Supersedes #_____ Dated _____

Bureau of Fire Services Procedures

06/04/2020
05-29

Subject: Appeal of Postsecondary Educational Intuition Fines

PURPOSE

To provide State Fire Safety Board (SFSB) members and Bureau of Fire Services (BFS) staff direction for processing appeal hearing requests concerning violations and civil fines issued to postsecondary educational institutions.

AUTHORITY

Per Section 3c of the Fire Prevention Code, PA 207 or 1941 (Code), the SFSB may review and decide a contested case or a ruling of the state fire marshal interpreting or applying the rules. Further, the SFSB shall act as a hearing body in accordance with the Administrative Procedures Act, 1969 PA 306, MCL 24.201 *et. seq* (APA).

APPEAL PROCEDURE

1. An appeal hearing request shall be in writing and submitted to the BFS:

   via regular mail:

   LARA/BFS
   Attention: SFSB
   P.O. Box 30700
   Lansing, MI 48909

   or

   via email: LARA-PostSecondary@michigan.gov

2. An appeal hearing request shall include:
   a. A copy of the BFS notice of violation.
   b. A copy of the BFS invoice issued for the civil fine.
   c. A concise statement of the reason(s) the violation and/or civil fine should vacated, waived or adjusted, including all supporting documentation, such as a completed copy of the College/Dormitory Fire Safety Drill Requirement form (BFS-48), certification of compliance, instructional staff training information, and/or a record of each drill.

3. A complete appeal hearing request must be received by the SFSB within **sixty (60) days** following the date of the BFS notice of violation.

4. Appeal hearing requests shall be scheduled according to availability of SFSB members or the next scheduled SFSB meeting.

5. When an appeal hearing request is determined as meeting the requirements and is accepted by the SFSB for an appeal hearing, the appellant and the BFS (parties) shall be notified in writing, which will include:

   a. The hearing date.

   b. The hearing time.

   c. The hearing address location.

   d. A brief description of the hearing process, informing the parties that at the hearing they can submit documentary evidence, witnesses and testimony.

6. Pursuant to section 3b(4) of the Code: A majority of the members appointed to and serving on the board constitutes a quorum. Affirmative votes of at least a majority of the members appointed to and serving on the board is required to decide any question, action, or business of the board, except that a hearing of a contested case may be conducted before 3 board members who, after hearing the facts and considering the evidence and testimony, shall recommend the action the board should take.

   The BFS shall contact and confirm three (3) board members and one (1) extra board member as an alternate, which shall constitute the hearing board for the appeal hearing scheduled prior to the next regularly scheduled SFSB meeting.

7. The BFS shall record the appeal hearing. The appeal hearing shall be conducted in a manner consistent with the APA.

8. The appellant or the appellant's designated representative, except as provided in items 10 and 11 noted below, must be present at the appeal hearing and shall be given an opportunity to fully present their case. The appeal hearing board reserves the right to exclude incompetent, immaterial, or repetitious evidence.

9. An appeal hearing may be conducted based on written documents submitted by the appellant and the BFS, with no verbal testimony being taken, if it is agreed to by the parties and the appeal hearing board.

10. If either party fails to appear for a scheduled appeal hearing, and if no adjournment has been granted, the appeal hearing board may proceed with the appeal hearing and make its decision in the absence of the party.

11. The appeal hearing board in attendance at the hearing shall recommend action during the next scheduled SFSB meeting. The action shall be initiated by a motion: ***Should the State Fire Safety Board affirm the violation and/or fine issued by the Bureau of Fire Services for violations {provide code section XXX} of the {provide code section XXX} for conducting drills, conducting training, or submitting required reports.*** Each SFSB member present shall vote on the motion to affirm the violation and/or civil fine issued by the BFS.

12. Within fourteen (14) days of the SFSB meeting, the SFSB shall serve, or cause to be served, a copy of its decision upon all parties. The SFSB's decision shall be considered a final agency decision for purposes of judicial review under chapter 4 of the APA.