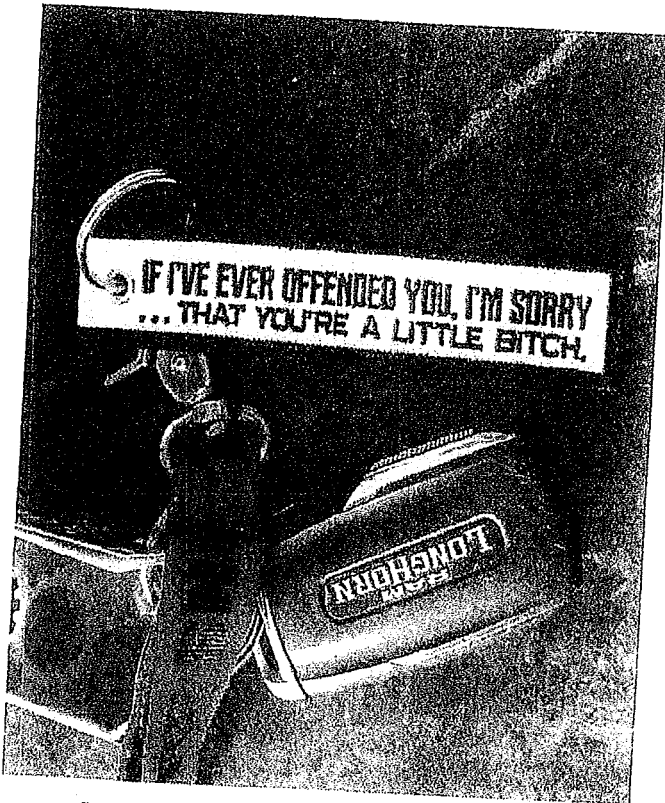


Dustin Rachel Jones

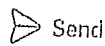
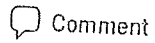
4h · 🌐



Bout right.....



👤 Eric Estep and 19 others



Dustin Rachel Jones shared a memory.

18h · 🌐



Home



Friends



Watch



Marketplace



Notifications

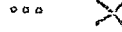


Menu

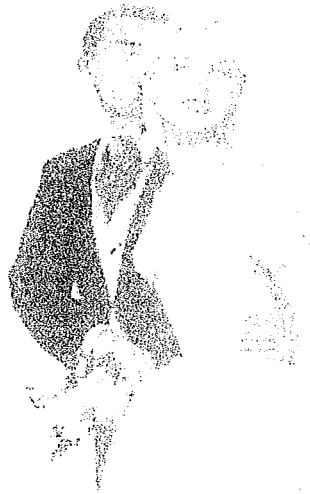
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Dustin Rachel Jones
1d · 🌐



Straight Pride



it's Natural, it's Worked for Thousands of years
and you Can Make Babies

👍❤️🗨️ 76

17 comments

👍 Like

🗨️ Comment

➤ Send



RJ Seiler
Tip toe

Like Reply



Dustin Rachel Jones
RJ Seiler when did we have to start
tip towing around being... See more

Like Reply

8 🗨️

View 2 more replies

3:43

5G E



Dustin Rachel Jones



Dustin Rachel Jones

1d · 🌐



Rita Roehr Cress · Follow

Apr 7 · 🌐

just saying 🗨️ 🗨️ 🗨️



👍 26

2 comments 1 share

👍 Like

💬 Comment

➦ Share



Home



Friends



Watch



Marketplace



Notifications



Menu

6

9:00

5G



Dustin Rachel Jones



INSTAGRAM

1



Like



Comment



Share

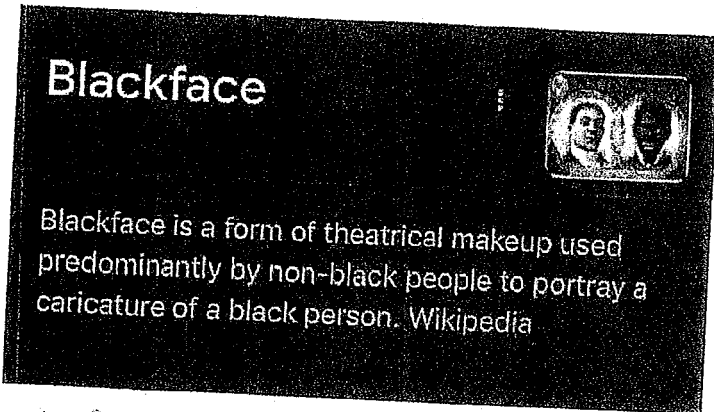
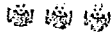


Dustin Rachel Jones

Apr 25 · 🌐



You know what's insane.... A white person can paint their face black and be accused of being a racist. Yet a man can dress as a woman and be called a hero.....



11

8 comments



Like



Comment



Send



Dustin Rachel Jones

Apr 25 · 🌐



Home



Friends



Watch



Marketplace



Notifications



Menu

9:00

5G

INSTAGRAM

Dustin Rachel Jones



Like

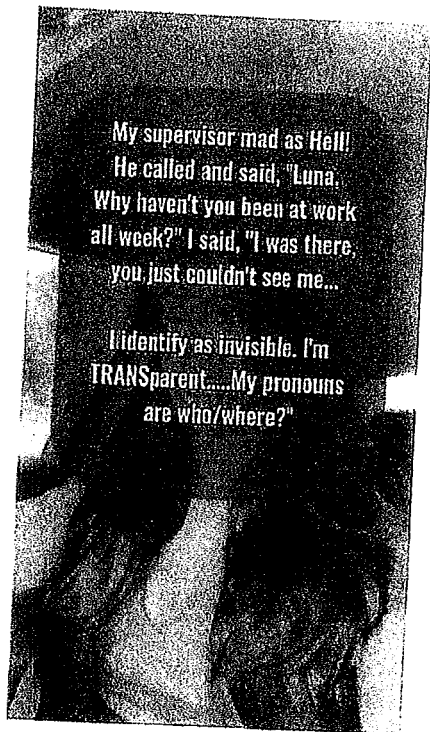
Comment

Share



Dustin Rachel Jones

Apr 25 · 🌐



INSTAGRAM

👍❤️👁️ 10

1 share

Like

Comment

Share



Home



Friends



Watch



Marketplace



Notifications



Menu

Greensboro Fire Department Directives			
Directive 03.15 - Discipline Policy	Article: 2	Section: 3.15	Page 1 of 14
Fire & Emergency Service Self-Assessment Manual Category 7			

3.15.01 PURPOSE AND SCOPE

This policy applies to all Greensboro Fire Department sworn members. Disciplinary action taken against civilian members of the Fire Department shall adhere to the guidelines outlined in the City's Personnel Policy Manual, H-1 Discipline without Punishment (DWP). Corresponding Policies:

- City of Greensboro Personnel Policy Manual
- City of Greensboro Computer/Internet Use Policy
- Greensboro Fire Department Directives
- Greensboro Fire Department GOG's

3.15.02 PROCEDURE

The Greensboro Fire Department expects its personnel to maintain the highest standards and conduct at all times while 'on' and 'off' duty.

3.15.03 PROFESSIONAL CONDUCT

All members should govern themselves by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens and should conduct themselves at all times in a manner as to reflect favorably on the City of Greensboro and the Department.

3.15.04 PERSONNEL ROLES AND RESPONSIBILITIES

1. Conducts oneself in a professional, respectful and courteous manner, on and off duty, to reflect positively on the City of Greensboro, the Department, and the fire service in general.
2. Excellent work habits, including the quality and quantity of work.
3. Maintain satisfactory attendance and arrive to work on time.
4. Abide by all written City and Department rules, procedures, and regulations.
5. Accept responsibility for one's actions and the consequences of those actions.
6. Support the concept of fairness and the value of diverse thoughts and opinions.
7. Avoid situations that would adversely affect the credibility or public perception of the fire service profession.
8. Be truthful and honest at all times and report instances of cheating or dishonest acts that compromise the integrity of the fire service, the Department, and the City of Greensboro.
9. Conduct personal affairs in a manner that does not improperly influence the performance of duties or bring discredit to the organization.
10. Be respectful and conscious of each member's safety and welfare.
11. Maintain proper conduct that does not constitute a violation of State or Federal law or undermines public trust.
12. Recognize that you serve in a position of public trust that requires stewardship in the fair and efficient use of publicly owned resources, including uniforms, facilities, vehicles, and equipment. These are protected from misuse and theft.
13. Exercise professionalism, competence, respect, and loyalty in performing your duties and use information, gained by your position, confidential or otherwise, only to benefit those you serve.
14. Avoid financial investments, outside employment, outside business interests, or activities that conflict with your official position, or have the potential to create the perception of impropriety.
15. Never propose or accept personal rewards, special privileges, benefits advancement, honors, or

Greensboro Fire Department Directives		
Directive 03.15 - Discipline Policy	Article: 2	Section: 3.15
		Page 2 of 14
Fire & Emergency Service Self-Assessment Manual Category 7		

- gifts that may create a conflict of interest or the appearance thereof.
16. Never engage in activities involving alcohol, illegal drugs, inappropriately used prescriptions, over-the-counter drugs, or other chemicals or substances that can impair the performance of your duties and compromise safety.
 17. Never discriminate based on age, ethnicity, religion, color, marital status, national origin, familial status, gender or sex, gender expression, gender identity, genetic information, hair texture and hairstyle commonly associated with race or national origin, mental or physical disability, military status, political affiliation, race or sexual orientation.
 18. Never harass, intimidate or threaten fellow members of the City, the organization or the public. Report the actions of other personnel who engage in such behaviors.
 19. Responsibly use social networking, electronic communications, or other media technology opportunities in a manner that does not discredit, dishonor or embarrass the City of Greensboro, the Department, the fire service and the public. Failure to resolve or report inappropriate use of media applications and social websites equates to condoning inappropriate behavior.

3.15.05 SUPERVISORS ROLES & RESPONSIBILITIES

1. Fully execute and enforce all administrative and operational duties and policies incumbent as a supervisor and/or manager.
2. Always conduct yourself in a manner that positively reflects on you, the department and the fire service in general.
3. Accept responsibility for your actions and the consequences of those actions.
4. Support the concept of fairness and the value of diverse thoughts and opinions.
5. Avoid situations that would adversely affect the credibility or public perception of the fire service profession.
6. Be truthful and honest at all times and report instances of cheating or other dishonest acts that compromise the integrity of the fire service.
7. Conduct your personal affairs in a manner that does not improperly influence your duties performance or bring discredit to the organization.
8. Be respectful and conscious of each member's safety and welfare.
9. Recognize that you serve in a position of public trust that requires stewardship in the honest and efficient use of publicly owned resources, including uniforms, facilities, vehicles and equipment and that these need protection from misuse and theft.
10. Exercise professionalism, competence, respect and loyalty in the performance of your duties and use information, confidential or otherwise, gained by virtue of your position, only to benefit those you are entrusted to serve.
11. Avoid financial investments, outside employment, outside business interests or activities that conflict with or are enhanced by your official position or have the potential to create the perception of impropriety.
12. Never propose or accept personal rewards, special privileges, benefits, advancements, honors, or gifts that may create a conflict of interest or appearance.
13. Never engage in activities involving alcohol, illegal drugs, inappropriately used prescriptions, over-the-counter drugs, or other chemicals or substances that can impair the performance of

Greensboro Fire Department Directives			
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Fire & Emergency Service Self-Assessment Manual Category 7			

your duties and compromise safety.

14. Never discriminate based on age, ethnicity, religion, color, marital status, national origin, familial status, gender or sex, gender expression, gender identity, genetic information, hair texture and hairstyle commonly associated with race or national origin, mental or physical disability, military status, political affiliation, race or sexual orientation.
15. Never harass, intimidate, or threaten fellow members of the City, the organization or the public. Report the actions of other personnel who engage in such behaviors.
16. Responsibly use social networking, electronic communications, or other media technology opportunities in a manner that does not discredit, dishonor, or embarrass the City of Greensboro, the Department, the fire service, and the public. Failure to resolve or report inappropriate use of media applications and social websites equates to condoning unacceptable behavior.

3.15.06 GROUND

No disciplinary action shall be taken without reasonable grounds or cause for such action. The provisions of this section shall apply whenever a sworn member is subjected to an interview, which could lead to disciplinary action:

1. The interview shall take place at a determined off-site facility.
2. No sworn member shall be subjected to an interview without first receiving written notice of sufficient detail of the investigation to reasonably apprise the sworn member of the nature of the investigation.
3. All interviews shall be conducted at a reasonable time of day, preferably when the sworn member is on duty, unless the matters being investigated are of such a nature that immediate action is required.
4. The sworn member under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interviewers, and all persons present during any interview.
5. If a recording of any interview is made, and if a transcript of the interview is made, the sworn member under investigation shall be entitled to a copy of their interview without charge. Such record may be electronically recorded.
6. Nothing in this chapter shall be construed to prohibit the informal counseling of a sworn member by a supervisor in reference to a minor infraction of policy or procedure that does not result in disciplinary action being taken against the sworn member.

3.15.07 MEMORANDUM OF CONVERSATION

The Department acknowledges the existence of, and issues an additional document known as a Memorandum of Conversation, previously termed verbal/written counseling. A Memorandum of Conversation shall remain in the supervisor file only. The document exists to validate that supervisory counseling or an administrative caution was issued to an employee, but does not qualify as formal discipline. (Supervisor's file follows sworn member if transferred)

3.15.08 TYPES OF DISCIPLINE

The disciplinary measures available to supervisors, agency heads, and delegated subordinates shall

be:

1. Oral Reprimand
2. Written Reprimand
3. Suspension
4. Disciplinary Demotion
5. Dismissal

Employees holding the rank of Fire Chief, Deputy Chief, Assistant Chief, Battalion Chief or Company Officer may impose the following disciplinary action penalties against an employee of the Department:

Disciplinary Action	Fire Chief	Deputy Chief	Assistant Chief	Battalion Chief	Company Officer
Oral Reprimand	X	X	X	X	X
Written Reprimand	X	X	X	X	
Suspension from Duty 40/72 hours or less	X	X	X		
Suspension from duty greater than 40/72 hours	X				
Disciplinary Demotion	X				
Dismissal	X				

****40 hours for Monday - Friday employees and 72 hours for 24-hour employees**

3.15.09 DEMOTION

Certain disciplinary actions may result in a demotion of an employee to a position assigned to a lesser control point and/or a lesser salary. The salary of a demoted employee will be reduced a minimum of 10%, as long as the resulting salary is within the salary range of the new position. However, if the resulting salary of a demoted employee exceeds the range maximum for the new position, the employee's salary will be reduced to the range maximum. If an employee may not be separated from the position they currently occupy and placed in a position assigned to a lesser control point, the employee's salary will be decreased by at least 10% and shall not exceed the control point of the position they currently occupy, whichever is greater.

3.15.010 PROCESS

All disciplinary actions shall be reduced to writing on department letterhead listing both the particular offense committed and the specific rule(s) violated.

The disciplinary guide below shall be used as an illustrative reference tool (not all-inclusive) when proceeding with the workplace investigation/fact-finding inquiry process for all employees below the rank of Assistant Chief. City HR Law & Compliance will assist with all interviews pertaining to alleged violations of the H-10 Harassment Free Workplace (harassment, hostile work environment, and workplace bullying) and I-1 Equal Employment Opportunity (discrimination) Policies and will automatically convene a Chief Level Review Board.

Greensboro Fire Department Directives			
Directive 03.15 - Discipline Policy	Article: 2	Section: 3.15	Page 5 of 14
Fire & Emergency Service Self-Assessment Manual Category 7			

Employees are responsible for maintaining the confidentiality of all complaint allegations, internal investigations, and adjudication proceedings of an administrative nature regardless of their role in the proceedings.

Step 1: Employee notifies Supervisor of potential policy violation (if applicable). This notification may be verbal or in writing. All employees who are subject to legal action/proceeding shall notify supervisor within two calendar days or prior to the start of the next duty day, whichever is sooner.

Step 2: Initiating Officer/Supervisor

1. Notifies Chain-of-Command up to the Deputy Chief over the Branch assigned. This notification may be verbal or in writing.

Step 3: Assistant Chief of the Division the employee is assigned.

1. Assistant Chief of the Division will consult with the Fire HR Representative to initiate an appropriate disciplinary process and consult with HR Law & Compliance as appropriate and warranted.
2. Assistant Chief of the Division Issues a notice of fact-finding interview (see example) to the employee and Chain-of-Command up to the Deputy Chief of the Branch. This notice must be provided 2 days prior to the interview.
3. The Professional Standards Team, will conduct fact-finding interviews with all employees involved and any additional parties as warranted. "Professional Standards Team" as used herein is comprised of the Fire HR Representative, Assistant Chief of Health & Safety and one additional open position if warranted.
4. After all fact-finding is completed, the Professional Standards Team compiles the Disciplinary Packet to include:
 - a. Copies of notifications of fact-finding interviews.
 - b. Fact-finding statements from employee(s) and any witnesses if provided.
 - c. Audio recording to be secure on Fire on Market File.
 - d. Submits Disciplinary Packet to Deputy Chief of the Branch no later than 7 calendar days after all fact-finding is complete.

Step 4: Deputy Chief of the Branch the employee is assigned

1. Assesses the completeness of the Disciplinary Packet submitted.
2. Review the submitted materials and formulates the appropriate discipline for the offense.
3. Consults with the Fire HR Representative and the City Human Relation Law and Compliance Representative assigned to the Fire Department, if required for additional clarification to make a disciplinary decision.
4. Acts upon the disciplinary decision within seven calendar days.

Step 5: (if necessary): Fire Chief

If the disciplinary action is a suspension greater than 40/72 hours, demotion or dismissal, the Fire Chief will review and approve the recommended disciplinary action.

1. In disciplinary action matters requiring the involvement of the Fire Chief, the Chief may elect to convene the Chiefs-Level Review Board to review the facts of the investigation and

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evaluate the recommended disciplinary action of the Deputy Chief, before deciding the administrative matter.

2. If a disciplinary action appeal is referred to the Fire Chief, the Disciplinary Packet will make available. After reviewing an appeal, the Fire Chief may elect, if necessary, to convene a Chiefs-Level Review Board to afford the employee an opportunity to be heard before making a ruling.
 - a. The Fire Chief will respond in writing notifying the affected employee(s) of any disciplinary action or appeal decision within ten (10) calendar days of convening a Chief-Level hearing. In the event there is a delay in reviewing the investigative material or convening the Chief-Level Review Board, the affected employee will be notified in writing explaining the delay in resolving the matter. The Chief-Level Review Board will consist of the following board members:
 - i. Chief of Fire Appeals - Fire Chief
 - ii. Board Chair - Deputy Chief -- not in chain of command
 - iii. Board Member - Assistant Chief -- not in chain of command
 - iv. Board Resource - Battalion Chief -- not in chain of command
 - v. Board Resource -- Human Relations Law & Compliance Representative (City HR)
 - vi. Peer (if elected) - Of the same rank as the affected employee
3. Peer member of the Chief-Level Review Board: for any Chief-Level Review Board hearing, the affected employee may elect to have a peer serve as a member of the board. Peer Selection Process:
 - a. The peer will be selected by the employee from a pool of all eligible employees at the same rank as the employee. If no pool of employees exists within the affected employee's job classification, a peer shall be selected from a similar class of employees as approved by the Fire Chief.
 - b. The peer may not be a probationary employee, be involved in the case to be heard, have disciplinary action pending, or have received discipline resulting in a suspension from duty within the previous twenty-four (24) months.
 - c. As with all other employees involved in the disciplinary process, Peers are responsible for maintaining the confidentiality of all complaint allegations, internal investigations, and adjudication proceedings of an administrative nature.

Step 6: (if necessary): Employee is notified of the disciplinary action by the Fire Chief or Deputy Chief of the Branch the employee is assigned.

Step 7: (if necessary): if the affected employee is dissatisfied with the determination by the Fire Chief, the employee may in some cases appeal the disciplinary action determination to the City Manager as addressed later in this policy.

In all cases involving a potential policy violation committed by an Assistant Chief or Deputy Chief, the Fire Chief will serve as the fact-finder. After all fact-finding is complete, the Fire Chief will consult with the Fire HR Representative (and the City HR Representative assigned to the Fire Department if required by policy) to make the discipline decision. The Fire Chief will act upon the

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disciplinary decision within 10 days. Any appeals of the decision will be made to the City Manager. If, during the course of the investigation, the Fire Chief determines that a Chief-Level Review Board is necessary, that Board will be comprised of 3 members at the rank of Assistant Chief or Deputy Chief, with at least one member serving at the rank of Assistant Chief, and at least one member serving at the rank of Deputy Chief. The Fire Chief will respond in writing notifying the affected employee of any corrective action or appeal decision within ten (10) calendar days of convening a Chief-Level hearing.

APPEAL OF DISCIPLINARY ACTION

Employees have the right to appeal any disciplinary action under the following procedures:

- a. An employee may appeal disciplinary action. The employee will be allowed ten (10) calendar days to prepare and submit a formal written appeal in memorandum form, stating the specific grounds or reasons for the appeal. Appeals will be delivered to the authority to whom the employee is appealing and a copy provided to the Professional Standards Team.
- b. Counseling, written reprimands, and suspensions of 40/72 hours or less may only be appealed to the next higher level of rank above the supervisor imposing the disciplinary action. Disciplinary action imposed by a Battalion Chief or Company Officer may be appealed to the Division Commander.
- c. In disciplinary actions resulting in a suspension greater than 40/72 hours, demotion, or termination, the employee may appeal to the City Manager. Any appeal to the City Manager must be made within ten (10) calendar days from the date the employee has been notified of the disposition from the Fire Chief. The decision of the City Manager is final.

3.15.011 PENALTIES

1. The disciplinary matrix is a tool designed to assist in the administering of the appropriate level of discipline and/or corrective action. As such it is not designed as a binding doctrine, rather it is illustrative of the type and/or severity of discipline a member may expect when conduct warrants such. The matrix was developed by utilizing the broadly defined, illustrative personnel rules to first formulate the broad category of misconduct and then operating under the guidance afforded by the Douglas Factor, a level of misconduct was assessed. Acts of misconduct have been classified as "A", "B", "C" and "D" offenses based upon the pre-determined principles of seriousness.
2. The discipline matrix notwithstanding, pending the resolution of a disciplinary review, the Fire Chief/Deputy Fire Chief or designee shall place the employee on Administrative Leave With Pay (ALP) for any of the following:
 - a. The employee's presence is determined to be a threat to the City, their supervisor, or fellow employees.
 - b. The employee is alleged to be in violation of the City's Substance Abuse Policy.
 - c. There are allegations of workplace violence or unlawful harassment.
 - d. There are allegations of theft, fraud, or embezzlement of City property or services (this shall include property leased to the City or otherwise in possession of the City.)
 - e. The employee is charged with a misdemeanor involving possession of marijuana or any controlled substance or any felony.

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3. The Greensboro Fire Department shall maintain a philosophy of progressive discipline. Disciplinary action for minor infractions is applied in several steps of increasing severity in order to afford the employee the opportunity to correct behavior or inadequate job performance with the minimum level of discipline applied at each step. However, the organizational level of discipline and the progressive sanctions may be waived by the Department if the seriousness of the violation warrants.
4. In instances where an allegation against an employee is so egregious that it erodes public trust and negatively impacts or interferes with the day to day operations of the Department, the Fire Chief may dismiss the employee without following the procedures set forth in this policy or convening a review board. This action is appealable to the City Manager.
5. The Fire Chief/Deputy Fire Chief or designee is required to consult with Greensboro Human Resources for approval before initiating any demotion, suspension or dismissal. Justification for any action taken rests with the Fire Chief/ Deputy Fire Chief or designee. The Fire Chief/Deputy Fire Chief or designee has the option to either increase or decrease any recommended penalty, depending on aggravating or mitigating circumstances.
6. Disciplinary action shall be permanently retained in a member's departmental personnel file. However, disciplinary action which occurred more than two (2) years prior to the date of the offense for which discipline is being given will not be considered or used in any determination of the appropriate level of discipline. This does NOT include a loss of the members EMT or a second conviction of a DUI or DWI within a member's career with the Fire Department.

3.15.012 PHILOSOPHY OF DISCIPLINE

Offenses and Penalties:

1. The following list of classifications and penalties shall not be considered as all- inclusive. Additional penalties may include disciplinary demotion and/or specified training to be determined on a case by case basis where unique factors may exist.
2. Multiple disciplinary actions within a two (2) year period may initiate more severe disciplinary action based on the circumstances. However, disciplinary action which occurred more than two (2) years prior to the date of the offense for which discipline is being given will not be considered or used in any determination of the appropriate level of discipline. This does NOT include a loss of the members EMT or second conviction of a DUI or DWI within a member's career with the Department.
3. Conduct as described below (not all inclusive) is prohibited and shall serve as the basis for disciplinary action.

3.15.013 CLASS A-MINOR OFFENSE -Negligible Violation and Disregard of Policy:

1. The employee has previously been cautioned for misconduct of the same or similar nature and continues to engage in the misconduct.
2. An at fault incident resulting in minor damage to City, person, or citizen's property.
3. The incident did not result in reputation damage to the City or Department.

3.15.014 CLASS B-MIDLEVEL OFFENSE - Increased Severity of Violation and Disregard of Policy:

1. The employee has previously received discipline for misconduct of the same or similar nature.
2. The incident was the result of a situation within the control of the employee.
3. The incident resulted in minor reputation damage to the City or Department.
4. The employee had time to seek advice before acting.

3.15.015 CLASS C-MAJOR OFFENSE- Critical and very Serious Violations or Complete Disregard of Policies:

1. The incident resulted in major damage or impact to the Department.
2. The incident resulted in major reputation damage to the City or Department.
3. An at-fault incident resulting in major damage to City, person, or citizen's property.
4. The incident resulted in serious physical damage to employee/employees or citizens.
5. An employee has received prior corrective and or disciplinary actions for multiple similar violations.

3.15.016 CLASS D-EGREGIOUS OFFENSE - Malicious or Flagrant Disregard of core ethics, morals, behavioral norms, or regulation:

1. The incident resulted in an integrity issue.
2. The conduct was so outrageous that attempts to correct performance would be fruitless.
3. The behavior resulted in restrictions from regulatory agencies that affect the employee's ability to perform daily duties.

OFFENSE

	First Offense	Second Offense	Third Offense
A Offense	Level 1	Level 2 or 3	Level 3 or 4
B Offense	Level 1 or 2	Level 2 or 3	Level 3 or 4
C Offense	Level 3 or 4	Level 4 or 5	Level 5
D Offense	Level 4 or 5	Level 5	

- Level 1** -- Reprimand
Level 2 -- Suspension 1 – 3 days
Level 3 - Suspension 4 – 5 days
Level 4 -- Suspension > 5 days and/or demotion
Level 5 -- Termination

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Attachments

1. Corrective Action Decision Letter
2. Corrective Action Plan
3. Determination Letter
4. Fact Finding Notification
5. Memorandum of Conversation
6. Paid Administrative Leave Notice
7. Fact Finding Meeting Confidentiality Agreement

Classes of Misconduct

CLASS "A" MISCONDUCT

Neglect of duty			
Missed assignment with aggravating circumstances	Level 1 or 2	Level 2 or 3	Level 3 or 4
Absent without authorized leave or failure to give proper notice of absence			
Changed work assignment without approval	Level 1 or 2	Level 2 or 3	Level 3 or 4
Violation of safety rules, policies or regulations			
Failure to follow department safety GOGs or training guidance documents	Level 1 or 2	Level 2 or 3	Level 3 or 4
Seatbelt use while operating /riding in a City vehicle	Level 1 or 2	Level 2 or 3	Level 3 or 4
Violation of traffic safety rules/guidelines	Level 1 or 2	Level 2 or 3	Level 3 or 4
Incompetence, unwillingness, or failure to render satisfactory service to the Appointing authority under the performance standards established	Level 1 or 2	Level 2 or 3	Level 3 or 4
Personal Appearance			
An at-fault accident resulting in minor damage to the City, person, or citizen's property	Level 1 or 2	Level 2 or 3	Level 3 or 4
Tobacco use on or in City property (except designated areas)	Level 1 or 2	Level 2 or 3	Level 3 or 4
Improper use, storage, parking, or care of a City vehicle	Level 1 or 2	Level 2 or 3	Level 3 or 4
Insubordination or Breach of Discipline			
Displayed rebellious, disrespectful, or stubbornly disobedient conduct	Level 1 or 2	Level 2 or 3	Level 3 or 4
Refusal/failure to follow a supervisor's instructions or proper and lawful order.	Level 1 or 2	Level 2 or 3	Level 3 or 4
Conduct unbecoming an employee of the City tends to bring the City service into disrepute	Level 1 or 2	Level 2 or 3	Level 3 or 4
Abuse of Authority			
Improper use of electronic media, radio, or computer	Level 1 or 2	Level 2 or 3	Level 3 or 4
Incomplete disclosure	Level 1 or 2	Level 2 or 3	Level 3 or 4
Conviction of Criminal Act			
Any violation as defined prescribing law, except for a felony conviction.	Level 1 or 2	Level 2 or 3	Level 3 or 4
Negligent or willful damage to City Property			
Any violation as defined in prescribing document	Level 1 or 2	Level 2 or 3	Level 3 or 4
Misuse of sick leave			
Fraudulent submission of sick leave	Level 1 or 2	Level 2 or 3	Level 3 or 4
Worked off duty while on injury or sick leave	Level 1 or 2	Level 2 or 3	Level 3 or 4

CLASS "B" MISCONDUCT

Offense or Violation	1st Offense	2nd Offense	3rd Offense
Neglect of duty			
Failure to timely respond, or failure to clear promptly following the conclusion of an assignment	Level 1 or 2	Level 2 or 3	Level 3 or 4
Incomplete records/paperwork or completion of duties	Level 1 or 2	Level 2 or 3	Level 3 or 4
Left first due district without prior approval or valid business necessity	Level 1 or 2	Level 2 or 3	Level 3 or 4
Improper patient care or protocol violation	Level 1 or 2	Level 2 or 3	Level 3 or 4
Confidentiality or privacy of department records	Level 1 or 2	Level 2 or 3	Level 3 or 4
Failure to care for city property includes station and equipment in an unclean, disorderly condition	Level 1 or 2	Level 2 or 3	Level 3 or 4
Egregious improper use, storage, parking, or care of City vehicle	Level 1 or 2	Level 2 or 3	Level 3 or 4
Failure to adequately supervise	Level 1 or 2	Level 2 or 3	Level 3 or 4
Absent without authorized leave or failure to give proper notice of absence			
Tardiness	Level 1 or 2	Level 2 or 3	Level 3 or 4
Incompetence, unwillingness, or failure to render satisfactory service to the Appointing Authority under the performance standard established AND/OR violation of any Agency rule(s) with the Personnel Rules.			
Failure to maintain prescribed DMV status or satisfactory comply with monthly compliance checks	Level 1 or 2	Level 2 or 3	Level 3 or 4
Failure to read and sign Official notices, Emails, and Bulletins.	Level 1 or 2	Level 2 or 3	Level 3 or 4
Improper use of Identification	Level 1 or 2	Level 2 or 3	Level 3 or 4
Unauthorized visitors/riders on apparatus, visitors or premises after hours	Level 1 or 2	Level 2 or 3	Level 3 or 4
Training standards/requirements	Level 1 or 2	Level 2 or 3	Level 3 or 4
Working outside employment without prior authorization	Level 1 or 2	Level 2 or 3	Level 3 or 4

CLASS "C" MISCONDUCT

Offense or Violation (relation to)	1st Offense	2nd Offense	3rd Offense
Violation of safety rules, policies or regulations			
Reckless operation of City vehicle	Level 3 or 4	Level 4 or 5	Level 5
Incompetence, unwillingness or failure to render satisfactory service to the Appointing authority under the performance standards established			
An at-fault accident resulting in major damage to the City, person, or citizen's property	Level 3 or 4	Level 4 or 5	Level 5
Repeated failure to maintain prescribed DMV status or satisfactorily comply with monthly compliance checks	Level 3 or 4	Level 4 or 5	Level 5
Use of bribery or political pressure to receive appointment or advantage			
Any violation as defined in prescribing document	Level 3 or 4	Level 4 or 5	Level 5

CLASS "D" MISCONDUCT

Offense or Violations relation to:	1st Offense	2nd Offense
Incompetence, unwillingness, or failure to render satisfactory service to the Appointing authority under the performance standards established		
Alcohol-related conviction or court-ordered program	Level 4 or 5	Level 5
Failure to maintain required credentials	Level 4 or 5	Level 5
Duty to inform/Report** (includes: Unreported Convictions or Arrest)	Level 4 or 5	Level 5
DUI Charge	Level 4 or 5	Level 5
Failure of a Drug screen	Level 5	N/A
Violation of the City's Substance Abuse Policy, including unauthorized possession or use of alcohol or illegal drugs in or on City property, including City vehicles		
Any violation as defined in prescribing document	Level 4 or 5	Level 5
Conviction of Criminal Act		
Incarceration	Level 4 or 5	Level 5
Any felony conviction	Level 5	N/A
Unauthorized possession of, or use of, a weapon on City property		
Any violation as defined in prescribing document	Level 4 or 5	Level 5
Material falsification of any City document or employment application		
Any violation as defined in prescribing document	Level 4 or 5	Level 5
Theft, fraud, or embezzlement of City services or property leased to or otherwise in possession of the City		
Unauthorized use of resources	Level 4 or 5	Level 5
Any violation as defined in prescribing document	Level 4 or 5	Level 5
Commit or threat to commit violence and/or harassment in the workplace		
Any form of harassment, inappropriate sexual conduct or hostility	Level 4 or 5	Level 5
Any violation as defined in prescribing document	Level 4 or 5	Level 5