

# Firefighter training turned into 'frat boy' shenanigans

## Stumbling, disruptive trainee challenged suspension after incident



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Kyle Kutzke — *Peggy Peattie*

A San Diego firefighter remains employed after getting drunk at a department-sponsored training event — conduct he defended in court, saying there was no city rule against it.

Firefighter Kyle Kutzke successfully had a 72-hour suspension reduced to 60 hours after challenging his initial discipline and was reimbursed about \$300. He lost a subsequent court case seeking compensation for lost wages and opportunities totaling as much as \$34,000.

The November 2012 training class took place at the union hall, while firefighters were off-duty. The city paid for the training, which was required for certain career advancement, and firefighters were given considerations such as excuses from mandatory overtime while they were at the training.

Because firefighters were off-duty, there was no rule against being intoxicated at the training, Kutzke argued in court. His petition in Superior Court stated that the record established that the “firefighting culture approved of drinking in such classes” and the discipline was excessive.

City officials said that Kutzke is a Marine veteran and “usually behaves as an exemplary firefighter.” But in their court response to his appeal, officials said he became the “ringleader of impromptu ‘frat party’ type shenanigans” at the training. They said his suspension was warranted because the department paid for the class and Kutzke’s “juvenile” behavior could have jeopardized future funding and certification.

In a final ruling on Kutzke’s case in August, Judge Joan M. Lewis said “even absent a specific rule, it strikes the court as difficult to understand how becoming intoxicated and disruptive during a department-offered class would not be subject to discipline.”

Department spokesman Lee Swanson has not responded to questions from U-T Watchdog over the past two weeks about whether a rule has been instated banning intoxication at the training sessions or drinking while on breaks.

The Watchdog came across the case after reviewing 2014 compensation data for city and county employees and finding Kutzke earned an unusually high \$210,000 of overtime that year. The U-T is still asking questions about how that’s possible.

According to Kutzke's petition, the five-day "Fire Prevention 1B" class had 22 students and was run "loosely." It was supposed to consist of about 40 hours of instruction, but ended up being around 26 hours and participants were allowed to miss significant portions and still pass, he said.

Kutzke's appeal said it was common for class participants to spend their lunch break at McGregor's Grill & Ale House during the week, "where they drank beer, shots, and other alcoholic beverages." The pub is on San Diego Mission Road, near the union hall.

On Nov. 7, 2012, firefighters were especially "euphoric" because their favorite mayoral candidate, Bob Filner, had won the election the previous day, according to the city's summary of facts.

After lunch, Kutzke and three other class members, who are not identified in court records, went to a nearby liquor store and purchased a 30-pack of Coors Light, which they brought back to class, according to court records filed by both the city and Kutzke.

"[Kutzke] got drunk enough to begin stumbling. He caused numerous class disruptions by playing loud music and making loud 'coughing' noises to cover the sound of opening beer cans," the city said in court papers.

Battalion Chief Gina La Mantia, who was in charge of department training and organized the class and its funding, was told about the drinking at McGregor's and sent an email to class members expressing her disappointment with their behavior. She also said she planned to implement a code of conduct against such behavior, according to court records.

Had the incident been limited to "a little drinking at McGregor's during the lunch hour...no discipline would be pursued," said the city's response to Kutzke's appeal.

La Mantia later learned that it was "much worse," and top fire officials began investigating the incident and interviewing class members.

Classmates said Kutzke was visibly intoxicated and had to be driven home. The investigation also revealed that Kutzke had missed some days of the week-long class and another classmate had signed him in.

Kutzke was given a 72-hour suspension. Another class participant was suspended for 24 hours.

Kutzke expressed remorse, apologized and said he wanted to take responsibility for his actions, and then chose to appeal the 72-hour suspension.

The suspension was upheld in March 2013, and Kutzke appealed to the Civil Service Commission, which held a two-day evidentiary hearing in September 2014. The commission upheld the suspension, but reduced it to 60 hours since the court could not prove that Kutzke knew another student signed him into class.

Kutzke appealed the new 60-hour suspension in San Diego County Superior Court and also sought monetary compensation for his loss in pay and professional opportunities.

In the petition, Kutzke says he was prevented from working nine, 24-hour overtime shifts, totaling about \$9,000. He also missed the opportunity to sell 125 hours of annual leave, approximately \$5,000, according to court records, and claimed the discipline prevented him from receiving three promotions, a loss of \$20,000.

The court upheld the suspension in August.

Attorney Dan Eaton, who represented Kutzke in the appeal, said there has been no further action in the case.

Several calls and emails to Kutzke seeking comment went unanswered, and he did not respond to a note left at a fire station where he has been assigned.

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