

**FINAL**

**FIREFIGHTER AND FIRE SAFETY INSPECTOR TRAINING COMMITTEE  
MEETING MINUTES  
December 17, 2008**

Chaired by: Mark Burgess

Meeting Date and Location: December 17, 2008, Ohio Department of Public Safety (ODPS),  
1970 West Broad Street, Columbus, Ohio 43223

EMS Board Fire Members Present: Mark Burgess, James Davis, James Holcomb, William  
Mallory, Daryl McNutt, Mark Resanovich

Committee Members Present: Bob Babb, Brent Gates, Terry Gill, Phil McLean, Richard Sacco,  
Jim Steele

EMS Board/Committee Member Absent: Mark Lundy, William Quinn, Jr.

Staff Present: Aleta Dodson, Heather Frient, John Kennington, Tom Macklin, Doug Orahod,  
Robert Ruetenik, Richard Rucker, Yvonne Tertel, Melissa Vermillion

Guests: James Holcomb, Violet Township/EMS Board; Mr. Bernie Ingles, Clyde McKenzie and  
Cliff Mason, Ohio Fire Chiefs (OFC); Dr. John Pakiela, EMS Board Member; Mr. Mark  
Sanders, Ohio Association Professional Firefighters (OAPFF); Mr. Paul Tieman, Ohio State  
Firefighter Association (OSFA)

Mr. Burgess called the meeting to order at 8:30 AM.

Roll Call (EMS Board Fire Members)

Mr. Mark Burgess	Here
Mr. James Davis	Here
Mr. James Holcomb	Here
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. William Quinn, Jr.	
Mr. Mark Resanovich	Here

Roll Call (Firefighter and Fire Safety Inspector (FFSI) Training Committee)

Mr. Phil McLean	Here
Mr. Brent Gates	
Mr. Terry Gill	Here
Mr. Richard Sacco	Here
Mr. Jim Steele	Here
Mr. Bob Babb	Here
Mr. Mark Lundy	

### OPEN FORUM

Mr. Burgess opened the meeting by thanking everyone for attending and said its purposes is to clarify and review the roles and responsibility of both the Emergency Medical Services (EMS) Board and Firefighter and Fire Safety Inspector (FFSI) Training Committee members, paying particular attention to the disciplinary process. Mr. Burgess said there are some vacancies on both the EMS Board, and respectively, the FFSI committee. He knows organizations have submitted names and once they are appointed, they will determine whether they will serve on the FFSI committee or designate someone to do so. Mr. Rucker said six of the eight EMS Board vacancies were verbally confirmed last week, and one was Mr. William Quinn, Jr., who replaces Carl Jordan's EMS Board fire seat.

When the EMS Board was created, disciplinary investigations were not handled by individuals with law experience as they are now. Mr. Burgess believes investigations are now being handled in a more professional manner. Once the investigation is complete, the cases are forwarded to the case review team for review. Discipline is based on policies and guidelines in place to keep it fair and consistent. The severity of discipline is based on the individual charges, whether it is a misdemeanor or felony. For the most part, misdemeanors that do not involve moral turpitude are not disciplined. After case review, the cases and proposed disciplines are presented to the EMS Board. Currently the whole board participates in the EMS discipline, and when that concludes, the non-fire members are excused from the meeting, and the fire members continue with the fire cases. Since many individuals have dual certification (both Fire and EMT), the process goal has been to do only one case for an individual for both certifications. It is less confusing to individuals, more timely, and discipline is done consistently.

How the fire discipline arrived at the current process is perhaps where the discussion needs to begin. Mr. Burgess asked for any comments and Mr. McLean said he does not disagree that where the Board and FFSI are at today may be the best solution to the case review.

Mr. McLean said the past history of the EMS Board members experience possess is justly due, but the concern goes back to the January, February and March meetings that were held with the fire community. The disciplinary process now in place is not exactly what the fire community was told how it would be handled. Mr. McLean reviewed the reports on the disciplinary process, especially the disciplinary flow chart, and all the presentations talked about how the FFSI will provide advice and counsel. Those who sold the program over the past three years are the ones in the forefront of the fire service. Mr. McLean said the disciplinary process flow chart presented to the fire community said that the FFSI gives advice and counsel on recommendations of disciplinary process to the Executive Director. As of today, Mr. McLean does not feel what was sold is true; it's not what is being delivered.

Mr. McLean said according to the February 12, 2008 fire minutes, the disciplinary process was described as: "Ms. Friend and Ms. Vermillion will present the fire investigative policy and process at next months meeting. One person from the fire committee will be on the case review team and will always have to abstain from voting. One firefighter from the EMS Board will also sit on case review, for at least the first year, to provide consistency on disciplinary issues." Mr. McLean thought that meant both boards would interact. Then in the March 11, 2008, meeting minutes, "Melissa Vermillion distributed a flowchart showing the investigative process the Fire Committee Case Review Team (CRT)... She said the CRT will consist of one EMS board

member, one Fire Committee member, the Assistant Attorney General and members of the Division's investigative staff. The discipline will come from the Fire Committee and be consistent with the EMS side." Mr. Rucker said when the rules were being put in place, that was the direction it was going. However, the staff discovered this wasn't the most efficient way to handle the process, nor was it the fairest process to the dual certificate holders (fire and EMT). Since it was going to create two separate investigations/disciplines for them at different effective dates, the change was made.

Mr. McLean agrees that where they are now is probably the best place and that was never the issue; this issue is it was not sold that way. The flow chart in the fire roll out PowerPoint presentation indicated the FFSI committee would hear the discipline, not the EMS Board fire members. Mr. McLean's concern is whether the fire community needs to be re-educated on this different process and asked representatives of the various fire association representatives in the audience because they know what was presented at all the roll out meetings.

**\*\*\*\* Mr. Gates Arrived 8:45 AM \*\*\*\***

Ms. Frient asked if it would help to clarify that, for disciplinary issues, when referring to the FFSI committee, this means the original EMS Board fire members. If so, she said that could be a simple change to the flow chart. Mr. Steele said it is the state's flowchart and the FFSI committee requested a revised one and has yet to receive it. Ms. Tertel said for purposes of defining what FFSI means, it is as simple as putting something at the bottom of the flow chart such as "for purposes of disciplinary issues, FFSI = board members seated on committee", put a revised date on it, and post to the EMS website.

Mr. McLean still feels the eight member FFSI committee that constructed and wrote the rules should be involved with the fire discipline. If the FFSI committee only receives a report showing x number of cases were presented, how can they ensure which of those cases had an impact on rules that might need revised. If there are concerns with the current continuing education (CE) rules and laws, how does the group that was intimately involved in creating them continue to be up to speed with that if at least a couple of our members aren't involved in that process? He also questions whether the rule 4765-23-02 is being met when it says the Executive Director, with advice and counsel of the FFSI training committee, will take certain disciplinary action pursuant to an adjudicatory hearing. His concern is that the committee's advice and counsel is not being taken. Mr. Rucker replied he did obtain the advice and counsel of the committee, which he is getting from the EMS Board fire members. He said that the fire designees need to have trust in the person who designated them to sit on the committee because, according to the Ohio Revised Code (ORC), the FFSI committee is comprised of the eight fire Board members. These members have designated someone to do the majority of their assigned responsibilities, but have determined to do the disciplinary action themselves.

Ms. Frient asked if the fire community is having a problem or concern with the fact that the EMS Board fire members versus what has been traditionally been known as the FFSI committee members are the ones handling the discipline. Ms. Frient clarified that the fire committee *is* the fire Board members, which is not inconsistent with the rules. Wherever the rules state that the "committee will take disciplinary action", at that point, what is deemed the "committee" is the eight fire board members. She believes that the confusion might lie in how the definition of

“FFSI committee” is interpreted. She suspects there is an opinion among some people that the firefighter committee is made up of the individual people sitting at the table today. Under the law, the fire committee consists of EMS fire Board members and/or individuals they “may” (not shall) designate to serve in their place. The Board doesn’t have to designate a member at all; the Board members might decide to sit on the FFSI committee themselves. As has been explained over the past several months, the interpretation of 4765.04 does not specifically state that once a fire Board member designates an individual, that person assumes all duties in its entirety. It is not an “all or nothing” concept; there is flexibility within the law to designate certain functions and retain certain functions. The EMS Board has chosen to designate the majority of authority to the FFSI committee, except for disciplinary matters.

Ms. Frient said that in previous meetings it has been discussed that if there is a trend or issue with a particular rule and it appears the problem is with the rule, then the Board would let the FFSI committee know. However, if an individual is having problems meeting their continuing education (CE), that is not a reason to go back and change the rule. That is the whole reason the rule was put into place -- to set a specific standard that must be met. Just because there might be a lot of discipline occurring in a certain area does not necessarily mean there is a problem with the rule itself.

Ms. Tertel said committee members are expressing a frustration that many of her client boards express: there is always a desire to know more because then you feel you can make a better decision. Unfortunately, she cannot provide every detail regarding a particular case to the committee members because we have to protect those matters in the investigative process. She cannot recommend that this be pursued as an option from a legal perspective. Ms. Frient said in regard to communication between case review and the fire committee, she thinks the committee should be made aware of global issues, but not every consent agreement. She added that it will take several months to see global issue patterns emerge. If and when this happens, the FFSI will be made aware of it. However, she felt that it was too early in the process to tell if there was a fundamental problem with any of rules that would require an amendment.

Mr. Sanders believes the focus is that fire service professionals should be the ones looking at these issues, whether it’s the FFSI committee or members of the EMS Board, as was the spirit of the law and rules.

Another concern discussed at length was regarding communication of the change in the disciplinary process to the FFSI committee members. Both Mr. McLean and Mr. Steele felt Mr. Rucker should have talked directly to them first about the proposed change instead of the EMS Board fire members. The EMS fire Board members were to tell their designees; however, this did not get done in a timely manner and some of the FFSI members were not informed. Some FFSI members believe that lack of communication was in contrast with Mr. Rucker relying on the advice and counsel of the FFSI committee.

Mr. Rucker pointed out that he made the recommendation to the EMS Board, which agreed unanimously with the proposal. The bottom line is the way the process is now is the fairest way to provide discipline to the firefighter on the street. Mr. Rucker stated that if he had the opportunity to do it over again, he would have contacted Mr. McLean directly and discussed the changes that were going to be made so he could advise the rest of the committee. Mr. Rucker

stated that he would accept responsibility for the fact the notification to FFSI members did not work as smoothly as it should have.

Mr. Steele said Mr. Rucker did not take the advice and counsel of the FFSI committee as it relates to the rule and passed that buck on to the EMS Board members. Mr. Rucker clarified that he does not have to get advice and counsel on policy decisions he makes regarding how the Division of EMS office is to be run. Both Ms. Tertel and Ms. Frient agreed that Mr. Rucker is only required to obtain such advice and counsel in regards to substantive issues of firefighters. Mr. McLean questioned whether the EMS Board fire members totally understand all this as they were not involved with the rule writing except for Jim Holcomb. Did they understand that the FFSI committee did not know about the change in this process? In Rule 4765-11-01(I) it defines "Committee" as meaning "the Firefighter and Fire Safety Committee." Mr. Rucker said that the committee is comprised of the fire Board members. Ms. Frient said she has already answered this question (regarding the fact that the term "committee" means the fire Board members, who may then designate someone to sit in their place for certain duties).

Mr. Sanders believes Mr. Rucker will take advice and counsel of the fire persons who are adjudicating those issues as was the intent of the legislation. Mr. Davis said he speaks for himself, but believes he can speak for the rest of his colleagues on the Board, that the help that this committee has provided in setting standards for training and for the fire service members of the Board is appreciated and needed. Mr. Davis has kept in touch with his designee, Mr. Babb, from day one on Mr. Davis's concern he expressed to the chair and the Executive Director about having two completely different disciplinary processes. Mr. Davis said if it wasn't communicated properly from the Board members back to the designees, he will be the first to apologize. Mr. Davis stands by this change and believes it is in the best interest as it allows the FFSI committee members to concentrate on advancing the fire service as far as education and takes the burden and responsibility of discipline away from the committee. He appreciates their time, but stands by the change.

Both Chief McKenzie and Mr. Sanders discussed the issue with Mr. Rucker. Mr. Sanders said the foremost concern is to his organizations members and that the process is consistent and concise.

Mr. Davis's concern he expressed to the chair and the Executive Director about the concern of having two completely different disciplinary processes. Those disciplinary processes put the EMS Board and the fire service in the position where individuals who have both a fire and EMT card having potentially two different processes. Not only that, but having missed a timeline on either their fire or EMS card because they would be receiving paperwork that all looks the same, and all of a sudden the certificate holder is jammed up because they end up in a Goldman hearing because they missed a timeline for one or two of them, and end up unemployed. From day one, the EMS Board has spoke in a very concerned way in making sure that the process was consistent and streamlined. When the fire discipline began to unfold and they started seeing the results of that, they wanted to ensure the process was streamlined for both the State of Ohio and the members in the field, as well as being fair and consistent. This has not got anything to do with the specific work of your committee; it has everything to do with being efficient and consistent.

Mr. Sanders said as Chief Steele said, our concern is that our members are protected in the due process and hearing, and subsequent adjudication of that hearing, because it is their livelihoods and careers we are dealing with.

Mr. Gill said he has listened to both sides as he has done at the FFSI meetings when it has come up month after month after month. Mr. Gill met with Mr. Rucker and gave him his support because he agrees the process should be streamlined. He concluded that 90% of the problems around the firehouse are due to lack of communication and that is the no different here.

Mr. Resanovich said this is a good conversation and it was needed to get the FFSI committee members and Board members together. He took some responsibility on the communication issues. However, he stated that it is time to put this issue to rest, determine what needs to be fixed and move forward. Mr. Gill said the Director stood up at this meeting in front of everyone and took that responsibility for the way the communication was handled and commended him for doing that.

Mr. Gates asked about whether the FFSI committee will handle charter disciplines. Ms. Tertel said she can't speak for the committee or the Board, but when an issue of that nature comes up, if the Board chooses to, they could retain that responsibility or delegate to their designees. That bridge has not yet been crossed. Mr. Steele said one of the things that the committee has dealt with for a long period of time is the chartered institution discipline. He believes those issues need to remain with the FFSI committee because it deals with training. Mr. Burgess said that type of institution would be handled like it is for the EMS chartered institutions where EMS staff work with the educational process and draft the consent agreement. Ms. Tertel said it is not a requirement that the school report back to the committee, but it is an option. Mr. Rucker said once the Board members determine the disciplinary direction, if there is reporting back requirement, he agrees with Mr. Steele that it should go to the FFSI committee. Ms. Tertel said as it relates to the disciplinary process, at this point they haven't yet approached that issue. Mr. Steele said you have already dealt with chartered institutions with the printout distributed at last month FFSI committee meeting. Ms. Tertel said matters of investigation are confidential and can't be brought forward yet.

Mr. Babb suggested a liaison function, not necessarily a person in the process, but someone who observes and can report back to the FFSI members might help them understand the rules and the process better. Mr. Davis said it has to be agreed that the Board member liaison's responsibility isn't to keep the FFSI members updated on ongoing cases because the Board members don't even know the details. Ms. Tertel said she can appreciate their interest in doing that, but she is not sure how that would be able to work from a practical legal perspective due to confidentiality. To the extent if there were to be a reporting back to the designees, if someone who is sitting on the case review process, they could not say anything. Ms. Frient said confidential information regarding cases is between investigative staff, the case review team members, and the assistant attorney general.

Mr. Steele brought up the issue regarding outstanding questions the FFSI committee members have presented to Mr. Rucker and other staff that have yet to be answered. In addition to a revised flow chart, he questions whether the rules promulgated are being followed regarding advice and counsel of the committee as it deals with discipline, chartered institutions, flexibility

to retain board seats, etc. Mr. Steele said when these questions come up, such as today about 4765.04, FFSI members have asked for months to put it in writing, and no one has done that. Ms. Frient said she was not aware of Mr. Steele's questions and asked him to clarify what issues he was talking about. She asked if one of his questions involved the interpretation of ORC 4765.04 and Mr. Steele said absolutely. Ms. Frient said she would respond to that question in writing. Mr. Steele also asked for ORC 4765.55 adult chartered institutions several months ago and did not get an answer. He wants to know if charter issues are included in the disciplinary change. He also questions if this change from the fire committee members to the EMS Board members are going to handle this as well. He asked whether a FFSI member could serve as a substitute if an EMS Board fire member who handles discipline couldn't attend. Both Ms. Frient and Ms. Tertel said no. Mr. Steele said when Mr. Burgess spoke on this issue at the October FFSI meeting, Mr. Burgess didn't know and the FFSI members are still waiting for an answer. The FFSI committee is doing what the law requires, to give advice and counsel. These are legitimate questions the fire service gives us and we are required to bring those forward. If the questions are legitimate, they need to be acted upon, not stall because you don't like the question. Ms. Frient said if there are specific questions, please email them to her. She has heard a lot of questions mentioned today that supposedly have not been answered, but she has not received an email on any of them. Mr. Steele said he did not e-mail them, he asked them in person, but agreed to e-mail them to her. Ms. Frient said if Mr. Steele was referring to questions about updates on investigations, she clarified that she cannot answer such questions as she is not involved in the investigative process. Ms. Frient informed the committee about her role and stated that she does not sit on case review or have knowledge about the details of the cases so that she is unbiased when sitting in on executive session and deliberations. So, to the extent that any questions deal with specific cases or trends, she does not have access to that information. She stated that she can put this in writing, if necessary.

Ms. Frient wanted to comment on the rules issue because it has been raised a couple times today how the FFSI committee has drafted the rules, has ownership of the rules, and feels they should be the ones enforcing them. She wanted to point out, and she knows this has been said before over the past two months, that the rules are not necessarily the ownership of the person who drafted them. The rules belong to the entity, not the person, and people will come and go. Whoever originally drafted the rules, their work is appreciated, but it doesn't mean someone else can't be on the committee, can't understand what the rule means or can't interpret them fairly. That has been going on for years and will happen for future years to come. Ms. Frient said she wasn't here for the October meeting, but in the October minutes Mr. McLean said that "maybe the EMS fire Board members have the knowledge and ability to do it, he doesn't know, but believes those members are not as familiar with how the rules are structured as this committee is." She wanted to comment on that statement because the majority of the fire rules that have been adopted were based on EMS rules. There are some that are specifically fire, but a lot are based on the EMS rules and she would say the EMS Board is well equipped and familiar with the current rules and the disciplinary rules in particular. She also pointed out that there are 49 rules dealing with fire issues that the FFSI committee helped draft, but only 3 specifically pertain to the actual disciplinary authority. There is a lot of substance in the remainder of those rules and a lot of the things the FFSI committee has done as far as curriculum and training. Basically, everything the FFSI committee has done to do this point is everything the Board members are asking the committee to continue doing.

Mr. Mark Sanders, OAPFF, said he agrees with many of the discussion points around the table today and hates to say it, but it was predicted that the bone of contention would be about training. Mr. Babb and Mr. Gill feel the process is where it ought to be now. Mr. Gates believes communication between FFSI members and their Board designees needs to be improved. Mr. Mallory said he would like to see the questions answered that need to be answered. He thinks this has been a communication issue from the start and said so at the last committee meeting.

Mr. Gill believes some of the committee members are missing the fact that Mr. Rucker has a staff, and that the FFSI committee and Board have to rely on their expertise. The Director made a decision and the fire service needs to support the decision and be on the same page. If we don't, what message are we sending to the fire service? He stated that he totally supports the Executive Director on this issue. Mr. Gill said after today's meeting, do not ask him to come to another meeting to discuss the disciplinary process.

Mr. Sacco said his question is whether the EMS Board members are going to tell the FFSI members what their job is or what they are supposed to do. Are there other parts besides discipline the Board members are going to decide they want to handle? He said committee members just want to know where they stand, and there needs to be some guidelines. Ms. Frient said the FFSI committee will be doing everything but discipline. She said it didn't sound like there was any desire on the Board's part to take on anything more, and if there ever were, she would hope there would be better communication and a more systematic process of how it would be done.

Mr. Sanders said the Board still has a role to have better communication with the FFSI committee as to how this is going to be enforced and ensure members are receiving the best of what this standard is supposed to offer, and that is training for professional firefighters across Ohio.

Chief McKenzie said if the committee has questions that go to the hierarchies, those need to be answered. What he heard from his membership is that since the questions were not getting answered, they kept being brought up at meetings every month, which created a lot of this problem. A communication breakdown definitely happened and he thanked both groups for coming together at this meeting today.

Mr. Davis said there are several things he would offer to get closure on this issue. He suggested revising the flow chart with the revision date and that the EMS Board fire members will be handling the disciplinary fire issue, send a letter to all fire service agencies in Ohio stating the disciplinary process change and why it occurred from Mr. Rucker. In regards to a liaison, it would be nice to have a Board member sit on the FFSI committee.

Mr. Burgess summarized a "to do" list of items from the meeting:

1. Mr. Steele will email the unanswered questions to Ms. Frient
2. Ms. Frient will forward Mr. Steele's e-mail of questions to the FFSI committee and Board fire members. She will respond to everyone on this so there is no confusion as to the questions or answers.
3. Work on designating a Board/FFSI liaison and defining their role.

4. Define what specific pieces of disciplinary case information the FFSI members would like, such as aggregate data regarding rules.
5. EMS Board fire members decide whether charter discipline follow-up presentations are necessary, and if so, should they be presented to the EMS Board fire members or the FFSI committee.
6. EMS Board fire members to provide the FFSI committee members with guidance on their roles and duties.
7. Schedule one or two meetings a year among the FFSI committee, EMS Board fire members and EMS staff.
8. Revise the disciplinary flow chart to say “for purposes of disciplinary issues, FFSI = board members seated on committee” to clarify who is hearing the discipline. Also include a revised date on it and post to the EMS website.
9. The Executive Director will send a letter to all fire service agencies in Ohio stating the disciplinary process change and why it is occurring.

Mr. Burgess asked for any other issues to be discussed so this can be put to rest. Mr. McLean thanked Director Rucker for all his involvement and assistance from the EMS staff. He thinks all the FFSI members would agree that they appreciate and rely on Mr. Rucker’s expertise. Mr. McLean is glad the discussion was held and thinks things will get back on the right track.

ADJOURNMENT

**ACTION: Motion to adjourn.** Resanovich first. Davis second. None opposed. Motion approved.

**Meeting adjourned at 9:35 AM.**