

FIREFIGHTER PROCEDURAL BILL OF RIGHTS (1000)

(No. 157 October 2011)

Under the Firefighters Procedural Bill of Rights Act, firefighters have additional representational rights. It is critical that these requirements be observed.

Whenever a firefighter is under investigation and subjected to interrogation by a superior, or another employee of the department, which could lead to punitive action for events and circumstances involving the performance of his or her official duties, the interrogation shall be conducted under the following conditions:

1. Upon request, a firefighter shall be allowed to have a representative of his or her choice (but not someone subject to the same investigation) present at all times during the interrogation. (Note: This section does not apply to counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other firefighter.)
2. The interrogation shall be conducted at a reasonable hour, preferably when the firefighter is on duty. If the interrogation does occur during off-duty time, then overtime pay may be required in accordance with applicable pay requirements.
3. Prior to the interrogation, a firefighter shall be given the name, rank, and job title of the employer representative in charge of the investigation, the interrogating officer, and all other persons to be present during the interrogation. No more than two (2) interrogators at one time may question the firefighter.
4. Prior to the interrogation, the firefighter shall be informed of the nature of the investigation.
5. The interrogating session shall be for a reasonable period taking into account the gravity and complexity of the issue being investigated. The person under investigation shall be allowed reasonable breaks to attend to his or her own personal physical necessities.
6. No offensive language, threats of punitive action or promises of reward or other inducements shall be made in order to obtain the firefighter's cooperation or confession as to the allegations charged.
7. The employer shall provide to, and obtain from, an employee a formal grant of immunity from criminal prosecution, in writing, before the employee may be compelled to respond to incriminating questions in an interrogation. Subject to that grant of immunity, a firefighter refusing to respond to questions or submit to interrogations shall be informed that the failure to answer questions directly related to the investigation or interrogation may result in punitive action.

8. The employer shall not cause the firefighter to be subjected to visits by the press or news media without his or her express written consent free of duress, and the firefighter's photograph, home address, telephone number, or other contact information shall not be given to the press or news media without his or her express written consent.
9. A statement made during interrogation by a firefighter under duress, coercion, or threat of punitive action shall not be admissible in any subsequent criminal proceeding.
10. The interrogation may be recorded. If a recording is made, the firefighter shall have access to the recording prior to any further interrogation. The firefighter shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those portions that are otherwise required by law to be kept confidential. Notes or reports that are deemed to be confidential shall not be entered in the firefighter's personnel file. The firefighter shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.
11. If, prior to or during the interrogation, it is contemplated that the firefighter may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional (Miranda) rights.
12. A firefighter shall not be loaned or temporarily reassigned to a location or duty assignment if a firefighter would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
13. In most cases, punitive action must be taken within one year of discovery of any act, omission or other allegation of misconduct. If after investigation the employer decides to impose discipline, it must notify the firefighter in writing of its decision to impose discipline within 30 days of its decision, but not less than 48 hours prior to imposing the discipline.
14. No written comment adverse to his or her interest may be entered in a firefighter's personnel file without the firefighter first having read and signed the instrument to be entered. If the employee refuses to sign it, that should be noted on the document and signed or initialed by the firefighter. It can then be entered into the personnel file. Within 30 days, the firefighter may prepare and enter his or her written response, which will be attached to the adverse comment.
15. Upon request, the employer shall permit a firefighter to inspect, within a reasonable period of time, personnel files used to determine his or her qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

16. A firefighter shall not be compelled to submit to a polygraph examination, nor can the refusal be used against him or her in any way.
17. No firefighter shall be required to disclose any item of his or her property, income, assets, source of income, debts, or personal or domestic expenditures unless that information is otherwise required to be furnished under state law or obtained pursuant to court order.
18. A firefighter shall not have his or her locker or other space for storage that may be assigned to him or her searched except in his or her presence, or with his or her consent, or unless a valid search warrant has been obtained, or unless he or she has been notified that a search will be conducted.

NOTE: This list is not all inclusive, but includes the most critical rights. For more information, refer to [Government Code Sections 3250-3262](#).

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