

Colorado State Fire Chiefs' Association

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MEMORANDUM

To: CSFCA Board of Directors
From: Working Group on Code of Ethics Complaint Process
Subject: Proposed Ethics Complaint Process
Date: November 11, 2009

In response to a request by the Colorado Fire Training Officers Association, the CSFCA Board of Directors established a working group to draft a process for the handling of complaints brought pursuant to the CSFCA Code of Ethics (or the Code of Ethics of CSFCA Sections).

The Working Group was convened on November 3, 2009 with the following members present:

- Kevin Milan, Training Captain, South Metro Fire Rescue; representing the Colorado Fire Training Officers Association
- Mark Schuman, Battalion Chief, North Washington Fire Department; representing the Colorado Fire Training Officers Association
- Andy Marsh, Fire Chief, Federal Heights Fire Department; representing the Colorado State Fire Chiefs Association
- Paul Cooke, Executive Director, Colorado State Fire Chiefs Association
- Theresa Staples, Deputy Director, Colorado Division of Fire Safety

The following members of the Working Group were unable to participate in this meeting:

- Tracey Taylor, Life Safety Educator, South Metro Fire Rescue; representing the Fire and Life Safety Educators of Colorado
- Rob Geislinger, Fire Marshal, South Metro Fire Rescue Authority; representing the Fire Marshals Association of Colorado

After considerable discussion concerning the role and limitations of the CSFCA with respect to enforcement of the Code of Ethics, the Working Group concluded that:

- (1) The Ethics Complaint Process should be used after administrative, civil or criminal remedies are completed and there is a disposition in the matter;

- (2) A significant number of ethics “complaints” involve the Firefighter Certification Program, and no formal process exists within the Division of Fire Safety to consistently and expeditiously handle such complaints; and
- (3) The CSFCA and CSFCA Sections could do more to communicate the Code of Ethics to their members with the expectation that all members agree to abide by them.

Recommendations

The Working Group recommends the following:

- (1) Remove the Ethics Complaint Process from the CSFCA Constitution and Bylaws and replace it with the requirement that the Board of Directors establish procedures for the handling of complaints against members and for the investigation and determination thereof.
 - Encourage CSFCA Sections to adopt a Code of Ethics (consistent with the CSFCA Code of Ethics) in their Constitution and Bylaws.
 - The CSFCA and CSFCA Sections should communicate the Code of Ethics to their members with the expectation that all members agree to abide by them.
- (2) The CSFCA should encourage its members to adopt a Code of Ethics within their respective organizations and a process to resolve ethical issues at the local level.
- (3) The CSFCA should encourage the Colorado Division of Fire Safety to implement a formal process to consistently and expeditiously handle complaints concerning the Firefighter, EMS First Responder, and Hazardous Material Responder Certification Programs.
- (4) The CSFCA Board of Directors should establish procedures for the handling of complaints against members and for the investigation and determination thereof.
 - The procedures for handling ethics complaints should be used after administrative, civil or criminal remedies are completed and there is a disposition in the matter.
 - The CSFCA Board of Directors should create a standing “Professional Conduct Committee” with representation of CSFCA Sections, to review and make recommendations on ethics complaints.
 - The Board of Directors may censure, either publicly or privately, suspend, or expel, and prohibit reinstatement of a member for any violation of the Code of Ethics.
 - The Ethics Complaint Procedures should be communicated to CSFCA members.

The proposed amendments to the CSFCA Constitution and Bylaws and the recommended Ethics Complaint Procedures are attached.

ATTACHMENT #1

**PROPOSED AMENDMENTS TO THE 2007 CONSTITUTION AND BYLAWS OF THE
COLORADO STATE FIRE CHIEFS' ASSOCIATION**

PERTAINING TO THE CODE OF ETHICS

PROPOSED AMENDMENTS TO THE 2007 CONSTITUTION AND BYLAWS OF THE COLORADO STATE FIRE CHIEFS' ASSOCIATION

Pertaining to the Code of Ethics

Amendment # 1: Section 1.6 of the 2007 Constitution and Bylaws is amended to read:

1.6 Violation of the Code of Ethics.

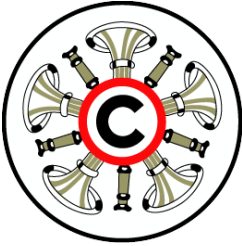
Any member who feels that another member has violated the Code of Ethics may make a formal complaint to the Board of Directors of the Colorado State Fire Chiefs Association. The formal complaint must be made in writing and must describe which Tenet(s) were violated, the actions which gave rise to the complaint, the dates and places where the actions occurred, and be signed by the complaining member. Upon receipt of a formal complaint the Board of Directors will take the following actions:

- Review of the complaint to determine if there was in fact a violation.
- If the initial review indicates that there may have been a violation, the Board of Directors may conduct an investigation to determine the validity of the complaint. The accused member will be provided a copy of the complaint and afforded the opportunity to respond to the complaint in writing within 15 days of receipt of notice of investigation. The investigation must be completed within 60 days from the receipt of the complaint. The investigation may in no way impede any criminal or disciplinary investigation being conducted by a local agency.
- If the investigation determines that the complaint is not valid, the Board of Directors will notify the complainant and the accused of this finding in writing.
- If the investigation determines that the complaint is valid, the Board of Directors may issue a Public or Private censure of the accused member. The private censure will be sent to the accused member and the complainant. A copy will be retained in the files of the Board of Directors. A public censure will be sent to the accused member, the complainant, and all members of the Colorado State Fire Chiefs Association.
- Public censure will be available for review by any party upon written request.

The Board of Directors shall establish procedures for the handling of complaints against members and for the investigation and determination thereof. The Board of Directors may censure, either publicly or privately, suspend, or expel, and prohibit reinstatement of a member for any violation of the Code of Ethics.

ATTACHMENT #2

PROPOSED ETHICS COMPLAINT PROCESS



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CSFCA Code of Ethics: Ethics Complaint Process

Adopted by the CSFCA Board of Directors, November 13, 2009

Introduction

1. The Colorado State Fire Chiefs Association (CSFCA) has adopted a Code of Ethics in the CSFCA Constitution and Bylaws (Article 1.5).
2. All members of the CSFCA agree to abide by the CSFCA Code of Ethics.
3. Article 1.6 of the CSFCA Constitution and Bylaws the Board of Directors establish procedures for the handling of complaints against members and for the investigation and determination thereof.
4. These rules govern the procedures for enforcing the CSFCA Code of Ethics as adopted by the CSFCA membership.

General

1. The purpose of these rules is to provide a reasonable process for investigating and determining whether a member has violated the Code of Ethics, and to afford each individual member who is the subject of an investigation a full and fair opportunity to be heard throughout the process.
2. It is the intention of CSFCA Board of Directors that these rules be carried out carefully but expeditiously in order to minimize the time during which a member may be subject to possible disciplinary action. Accordingly, time limits stated in these rules are binding, subject to extensions which may be granted by the CSFCA President, for reasonable cause, upon request.
3. The CSFCA Ethics Complaint Process will only be used after administrative, civil or criminal processes are completed and there is a disposition in the matter.
 - a. Exception: If the complaint involves an alleged violation of the Code of Ethics for which there is no other administrative, civil or criminal remedy, this process may be utilized.

Professional Conduct Committee Created

1. There is hereby created within the CSFCA, a Professional Conduct Committee (PCC), the purpose of which is to: (a) review complaints received pursuant to this policy; (b) make recommendations to the CSFCA Board of Directors on the disposition of such complaints; and (c) provide assistance to CSFCA members in the adoption of a Code of Ethics within their respective organizations and a process to resolve ethical issues at the local level.
2. The PCC shall be a standing committee comprised of five members, with the chair and members appointed by the CSFCA President. Two members of the PCC shall represent the CSFCA, one member shall represent the Colorado Fire Training Officers Association, one member shall represent the Fire Marshals Association of Colorado, and one member shall represent the Fire and Life Safety Educators of Colorado. The CSFCA Executive Director shall provide administrative support, as requested, to assist the PCC in the conduct of its business and may serve as an ex-officio member of the PCC.
3. The PCC may seek the advice of qualified legal counsel, through the CSFCA Executive Director, on any matter that comes before it.
4. A simple majority shall constitute a quorum for the transaction of business at all meetings of the PCC.

Ethics Complaint Process

1. Any member who feels that another member has violated the Code of Ethics may make a complaint to the Board of Directors of the Colorado State Fire Chiefs Association.
2. The complaint must be made in writing and addressed to the CSFCA Executive Director. The complaint shall include the following information:
 - a. Description of the alleged violation with specific reference to the Tenet(s) of the Code of Ethics that were allegedly violated, the actions which gave rise to the complaint, and the dates and places where the actions occurred.
 - b. Documentation of the alleged violation.
 - c. Include the following language and be signed by the complaining member(s):

"I declare that to the best of my (our) knowledge and belief, my (our) allegations in this complaint are true. I agree not to hold the CSFCA or any member of the Professional Conduct Committee or Board of Directors, liable for the outcome of said complaint. I also understand that a copy of this complaint and any documentation submitted to support the complaint may be submitted to the alleged violating member for response."

3. Upon receipt of a complaint the Executive Director will distribute the complaint to the PCC for handling.
4. Within 15 days of receipt of the complaint by the PCC, the committee shall review the complaint and determine if it has merit or not. If it does they will follow the process set out in remainder of this document. If it does not, they will notify the complainant(s) with an explanation IN WRITING of the reasoning why.
5. The complaint, having been found to have merit, shall be copied and sent to the person alleged to have committed the infraction (the "respondent"). The respondent shall be given 15 calendar days in which to respond IN WRITING to the complaint. The response shall include all supporting documentation. Failure to respond within the prescribed period of time may result in a sanction.

Exception: If the initial review indicates that, based on documented evidence of disposition by an administrative, civil or criminal processes, there was in fact a violation of the Code of Ethics, no referral to the respondent is necessary.

6. The PCC shall provide the complainant a copy of the response from the respondent and given 15 calendar days to respond IN WRITING.
7. The PCC shall review the complaint, any documentation, and any responses by the respondent and/or complainant(s) and render a determination as to whether there was in fact a violation of the Code of Ethics and shall forward its report to the Board of Directors IN WRITING.
 - a. The PCC report will include conclusions as to the veracity and seriousness of the complaint, and shall recommend appropriate action, including dismissal of the complaint or of official sanction.
 - b. The Chair of the PCC shall bring the report to the Board of Directors at its next regularly scheduled meeting. When indicated, the CSFCA President may call for a special meeting to review and act on the PCC report.
8. If the PCC review determines that the complaint is not valid, the PCC will notify the complainant, the respondent, and the Board of Directors of this finding IN WRITING.
9. The complaint review process shall be handled in a manner which maintains a tone of neutrality, not presuming innocence or guilt of either party.
10. The complaint review process must be completed within 60 days from the receipt of the complaint, except for extenuating circumstances.
11. The complaint review process may in no way impede any criminal or disciplinary investigation being conducted by another agency.

12. No person may participate in any proceedings on a complaint brought under these rules if that person is or may be a witness or complainant in that case, or if his or her participation would otherwise create, or appear to create, a conflict of interest. The President may select a replacement for any person (other than a member of the Board of Directors) who is unable to participate in the case for this reason.

Decisions

1. The Board of Directors shall review the PCC report, including findings of fact, conclusions, and recommendations, and shall render a determination.
2. The Board of Directors may vote to adopt the PCC report, to modify the PCC recommendations, or to dismiss the complaint without imposing sanctions. If the complaint is dismissed without imposing sanctions, the respondent and the complainant shall be notified by the CSFCA President.
3. If the Board of Directors votes to adopt the PCC or to modify the PCC recommendations, it shall determine the appropriate sanction(s). In determining the kind of sanction to be imposed, the following factors may be considered: the nature of the violation, prior violations by the same individual, the willfulness of the violation, the level of professional or public responsibility of the individual, and any other factors which bear upon the seriousness of the violation.

Sanctions

1. Sanctions may be imposed by the Board of Directors in accordance with the CSFCA Constitution and Bylaws and these rules upon members who are found to have violated the Code of Ethics. The following sanctions may be imposed by the Board of Directors singly or in combination at the conclusion of review by the PCC under these rules:
 - a. Private Censure. A letter to the respondent, and the complainant, indicating that the respondent has been found to have violated the Code of Ethics, that the CSFCA disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions.
 - b. Public Censure. Notification to the respondent, complainant, and all CSFCA members, indicating that a violation of the code took place and that the CSFCA strongly disapproves of such conduct and the nature of the sanction(s) imposed. In addition, such notice shall be provided to appropriate local governing bodies where the Board of Directors has found it necessary to do so in order to protect the public against unethical conduct in local government. Public censure will be available for review by any party upon written request.
 - c. Suspension. A suspension of the respondent's membership privileges for a set period of time.
 - d. Expulsion. A revocation of the respondent's membership privileges.

- e. Membership Bar. A prohibition against reinstatement of the respondent's membership in the CSFCA.
- 2. A member who has been expelled from membership under these rules may apply for reinstatement to CSFCA membership only after a period of at least five (5) years from the date of the expulsion. The expelled former member must submit a written request to the Board of Directors for a reinstatement review and include the reasons why he or she believes it should be considered. Such requests shall automatically be referred to the PCC. The PCC will review all the information provided, and make a recommendation to the Board of Directors.
- 3. In the event that the complaint involves a member of a CSFCA Section, the Board of Directors may direct that the decided upon sanction(s) be imposed by the Board of Directors of the Section.

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