

**RESOLUTION 09-06**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE TWENTYNINE PALMS WATER DISTRICT  
ADOPTING AN ADDITION  
TO THE TWENTYNINE PALMS FIRE DEPARTMENT  
EMPLOYEE MANUAL OF RULES AND REGULATIONS  
REGARDING FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT**

**WHEREAS**, the Board of Directors adopted Resolution 02-25 on October 9, 2002, establishing an "Employee Manual of Rules and Regulations of the Twentynine Palms Fire Department"; and

**WHEREAS**, Assembly Bill 220 (Government Code §§ 3250 et. seq.) became effective on January 1, 2008 establishing the Firefighters Procedural Bill of Rights Act.

**WHEREAS**, the Board of Directors desires to implement policies and procedures for the Firefighters Procedural Bill of Rights Act.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Twentynine Palms Water District that the following language as set forth in Exhibit "A" is adopted as an addition to the "Twentynine Palms Fire Department Employee Manual of Rules and Regulations."

**PASSED, APPROVED AND ADOPTED** this 25<sup>th</sup> day of March 2009 by the following vote:

Ayes: Directors Anthony, Cisneros, Gallagher, Moore and Yockey  
Noes: None

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Philip C. Cisneros, President  
Board of Directors

Attest:

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Mike Wright, Board Secretary  
Twentynine Palms Water District

## EXHIBIT "A"

### **POLICIES UNDER FIREFIGHTER PROCEDURAL BILL OF RIGHTS ACT**

The following constitutes the Twentynine Palms Water District's policies and procedures for implementing the Firefighters Procedural Bill of Rights Act (FPBRA).

#### **A. Investigation Rights**

When a firefighter is under investigation and subjected to interrogation by the Fire Chief, or any other member of the Fire Department, that could lead to punitive action, such interrogation shall be conducted under the following conditions. For the purpose of this article, punitive action is defined as dismissal, demotion, suspension, reduction in salary, written reprimand or transfer for purposes of punishment.

1. The interrogation shall be conducted at a reasonable hour, when the firefighter is on duty, unless an imminent threat to public safety requires otherwise. If such interrogation does occur during off-duty time of the firefighter being interrogated, the firefighter shall be compensated for such off-duty time in accordance with regular Department procedures. The firefighter's compensation shall not be reduced as a result of any work missed while being interrogated.
2. The firefighter under investigation shall be informed prior to such interrogation of the rank, name and command of the official in charge of the interrogation, the interrogating officer and all other persons to be present during interrogation. All questions directed to the firefighter under interrogation shall be asked by and through no more than two interrogators at one time.
3. The firefighter under investigation shall be informed of the nature of the investigation prior to the interrogation.
4. The interrogating session shall be for a reasonable period taking into consideration the gravity and complexity of the issues being investigated. The firefighter under interrogation shall be allowed to attend to his or her own personal physical necessities.
5. The firefighter under interrogation shall not be subjected to offensive language or threatened with punitive action.
6. The Department 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 the interrogation. Subject to the grant of immunity, a firefighter refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answer a question.

7. The Department shall not cause the firefighter under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address, telephone number, contact information or photographs be given to the press or news media without his or her express consent.
8. The complete interrogation of a firefighter may be recorded. If a tape recording is made of the interrogation, the firefighter shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. 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 persons, except those which are required by law to be kept confidential. No notes or reports, which are deemed to be confidential, may be entered in the personnel file of the firefighter. The firefighter being interrogated shall have the right to bring his or her own recording device and record any and all aspects of investigation.
9. If prior to or during interrogation of a firefighter it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.
10. Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action against any member, that member, at his/her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during such interrogation. The representative shall not be a person subject to the same investigation.
11. This article shall not apply to counseling, instruction or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other member.

## **B. Lawful Exercise of Rights; Administrative Appeal.**

No firefighter shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under the FPBRA, or the exercise of any rights under any existing administrative grievance procedure.

Punitive action or denial of promotion on grounds other than merit shall not be undertaken by the Department against any firefighter who has successfully completed the probation period without providing the firefighter with an opportunity for an administrative appeal. The administrative appeal shall be conducted in conformance with the Twentynine Palms Fire Department's Employee Manual's procedure for disciplinary hearings or, at the firefighter's option, under the grievance or arbitration procedures in the MOU.

### **C. Personnel Files**

No firefighter shall have any comment adverse to his or her interest entered in his or her personnel file, or any other file used for any personnel purposes by his or her Department, without the firefighter having first read and signed the instrument containing the adverse comment, indicating he or she is aware of such comment, except that such entry may be made if after reading such instrument the firefighter refuses to sign it. Should a firefighter refuse to sign, that fact should be noted on the document and signed or initialed by the firefighter. The firefighter shall have 30 days within which to file a written response to any adverse comment entered in his or her personnel file. Such written response shall be attached to and shall accompany the adverse comment.

### **D. Political Activity**

Except as otherwise provided by law, no firefighter shall be prohibited from engaging, or be coerced to engage in, political activity or seeking elective office, except for elective office with the Twentynine Palms Water District. No firefighter shall be allowed to engage in political activity when in uniform or on duty.

### **E. Lie Detectors**

No firefighter shall be compelled to submit to a lie detector test against his or her will.

### **F. Lockers**

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. This section shall apply only to lockers or other space for storage that are owned or leased by the Department.