**Module 4**

**Legal Aspects of Fire Code Enforcement**

**Student Performance Objective (SPO):**

* SPO-1 The student will understand the meaning of legal authority.
* SPO-2 The student will understand the paths by which laws are created
  + - SPO-3 The student will understand the scope of state rights to enact laws, and it limits to those rights.
  + SPO-4 The student will understand the enforcement and application of Subchapter 1 and Subchapter 2 of the New Jersey Uniform Fire Code.
  + SPO-5 The student will know the term tort, civil rights act of 1871, duty and special duty.
  + SPO-6 The student will be able to understand through classroom discussion, rights of entry and its ramifications for failure to understand them.
  + SPO-7 The student will understand the application of the enforcement procedures, serving of notices, penalties, imminent hazard and punitive closing.

**Module Outline**

**Legal Aspects of Fire Code Enforcement**

• **Legal Authority**

* Federal
* State
* County
* Local

• **Codes and standards**

* Codes adopted by regulation
* Standards adopted by reference in an adopted code

• **Areas of law and ‘feasances’**

o Authority

o Liability

o Duty to inspect

o Right of entry

• **Inspector conduct**

o Conflict of interest

o Official Misconduct

• **Code development**

* Code change process at the National level ICC
* NJ Code Change form for submittal
* NJ Fire safety Commission Fire Code Advisory Board

**Supplemental Materials**

Additional supplemental materials can be found in the Student Manual, File Folder “***Module 4***” and contains the following PDF files:

* Court case; See vs. Seattle
* Court case: Camara vs. San Francisco
* Court case: Mapp vs. Ohio
* OSHA ability to obtain search warrant
* Amendments to US Constitution
* Three quizzes

**Suggested Criteria to Meet the U.S. Supreme Court Guidelines on**

**Rights of Inspection.**

1. Discuss the guidelines with legal counsel.

2. Establish adequate identification for inspection staff. (photo ID issued in accordance with the LEA’s or the appointing authority policy)

3. Brief staff on the procedure to follow to initiate an inspection. When requesting entry:

A. Inspector should make verbal identification.

B. Show ID card or Badge

C. Explain purpose of the inspection

D. Request to inspection

E. Invite the person to accompany the inspector on tour.

4. The fire prevention authority should develop formal, written inspection procedures spelling out how, when where and what inspections are to be carried out.

5. If the inspector is denied entry and has probable cause to believe that an extreme or unusual hazardous operation or condition exists which could means a loss of life while obtaining a warrant, the inspector should proceed to have the operation halted or the condition corrected even if it means having the person denying entry placed under arrest.

6. If the inspection authority anticipates problems of entry at a particular address on a routine area inspection, the inspector may go to a magistrate and request a warrant to inspect (administrative warrant for the purpose of conducting an inspection).

7. Develop good inspection record system by address, owner and occupant.

8. Establish guidelines on what constitutes an extreme emergency condition, where upon finding such condition, inspectors could proceed to enter the building without a warrant and halt the operation or condition.

9. Review Licensing and permit procedures.

10. Fire Inspectors should be well trained in the recognition of fire hazards, fire prevention procedures, and laws and ordinances the inspector is expected to enforce.

11. Develop a healthy public relations program for your fire prevention authority.

12. Train your inspector to be courteous, friendly and helpful. in their relations with the public.

13. Fire Inspector should be enthusiastic salespeople for fire safety.

**Legal Definition: Official Misconduct**

**OFFICIAL MISCONDUCT - N.J.S.A. 2C27-30-2**

The intent to obtain a benefit personally or for another, and act is committed which constitutes and unauthorized exercise of official duties, or refrain of official duties.

**New Jersey Criminal Code** (N.J.S.A. 2C:27-2) & (NJSA 2C:27-6)

**Bribery:** A person is guilty of bribery by offering, giving, or agreeing to give any benefit to a public official in exchange for the performance, or violation of an official duty.

* Penalty: Value under $ 200.00 dollars 3rd degree crime = $7,500.00 3-5 years prison.
* Penalty: Value over $ 200.00 dollars 3rd degree crime = $100,000.00 5-10 years prison.

**Gifts:** An inspector commits a third-degree crime by soliciting, accepting, or agreeing to accept any benefit to influence the performance of official duties

* Penalty: 3rd degree crime = $7,500.00 3-5 Years prison

**Key terms**

* Legal Authority
* Liability
* Selective Enforcement
* Right of Entry
* Conflict of Interest
* Official Misconduct

**Review questions**

* What acts can a fire inspector be held liable for?
* Can a business owner refuse entry to a fire inspector?
  + If entry is denied by a business owner, what legal recourse does a fire inspector have?
* Can a fire inspector accept alternate systems in lieu of a code requirement?
* Can a fire inspector work part-time for an occupancy he inspects in his capacity as inspector?
* What are the main elements of a fire code?

**Homework**

**Reading**

* IFSTA Fire Inspection and Code Enforcement 8th edition, Chapter 1 and 2.
* New Jersey Uniform Fire Safety Act N.J.S.A 52:27D et seq.
* NJAC 5:70-1 and NJAC 5:70-2.
* Case law See vs. Seattle and Mapp vs. Ohio

**Assignments**

The instructor may assign any of the three quizzes as homework assignments. The assigned work is as follows:

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| **Date** | **Assigned Work** | **Date Due** |
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