

HUDSON POLICE AND FIRE COMMISSION DISCIPLINARY COMPLAINT POLICY AND PROCEDURE

AUTHORITY. This policy is adopted pursuant to the rule-making authority of the Hudson Police and Fire Commission under Wisconsin law, including but not limited to Wis. Stat. 62.13 (5) (g) for adopting rules for handling disciplinary complaints against any Hudson police officer or fire fighter under Wis. Stat. 62.13 (5).

PURPOSE

The purpose of this policy is to establish rules that provide for prompt, fair, efficient, and just handling of disciplinary complaints consistent with Wisconsin law.

I. POLICY

It is the policy of the Hudson Police and Fire Commission to address, process, and decide all complaints filed against members of the Hudson Fire Department or the Hudson Police Department in a manner which:

- A. Meets the requirements of Wis. Stats §62.13(5) including the just cause factors stated therein.
- B. Safeguards individual rights of due process protection as outlined in the Fifth and Fourteenth Amendments to the U. S. Constitution.
- C. Provides for complaint processing as promptly as possible.
- D. These procedures and policy do not apply to a firefighter or police officer who is placed or promoted on a probationary basis but is either released or returned to his or her prior rank for non-disciplinary reasons. They do apply if the release or return to his or her prior rank is for disciplinary reasons.

II. PROCEDURES

- A. Complaint filed with the Police or Fire Department. Any citizen may file a complaint directly with Hudson Police Department or the Hudson Fire Department against a police officer or a firefighter if the citizen believes that police officer or firefighter has acted inappropriately in carrying out his/her duties or has violated a department rule, city ordinance, state or federal law or standards of acceptable conduct for police officers or firefighters. Information

about the procedure for filing such a complaint with the Fire or Police Department is available directly from the departments.

B. Complaints filed with the Police and Fire Commission. Any citizen may file a formal written complaint with the Police and Fire Commission if the person believes that a police officer or firefighter has violated a department rule, city ordinance, state or federal law or other standard of conduct applicable to police officers or firefighters. The Police and Fire Commission will not consider any complaint unless it is in writing, on the form provided by the Police and Fire Commission, and made under oath in front of a notary public.

C. Police and Fire Commission Procedure for handling complaint.

1. The Commission shall first review the complaint to determine whether the allegations of the complaint, if proved, are serious enough to lead to or warrant suspension, reduction in rank, or removal of the officer or firefighter. If the complaint is not clear or lacks sufficient information to determine the nature of the charges of misconduct alleged against the officer, the Commission may forward the complaint to the Fire Chief or Police Chief, as applicable, to provide to the Commission information on the facts of the alleged misconduct and the name of the officer involved (if unclear from the complaint). The Fire Chief or Police Chief, as applicable, shall provide no opinion to the PFC on the merits of the complaint.
2. If the Fire Chief or Police Chief is the subject of the complaint, the Commission shall refer the complaint to an appropriate independent investigator. No subject of a complaint shall be involved in the investigation to determine sufficiency of the complaint or seriousness of the alleged misconduct. The investigator shall submit a written investigative report to the Commission within a reasonable time after receiving the complaint from the Commission. The Commission shall determine whether the alleged charges, if proved, are serious enough to warrant suspension, reduction in rank or removal of the officer such that a hearing on the charges would be required.
3. If the Commission determines that the complaint, or the Police Department or Fire Department investigation

lacks sufficient information to identify the officer or firefighter and/or the misconduct complained of, or that the alleged conduct, if proved, would not warrant suspension, reduction in rank, or removal, the Commission shall dismiss the Complaint and a notice of dismissal shall be mailed to the complainant. In such case the Commission retains the right to refer the matter to the Fire Chief or Police Chief, as applicable.

4. If the Commission determines that charges, if proved, warrant suspension, reduction in rank, or removal, a copy of the complaint shall be served upon the police officer or firefighter charged and proof of service shall be filed with the President of the Commission, and the matter shall proceed to a public hearing on the Complaint.
- D. Public Hearing on Formal Complaint. Upon a finding by the Commission that there is reasonable grounds to proceed, the Commission shall hold a public hearing on the complaint. Scheduling of the hearing shall be done as promptly as possible consistent with reasonable consideration of interested parties' schedules and due process preparation. The time frames established in Wis. Stat. 62.13 (5)(d) shall apply unless waived for good cause shown and subject to approval by the Commission. Both the accused and the complainant may be represented by an attorney at this hearing and may compel the attendance of witnesses by subpoenas which shall be issued by the President of the Commission on request and be served as are subpoenas under Wis. Stats §885. The hearing shall be recorded by a professional court reporter. The Chair of the Commission or his/her designee shall be the presiding officer at the hearing and shall keep order and conduct the hearing to assure that the process is fair and comports with constitutional due process requirements. The Commission may appoint a hearing examiner to assist the Commission in conducting the hearing and carrying out its responsibilities under Wis. Stat. 62.13 (5).
- E. At the conclusion of the presentation of evidence by the complainant and the accused officer/firefighter, the Commission shall go into closed session as authorized under Wis. Stat. 19.85 (1) to conduct its deliberations. Only members of the Commission and PFC legal counsel or hearing officer may be present during the closed session.
- F. No subordinate may be suspended, reduced in rank, suspended and reduced in rank or removed based on charges unless the

Commission determines whether there is just cause to sustain the charges. In making its determination, the Commission shall apply the following standards, to the extent applicable.

1. Whether the police officer or firefighter, against whom charges have been filed, could be expected to have known the probable consequences of the alleged conduct.
 2. Whether the rule or order the individual allegedly violated is a reasonable rule or order.
 3. Whether the chief, before filing charges against a subordinate, made a reasonable effort to discover if the subordinate actually violated the rule or order.
 4. Whether the chief's effort, to discover if the subordinate actually violated the rule or order, was fair and objective. This standard call for the chief, and subordinates assisting the chief, to be impartial and unbiased in their effort to learn if a rule or order was violated.
 5. Whether the chief discovered substantial evidence that the subordinate name in the charges actually violated the rule or order described in the charges.
 6. Whether the chief has applied, or is applying, the rule or order impartially and without discrimination against the subordinate.
 7. Whether the form of discipline proposed reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the chief's department.
- G. Final decisions shall be made by motions and a majority vote by the members of the Commission in a subsequent open session. All findings and determinations of the Commission and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and served or mailed, as appropriate, to the interested parties as well as being filed within 3 days of the close of the hearing with the secretary of the Commission.
- H. As provided under Wisconsin law, no individual shall be deprived of compensation while suspended pending disposition of charges.
- I. A complainant may at any time voluntarily withdraw a complaint and the Commission may thereupon order dismissal, but the Commission may continue a matter on its own motion.

- J. The Commission shall retain jurisdiction of all complaints until the complaint is resolved either by referral to the appropriate department chief, withdrawal by the complainant, dismissal because it does not allege misconduct serious enough to warrant suspension, reduction in rank, or removal, or a decision on the merits, or some other disposition by the Commission.
- K. Further rules for the administration of this policy and procedure may be made by the Commission. The Commission may adjust these procedures as the Commission deems necessary to fit circumstances presented by a complaint, while still affording procedures consistent with Wis. Stat. 62.13 (5).