

NOTICE OF INDEFINITE SUSPENSION WITHOUT PAY

Engineer Michael Gonzales
San Antonio Fire Department
315 S. Santa Rosa
San Antonio, Texas 78207

MAY 3 '19 12:32PM

CITY OF

SAN ANTONIO HR

Fire Fighters' and Police Officers' Civil
Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

Commissioners and Engineer Michael Gonzales:

Under and by the virtue of the authority vested in me by Chapter 143, Municipal Civil Service, Subtitle A, Title 5, V.T.C.A. Local Government Code, I do hereby suspend Engineer Michael Gonzales from the San Antonio Fire Department without pay for an indefinite period, beginning on the 3 day of May, 2019.

Eng. Gonzales has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters and Police Officers Civil Service Commission Rules which were adopted on February 23, 1998, by the Fire and Police Civil Service Commission as the Civil Service Rules for the Fire and Police Departments of the City of San Antonio. The particular civil service rules violated by Eng. Gonzales and which are grounds for suspension are as follows:

Rule XIII, Subsection C(12): Violation of an applicable fire or police department rule, or special order.

The Rules and Regulations of the San Antonio Fire Department which Eng. Gonzales has violated were those approved by the Firemen's and Policemen's Civil Service Commission on February 10, 2003, to be effective March 7, 2003. The particular rules thereof which Eng. Gonzales has violated are as follows:

- 3.01 CONDUCT AND BEHAVIOR: Members, whether on-duty or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit on themselves or the Department.

- 6.02 ACTIVITY INTERFERING WITH DUTY: Members shall not engage in any activities other than those that relate to their duty assignment without the approval of their immediate supervisor. At no time shall members engage in activities that in any way interferes with their assigned duties and responsibilities.

- 6.03 **REQUIREMENT TO TAKE ACTION:** On-duty Members are required to take prompt and effective action conforming to all rules and regulations, administrative orders, directives, policies, and procedures of the Department.
- 6.06 **DUTY POST:** Members shall not leave quarters, fire ground, or duties assigned except when authorized by their supervisory officer.
- 6.07 **DUTY TO PERFORM:** Members certified (or licensed) as EMT at the Basic or Paramedic level shall have the responsibility to perform in accordance with the ethical and legal standards set forth by the Texas Department of Health, Bureau of Emergency Management.
- 6.10 **RESPONSE DISTRICT:** All Members who are assigned to a response district shall have a thorough knowledge of the streets, block numbers, and hydrant locations in their respective districts. When responding to an alarm they shall use the most direct route, taking into consideration street and traffic conditions at the time of the alarm.
- 6.13 **PROMPT RESPONSE TO ALL CALLS:** Members shall respond without delay to all calls for service from citizens or other Members.
- 6.14 **ABSENCE FROM ASSIGNMENT:** Members shall not leave their assigned areas except:
- A. in the line of duty;
 - B. upon authorization of a supervisor;
 - C. as directed by Communications dispatcher; or,
 - D. at the end of a scheduled tour of duty.

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The acts committed by Eng. Gonzales which violated the aforementioned Civil Service Rules and Fire Department Rules are as follows:

On November 13, 2018, Eng. Michael Gonzales was dispatched to Taft High School, 11600 Culebra Road, for a 14-year old with breathing problems (asthma). Eng. Gonzales was the driver for M44 on that date. In responding to the call, Eng. Gonzales diverted from the programmed route in order to drive to his home to retrieve his personal stethoscope, resulting in an 18 minute response time. This unauthorized diversion added additional, unnecessary minutes to the response time which could have resulted in additional injury or death to the patient. Eng. Gonzales' actions tend to bring reproach upon himself and the San Antonio Fire Department.

Eng. Gonzales' violation of the cited rules is the basis for these charges and the reason for his indefinite suspension without pay.

An original of this disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.



Fire Chief Charles N. Hood

5/3/19
Date

1120
Time

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RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, Engineer Michael Gonzales was issued an indefinite suspension on May 3, 2019, by Fire Chief Charles N. Hood for violations of civil service rules and regulations of the San Antonio Fire Department as stated in the notice of suspension; and

WHEREAS, Engineer Michael Gonzales has the right to appeal, but has not yet appealed, said suspension to the San Antonio Firefighters and Police Officers Civil Service Commission or a third-party arbitrator; and

WHEREAS, Chief Hood and Engineer Michael Gonzales have agreed to settle this disciplinary matter; **NOW THEREFORE**:

FOR AND IN CONSIDERATION OF THE AGREEMENTS CONTAINED HEREIN:

SECTION 1. Engineer Michael Gonzales admits that he violated the rules of the Fire Fighters' and Police Officers' Civil Service Commission and of the San Antonio Fire Department set out in the Notice of Indefinite Suspension issued on May 3, 2019, and admits to the truth of the facts stated in the factual basis in said notice of indefinite suspension.

SECTION 2. The aforementioned indefinite suspension without pay of Engineer Michael Gonzales is hereby reduced to a ninety day suspension without pay beginning May 4, 2019.

SECTION 3. IT IS FURTHER AGREED AND UNDERSTOOD THAT BY EXECUTION OF THIS AGREEMENT, AND IN CONSIDERATION OF SAID REDUCTION OF DISCIPLINE, ENGINEER MICHAEL GONZALES DOES HEREBY RELINQUISH AND WAIVE ANY RIGHT TO APPEAL SAID SUSPENSION TO THE FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION, A THIRD-PARTY ARBITRATOR, THE DISTRICT COURT, OR ANY OTHER COURT HAVING COMPETENT JURISDICTION AND THAT THIS AGREEMENT IS INTENDED TO BE A FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, WHETHER ASSERTED OR NOT HAVING YET BEEN ASSERTED, ARISING OUT OF THE AFORESAID SUSPENSION.

SECTION 4. ENGINEER MICHAEL GONZALES, FOR HIMSELF, HIS HEIRS, EXECUTORS, AND ASSIGNS, DOES HEREBY RELEASE, DISCHARGE, AND ACQUIT THE CITY OF SAN ANTONIO, TEXAS, ITS SUCCESSORS, ASSIGNS, OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, AND CHARLES N. HOOD, HIS HEIRS, EXECUTORS, ASSIGNS, AGENTS, SERVANTS, AND EMPLOYEES, FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, INCLUDING THOSE ARISING OUT OF CHAPTER 554 OF THE TEXAS GOVERNMENT CODE, CLAIMS, OR DEMANDS FOR DAMAGES, COSTS, EXPENSES, COMPENSATION, OR

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CONSEQUENTIAL DAMAGES, KNOWN OR UNKNOWN, ASSERTED OR NOT, ARISING OUT OF THE AFORESAID SUSPENSION.


SECTION 5. Should there be any contention, now or in the future, that the terms of this agreement conflict with or are inconsistent with those of the Collective Bargaining Agreement between the City of San Antonio and Local 624 International Association of Fire Fighters, which was executed on June 27, 2011, Engineer Michael Gonzales agrees that the provisions of this agreement prevail.

SECTION 6. Engineer Michael Gonzales acknowledges that he has been given an opportunity to review this agreement with the International Association of Fire Fighters, Local 624, and his attorney or other representative. Engineer Michael Gonzales acknowledges that he has carefully read this Release and Settlement Agreement, he knows and understands the contents of the agreement, and he is satisfied with the contents of the agreement.

EXECUTED IN DUPLICATE ORIGINALS on May 3, 2019.



Michael Gonzales
Engineer



Charles N. Hood
Fire Chief

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NOTICE OF RIGHT OF APPEAL

I hereby acknowledge receipt of a copy of the foregoing indefinite suspension without pay and further acknowledge that I have been notified that I have ten days to file a written appeal of this suspension with the Fire Fighters' and Police Officers' Civil Service Commission for hearing before the Commission or an independent third party hearing examiner. I also understand that if I appeal to the hearing examiner, I waive all rights of appeal to a District Court, except as provided by subsection (j) of Section 143.057 of Title 5, V.T.C.A. Local Government Code.


Eng. Michael Gonzales

May 3, 2019
Date

11:20
Time

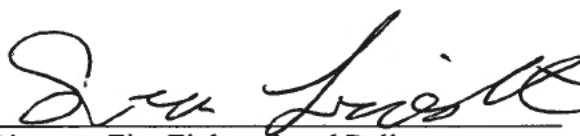
WITNESSED BY:


Signature

May 3 2019
Date

11:20
Time

FILED on this the 03 day of May, 2019, with the Fire Fighters' and Police Officers' Civil Service Commission.


Director, Fire Fighters' and Police
Officers' Civil Service Commission

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