

Jun 21, 2005

Resignations and the withdrawal of resignations

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Anyone that has served any period of time in a fire department or not for profit ambulance service has no doubt witnessed an officer or member getting upset and announcing his resignation. Frequently, those same persons are back days later wanting to rescind their resignations.

What are the effects of resignations? When are they effective? May they be rescinded? If so, until when?

The answers to these questions depend on the type of entity in which the resigning person serves. This article will address only the question of an officer that resigns a position. This article does not deal with the question of a resignation as a member.

Generally speaking, resignations of executive or operational officers of ambulance companies are not governed by law. Nor are the resignations of fire chiefs of "independent" or "town controlled" fire departments, or the executive officers of any fire department or not for profit ambulance service. The not for profit corporation law does not address resignations. It does address vacancies however. Thus, not for profit ambulance companies must turn to their bylaws for the answer to resignation questions. We frequently notice that bylaws fail to address requirements for resignations of officers, although they do address resignations by members.

We propose a bylaw as follows for executive, operational or line officers:

"Any executive, operational or line officer wishing to resign must submit a written resignation to the board [or the membership]. No resignation shall become effective later than thirty days after its submission. Any resignation without an effective date shall be effective upon receipt by the board [or membership] at a regular or special meeting of the board [or membership]. No consent of the board [the membership] is required for acceptance. Any person resigning while the member is in bad standing or under investigation shall deem the person to have resigned in bad standing. Such person shall have only those rights in the future as any person terminated from membership for cause. The resignation of such person may not be rescinded at any time except if the vacancy has not yet been filled and then, only upon the consent of the board [or membership]."

This bylaw provision tracks the laws regarding resignations of chiefs and operational officers in villages and fire districts. In village or fire district fire departments, the Public Officers Law Section 31 likely governs these resignations, though the courts have not made this point clear.

The law requires that resignations must be in writing and addressed to the board that confirms such officer, such as the board of fire commissioners or the village board. Oral resignations are not permitted. Resignations may not be made effective any later than thirty days after they are delivered or filed. If a vacancy still exists, the courts have upheld the decision of boards to permit these persons to rescind their resignations, so long as the rescission was within a short time period of the delivery of the resignation. The board is under no obligation to permit rescission of the resignation.

All organizations should make sure that the bylaws address these issues before problems arise.

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