

 CITY OF TUCSON	City of Tucson Central Safety Services Number: S-006 Subject:	Page 1 of 9
		Effective Date: January 1, 1997
	Safety Board of Inquiry	Reviewed/ Revised: May 22, 2013

1.0 PURPOSE

To address accidents, costs, and employee productive time losses through a standardized Board of Inquiry for safety-related incident review process.

2.0 SCOPE

The Board of Inquiry (BOI) will provide a fair and uniform method of determining responsibility for vehicular, industrial, or property damage accidents and will recommend constructive safety practices, corrective action and/or appropriate discipline. Discipline shall be administered at the discretion of the department following Administrative Directive 2.02-16 and in consultation with Human Resources.

The Serious Accident Review Committee (SARC), (see *Administrative Directive 3.04-4, [Appendix 7-1]*) may suspend or delay a Safety Board of Inquiry in the best interest of the City).

The policies and procedures contained in this section are intended to assist in identifying and complying with OSHA Safety Standards. In all cases where there is a difference between specific OSHA standards and the Safety Board of Inquiry policies set forth in this chapter, the stricter of the two shall apply.

3.0 DEFINITIONS

At-fault Accident: An employee is found at-fault when an accident or injury (vehicular, industrial or property) occurred as a result of a violation of a traffic law, work rule, or supervisor’s instruction, resulting in accident.

Employee or Union Eligible: A permanent employee or union-eligible permanent employee of the City of Tucson who is not determined to be a “Supervisor” or “Confidential”. A Supervisor or Confidential is ineligible for representation.

Industrial Accident or Injury: Bodily injury or occupational exposure incurred while performing City-compensated work.

Lost-Time Injury: A lost-time injury is a work related injury which results in the employee being absent from work for one or more days, not to include the day of injury.

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Motor Vehicular Accident: Motor vehicle accident occurring on a dedicated traffic-way, i.e. dedicated alley, street, or highway, or any motor vehicle accident occurring on private property or in a parking lot.

Not-At-fault Accident: An employee may be found not-at-fault when an accident or injury occurs, despite the employee's exercise of good judgment and adherence to established standards or safety rules. This may occur as a result of someone else's negligence or unpreventable circumstances.

Property Damage Accident: An accident, in which property, such as buildings, walls/fences, utility poles or wires, vehicles, fixed objects or equipment, is damaged.

Serious Accident: A serious accident is any accident resulting in \$4000.00 or more property damage or bodily injury beyond first aid.

Union Member: A City employee from Labor or Trades non-supervisory classification who is a dues-paying member of the union.

4.0 RESPONSIBILITY

A. Departments

1. Departments and their representatives shall cooperate with the investigation authority of the BOI and shall provide access to all information and documentation surrounding the accident or contributing activities that are discovered during the accident investigation, to the BOI.
2. Departments shall work with the investigating authorities to preserve, protect, produce or surrender any evidence associated with the accident and shall obey all legal direction to the tracking, holding, release and storage of evidence.

B. Supervisors

1. All division supervisors are responsible for ensuring that employees assigned to them are informed of the contents of this procedure and any subsequent revisions of this procedure.

C. Board of Inquiry

1. The Board of Inquiry shall be convened by the department/division within thirty (30) days of the occurrence or discovery of the event to review circumstances of the event and make a determination of fault or not-at-fault.
2. The BOI will also review department accident control and investigation procedures, regulations and policies of the department, including enforcement, in order to make recommendations for improvement to the department Director and/or City Manager.

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3. Upon decision of the department/division to convene a Board of Inquiry, the department/division shall inform the employee or the union member of the intent to convene a BOI for the purpose of investigation by giving forty-eight (48) hours' notice to the employee or Union Member.
4. The department shall make every effort to include the testimony of the affected employee(s). If the affected employees will be absent from the BOI due to injury or illness, the BOI may be postponed by the department until such time as the employee(s) may attend or the department may solicit written or taped (video or oral) testimony from the affected employee(s).

D. Central Safety Services and/or Risk Management

1. Central Safety Services and/or Risk Management shall coordinate or cede investigation of all serious accidents with Emergency Services personnel and shall not interfere with the legal obligations of Emergency Services in conducting any accident investigation.
2. Central Safety Services and/or Risk Management may coordinate with or cede the accident investigation responsibilities to the department Safety Specialist or department Risk Management Coordinator, or act independently to investigate the accident in the benefit of the City.
3. As a result of their investigation, or through review of safety procedures, Central Safety Services and/or Risk Management may offer testimony or recommend corrective action to the department during the conveyance of a BOI.

E. Employees and Union Members

1. Employees and union members shall cooperate with the investigating jurisdiction and the requests and actions of the BOI. Employees or Union Members shall not knowingly conceal or tamper with evidence, nor make false statements to the members of the BOI.
2. Employees and union members that knowingly conceal or tamper with evidence or make false statement during the BOI shall have violated Administrative Directive 2.02-5, Rules of Conduct, and may be subject to disciplinary action.

5.0 EDUCATION AND TRAINING

- A. Central Safety Services shall provide guidance and assistance to the Safety Board of Inquiry (BOI), and shall assist the department in training needs or requests that are mandated by action or direction resulting from the BOI.

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6.0 GENERAL

A. Determination to Hold A Board of Inquiry

1. The determination to hold a Board of Inquiry is based upon accident or injury and shall meet the following criteria:

Industrial Accident

- a. For safety-related industrial accident where an At-fault determination cannot be ascertained or where the employee/union member challenges the department investigation and determination of Fault.
- b. Any industrial accident involving an employee/union employee that results in hospitalization and/or the loss of five (5) consecutive (scheduled) work days or greater.

Motor Vehicle Collision

- a. Where employee/union member is deemed by the authority with legal jurisdiction to be At-fault in a motor vehicle collision, the department will assign the level violation according to the monetary estimate and/or injury assessment in Section C below and move forward with appropriate corrective action and mandatory disciplinary action. A BOI is not mandated.
- b. Motor vehicle collisions between private vehicle and city vehicle operated by employee/union member where the combined insurance estimates (Private Insurance and/or Fleet Services) for damage repair is \$4000.00 or greater and either driver is not subject to citation (normally private property), or a citation was not issued by the jurisdiction with legal authority.

Note: Civil compromise shall not exempt the employee/union member from a BOI and any subsequent corrective and disciplinary action.

- c. For motor vehicle collisions with a fixed object where an At-fault determination cannot be ascertained or where the employee/union member challenges the department investigation and determination of Fault.

2. Accidents, no matter how minor, may be reviewed by a BOI if a pattern or an increase in frequency occurs. Accidents may also be reviewed by a BOI at the request of by the Department Director, Central Safety Services Section or the City Risk Manager.

B. Board of Inquiry Panel

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1. The Board of Inquiry Panel will consist of an Executive Secretary (a "Confidential"), the Department Safety Representative and three (3) voting members. At least one of the voting members shall be a "peer-worker," or an employee who has the same or similar job classification as the employee whose accident is being investigated.

Executive Secretary

- a. The Department Human Resources representative will act as the Executive Secretary to the BOI.
- b. Duties:
The Executive Secretary will perform the following duties:
 - Establish, schedule and document BOIs.
 - Communicate all BOI times and locations in writing to the voting members, witnesses and Division Administrators.
 - Select additional members as necessary.
 - Assign special duties to current members to ensure proper functioning of the Safety Board of Inquiry.
 - Administrate the BOI.

Safety Representation

- a. The Risk Management or Safety Specialist (or similar), appointed department Safety Representative shall serve as the department safety representative to the BOI.
- b. Duties:
 - Introduce the members of the BOI, representatives and participants
 - Introduce and present the foundation of the BOI
 - Moderate the proceedings of the BOI

Voting Board Member

- a. The voting members have the following duties:
 - a. Be objective and consistent in determining responsibility for motor vehicle accidents, industrial injuries and property damages.
 - b. Determine whether the employee being investigated were at-fault or not-at-fault.
 - c. Recommend corrective action to Division Administrators and the Department Director.
 - d. The BOI findings and recommendations will then be forwarded to the City Risk Manager and Central Safety Services, for review.
- b. Voting Member Selection:

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The Board of Inquiry shall consist of three (3) members (3) and three (3) alternates who have been selected by the Department Director. The Department Director may request members from other departments, but at least one of the members must have the same or similar job classification as the employee whose accident is being investigated.

c. **Voting Member Disqualification:**

At any point during the BOI, a voting member of the BOI may disqualify themselves or be disqualified by the department in the event that a close personal or employment relationship is demonstrated. A disqualified member shall be replaced by the department and the BOI will be reconvened with two (2) working days and any disqualification shall not impact the thirty (30) day time period for BOI implementation.

3. **Representation**

a. An employee or union member is entitled to have a representation present at the BOI however the representative shall not directly stand for or directly represent the employee in the course of the BOI.

b. Representatives shall only be able to ask clarifying questions of the interview panel and shall not be given permission to ask questions of the employee(s) subject of the BOI. Representatives shall not attempt influence the decision made by BOI Voting Members by making summary statements.

c. Outside of employee representation, requests to attend the Safety Board of Inquiry must be made to the Executive Secretary to observe the proceedings shall be made prior to the scheduled meeting. The Executive Secretary has the right to refuse any requests which he/she believes might jeopardize the integrity of the BOI Hearing.

d. If in the opinion of the Executive Secretary the conduct of representation or observers present in the BOI is deemed potentially prejudicial to the proceedings, the Executive Secretary shall stop the proceedings and ask the party in question to leave the BOI hearing.

C. Safety Violations

1. Safety violations shall be classified in the following manner according to Administrative Directive 2.03-4 Departmental Safety Programs and Disciplinary Guidelines for Infractions of Safety Violations:

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- a. **Level 1 Violations** - resulting from property damage **less** than a \$4000.00, or non-serious OSHA violation. Discipline is mandatory.
 - b. **Level 2 Violations** – Employee/union member requiring medical treatment or public injury requiring medical transport; or property damage **greater** than \$4000.00 resulting from safety infractions or serious OSHA violation. Discipline is mandatory.
 - c. **Level 3 Violations** – Property damage greater than \$4000.00; coupled with a fatality, or injuries to 2 or more members of the public, or employee/ union member hospitalization over 24 hours, or significant City civil liability exposure resulting, safety infraction or serious OSHA violation. Discipline is mandatory.
 - d. **Special Circumstance** – serious violation even though no injury or property damage occurs because an employee holds valid certification or license for a particular situation or substance (e.g. Asbestos, Commercial Driver’s License (CDL), Pesticide Applicator, or similar). Discipline is mandatory.
2. In order to streamline the Police Department - Board of Inquiry process, the police supervisor at the accident scene will determine, if possible, who is at-fault. This report will serve in lieu of a Board of Inquiry.
 3. Employees found to be At-fault, and where discipline is mandatory shall be served by the department with Notice of Intent to Discipline as defined in Administrative Directive 2.01-16, Section V, Paragraph A, in consultation with Human Resources.

D. Investigation Process:

1. The following steps shall be taken by the Board of Inquiry in reviewing incidents:
 - a. The department shall notify the employee or union member of the investigatory process, and after forty-eight (48) hours, following the criteria for BOI Voting Member selection, convene the BOI;
 - b. Introduce the foundation of the BOI
 - c. Review all accident reports and supplements pertaining to the incident;
 - d. Solicit testimony from the employee;
 - e. Interview the employee’s immediate supervisor and witnesses;
 - f. Review the accident photographs, if available;
 - g. Verify equipment failure or malfunction through the use of maintenance work orders, GPS tools, laboratory tests, or similar;
 - h. Determine if the employee or union member received specific training, received a safety briefing (tailgate) or had received previous corrective

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or disciplinary action, directly associated with and prior to the incident that is the subject of the BOI;

- i. Determine whether the employee or union member was complying with all published work rules and operating instructions;
- j. Determine whether an employee was wearing required personal protective equipment at the time of the incident;
- k. Render an At-fault or Not-at-Fault decision.

E. Board of Inquiry Recommendations

1. In the event of an At-fault finding, by the Voting Members of the BOI, the Voting Members of the BOI shall recommend specific corrective action in addition to department disciplinary action.

NOTE: Discipline guidelines for Level 1, 2 or 3 violations may be found in Administrative Directive 2.03-4 Departmental Safety Programs and Disciplinary Guidelines for Infractions of Safety Violations, Section V.

These guidelines may also be used for other safety violations, infractions or unsafe work practices or procedural violations.

2. Within five (5) working days of the completed BOI, the employee and his/her immediate supervisor will be provided with copies of the BOI findings.
3. The BOI findings will be made part of the employee's work record.

F. Appeal

1. Employees have the right to appeal the findings and recommendations of the BOI, in writing to the Department Director.
2. The Department Director or his/her designee will review the BOI report and recommendations, when considering the employee's appeal.
3. Disciplinary or corrective action is executed at the discretion of the Department Director.

7.0 ADVICE AND COUNSEL

The Central Safety Services, in consultation with the City Risk Manager shall review this procedure periodically, or as circumstances warrant.

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**City of Tucson
Board of Inquiry Report (example)**

Department:			
Division:			
Employee Name:			
Employee Number:			
Job Title:			
Accident Date:			
Accident Type:	Vehicle	Injury	Property Damage

Employee Accident History (Previous Three (3) Years)

Date	Description	Findings/Result

Employee Statement

Board Conclusion

Conclusion	At Fault	Not at Fault

Corrective Action (if any)

Executive Secretary:	Member:
Supervisor:	Member:
Department Designee:	Member:
Date of BOI:	Copies: Department, Division, Employee Records Employee, Union (applicable), CSS