

Personnel Complaints

1005.1 COMPLAINTS

Agency Content

- (a) Any member below the rank of police sergeant who is made aware of any complaint alleging member misconduct shall immediately notify their immediate supervisor, or if unavailable, a superior officer.
- (b) All complaints shall be received courteously without attempt to dissuade any person from lodging their complaint and promptly recorded in writing. Officers may attempt to resolve the complaint. Complaints shall be received regardless of their source (in-person, telephone, letter, anonymous, third-party, etc.).
 - 1. If the complaint appears to be resolved to the citizen's satisfaction, the notified supervisor shall record this fact and the method used to resolve the complaint in a Blue Team entry.
 - 2. The fact that the matter appears to be resolved shall not relieve personnel of the responsibility of notifying a supervisor or superior officer.
 - 3. All complaints shall be received and recorded regardless of their source, whether such complaints come to the Department's attention by the citizen in person, by letter, telephone, via the Department's public website, or from another person other than the actual complainant.
 - (a) The Department shall make available online compliment/complaint forms. These forms will serve as a mechanism for citizens to commend or complain about a member of the Syracuse Police Department. The forms shall be made available on the Department's public website.
- (c) Supervisors and Command Personnel are authorized to receive complaints from citizens or members of the Department. A higher-ranking officer shall receive complaints about a police sergeant or above.
- (d) Any supervisory or Command Officer who receives a complaint directly or has been summoned to receive a complaint shall:
 - 1. If the complaint relates to a policy or a procedural issue, the supervisor/Command Officer shall explain the policy/procedure to the complainant. If, after the explanation and conciliation is completed, the complainant is satisfied and the matter resolved, no report is necessary.
 - 2. If the matter is not resolved, or if the complaint relates to other than a policy or procedural issue, the supervisor/Command Officer shall request the complainant to complete and sign a "Civilian Complaint Report" and immediately initiate, conduct, and document a preliminary investigation to include:
 - (a) Interviewing the complainant.
 - (b) Obtaining, as soon as practical, an affidavit (preferably in the complainant's own handwriting) containing details of his/her complaint.
 - (c) Locating and interviewing available witnesses.

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- (d) Identification of all Department members involved.
 - (e) Collection of any evidence pertinent to the complaint.
 - (f) Photographs of the scene and the complainant, as appropriate.
 - (g) Securing appropriate medical examination or treatment and obtaining an authorization for release of medical records, when appropriate.
 - (h) Neighborhood canvass.
 - (i) Collection of relevant information such as all reports relating to the incident, officer's log sheets, prior history of the complainant, etc.
 - (j) If the complainant will not cooperate with the preliminary investigation, the supervisor/command officer shall fully document his attempt to complete the investigation, via a Blue Team entry.
 - (k) Complaints made by intoxicated persons should be received at the time they are made by a supervisor/Command Officer. Only initial information shall be obtained. The complainant should be re-interviewed at a later time (e.g. when he/she is sober) and any discrepancies should be noted in the Blue Team entry.
 - (l) Arrangements shall be made to provide the complainant who signs a Department Complaint form with a copy of the form and his affidavit, upon request.
3. The Chief of Police, or in his absence, the Duty Chief, shall be notified immediately if a member of the Department is:
- (a) Arrested or charged with a criminal offense.
 - (b) Accused or questioned regarding conduct that would constitute a crime.
 - (c) Temporarily relieved of duty.
 - (d) Involved in an action resulting in physical injury or death to another person.
 - (e) Accused of serious misconduct.
 - (f) Accused of using excessive force or violating a person's civil rights.
 - (g) Accused of sexual harassment.
4. The Chief/Duty Chief shall notify the Commanding Officer of the Office of Professional Standards immediately, if the complaint is of the type specified in section 3 above.
5. Upon completion of the preliminary investigation, the supervisor/Command Officer shall forward the Blue Team entry and any completed documentation through the chain of command to the Commanding Officer of the Office of Professional Standards. If the preliminary investigation is not completed by the end of the shift, a copy of all completed reports will be forwarded with an indication that further documentation is to follow. The supervisor/Command Officer shall retain a copy of the preliminary investigation for continued follow-up, if appropriate.

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1005.2 GRIEVANCES

Agency Content

The purpose is to establish procedures for filing, receiving and responding to grievances by members of the Syracuse Police Department.

It is the policy of the Syracuse Police Department to resolve grievances filed by members fairly and expeditiously to ensure that all employees are aware of those procedures, and to ensure that procedures are consistent with collective bargaining agreements. Grievance procedures shall be as specified in the current collective bargaining agreement between the City of Syracuse, and:

The Syracuse Police Benevolent Association, and the City of Syracuse Unit 7801, Onondaga Chapter, Local 834, Civil Service Employees Association, Inc., and the Council 66 and its affiliated Local Union 400 of the American Federation of State, County & Municipal Employees, AFL-CIO; and Council 66 and its affiliated Local Union 1773 of the American Federation of State, County & Municipal Employees, AFL-CIO.

Definitions:

Contractual Grievance - A controversy, disputes or differences arising out of the interpretation or application of any bargaining agreement.

Non-Contractual Grievance - A concern, criticism or constructive comment regarding a matter not covered as part of a collective bargaining agreement.

Formal Grievance - Any contractual or non-contractual grievance submitted in writing for formal consideration pursuant to this directive.

PROCEDURE FOR GRIEVANCES, EXCEPT THOSE CONCERNING DISCIPLINE OR DISCHARGE - POLICE OFFICERS:

For the purposes of this section, a grievance shall be defined as a claim that the City violated a provision of its labor agreement with the Syracuse Police Benevolent Association.

- (a) In all cases of a grievance of a police officer not involving a discipline or discharge, the following three-step procedure will be followed:
 1. Step 1: The grievance shall be first presented in writing by the Association or a member, to the Chief, or in his absence the First Deputy Chief, who within ten working days thereafter, shall reply in writing to the Association.
 2. Step 2: If such reply is not satisfactory to the Association or to the member, the Association or members shall present such grievance in writing, together with a copy of the reply from the Chief, to the Mayor of the City. Within ten working days thereafter, the Mayor shall reply in writing to the Association or member.
 3. Step 3: If the grievance remains unresolved and if the grievance involves an alleged violation by the City of an express provision of the Contract, then the Association may submit the grievance in writing (copy to the City) to the American Arbitration Association for the selection of an arbitrator to resolve the grievance in accordance with its rules and regulations.

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- (b) If a written copy of the grievance is not served on the City within fourteen (14) calendar days after the act, occurrence or event giving rise to the grievance or if the grievance is not submitted in writing to the American Arbitration Association (copy to the City) within 60 days after the date of its Step 1 presentation in writing to the Chief or designated Deputy Chief, the grievance will be deemed waived and there shall be no right to arbitration.

PROCEDURES FOR GRIEVANCES CONCERNING DISCIPLINE OR DISCHARGE - POLICE OFFICERS:

For the purposes of this section, a grievance shall be defined as a claim that the City violated a provision of its labor agreement with the Syracuse Police Benevolent Association.

- (a) In all cases of the grievance of a police officer involving a discipline or discharge, the following, 2 step procedure will be followed:
 - 1. Step 1 - Within seven days (exclusive of Saturday and Sundays) of a notification in writing upon the officer that the Department proposes to commence disciplinary action against him, the parties (the Chief, the officer, the union and any of their attorneys) will meet to discuss voluntary resolution of the charges. If no voluntary resolution can be made at the meeting described above, then within three days (exclusive of Saturdays and Sundays) after such meeting, the officer must serve written notice with the Chief if he/she desires to follow Step 2 of this procedure. Such election must include a written waiver of all rights under Section 75 of the Civil Service Law, including limitations as to type or degree of punishment or to any right to reinstatement under Section 75, or otherwise, pending final determination by the arbitrator selected, or to the holding of a hearing within a 30 day period of suspension without pay. Failure to make a timely election shall automatically mean that the procedures of Section 75 of the Civil Service Law shall be followed, and there shall be no right to arbitration under the provisions of the Agreement. If the Officer waives his Section 75 rights and makes a timely election for arbitration, then the remaining step will be followed. If an employee has been suspended without pay he may waive his Section 75 rights and demand arbitration immediately. In such a case, within 72 hours the City shall serve a description of the charges on which it relies for the discipline sought.
 - 2. Step 2 - The parties will utilize panels designated by the American Arbitration Association in matters of discharge and discipline. If the officer has made a timely election in Step 1, the Association shall file in writing a request for arbitration with the American Arbitration Association. To elect the procedures set forth in Step 2, the officer must file a written notice of election with the Chief within the time limits set forth in Step 1.

GRIEVANCE PROCEDURES - MEMBERS OF CSEA UNIT 7801, LOCAL 834:

For the purposes of this section, a grievance shall be defined as any dispute or controversy between the City of Syracuse and the City of Syracuse Unit 7801, Onondaga Chapter, Local 834, Civil Service Employees Association, Inc., or its members, arising out of the interpretation or application of an express provision of their contract agreement.

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- (a) In all cases of a grievance by a member of the Department who is represented by the CSEA Unit 7801, Local 834, the following 4 step procedure will be followed:
1. Step 1 - The grievance shall be first raised by the grievant and/or his Association grievance committee person to the grievant's immediate supervisor.
 2. Step 2 - A grievance unresolved after Step 1 shall be reduced to writing with a statement of the facts surrounding the grievance and the specific nature of the grievance, signed by the grievant, and a copy served on the Mayor or his designee. The grievance will then be considered by the Joint Standing Committee at its next monthly meeting.
 3. Step 3 - If the grievance remains unresolved after Step 2, the Mayor, or his designee, shall serve a written answer to the grievance upon the Association within ten (10) working days after this Joint Standing Committee meeting. If the parties mutually agree, there may be an additional meeting between the Mayor or his designee and the Association's Field Representative and/or his designee.
 4. Step 4 - If the grievance remains unresolved and if the grievance involves an alleged violation by the City of an express provision of the collective bargaining agreement and if the Association wishes to process the grievance further, then the Association may submit the grievance in writing (copy to the Mayor) to the American Arbitration Association for the selection of an arbitrator to resolve the grievance in accordance with its rules and regulations. The decision of the arbitrator shall be final and binding on both parties to this agreement. The fees and expenses of the arbitrator shall be shared equally by the City and the Association.

GRIEVANCE PROCEDURES - MEMBERS OF COUNCIL 66, LOCAL 400, AFSCME:

For the purposes of this section, a grievance shall be defined as any dispute or controversy, which may arise regarding the application, meaning or interpretation of the existing contract.

- (a) In all cases of a grievance by a garage employee who is a member of Council 66, Local 400, AFSCME, the following 4 step procedure will be followed:
1. Step 1 - A grievance shall be first raised by a union steward, with or without the grieving person, to the grievance's immediate supervisor. The immediate supervisor and Bureau Superintendent shall then meet with the union steward to examine the facts of the issue; The steward will be allowed twenty-four hours to review the issue with the grievant; A Step 1 meeting will be held between the steward, the employee and the Superintendent to discuss appropriate disciplinary action. Superintendent can uphold or remove the grievance at this stage of the procedure. In cases of fighting, theft, substance abuse, insubordination and other serious violations, discipline will be immediate and the procedure outlined herein shall become inapplicable. In these cases, the union is not precluded from pursuing the grievance through the other Steps.
 2. Step 2 - Departmental Level: Any grievance unresolved in Step 1, or any grievance involving a contract interpretation question of general application (i.e., involving or affecting, employees of a number of different supervisors), shall be reduced to writing, signed by the Chairperson of the Union Grievance Committee

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and a copy served on the Department or bureau head involved or his designee within one (1) calendar week of the act, occurrence or event giving rise to the grievance. There will be a meeting between up to two (2) representatives of the Department or bureau head and up to three (3) authorized representatives of the Union at a time mutually convenient to the parties but within five (5) work days of the service of the written grievance. It is understood that grievances settled in Steps 1 and 2 shall be without precedent or prejudice as to future grievances.

3. Step 3 - Personnel Director Level: If the grievance remains unresolved after Step 2, the Union President or his designee may within five (5) days following the Step 2 meeting, appeal in writing (copy of grievance attached) to the City Personnel Director or his designee. Within five (5) working days of the receipt of such appeal there will be a meeting at a mutually convenient time between the Personnel Director and his representatives and the Chairperson of the Grievance Committee and up to two (2) additional grievance committeemen. The City shall serve a written answer to the grievance upon the Union within five (5) work days after this meeting. Such time requirement may be extended by the mutual consent of the parties. If the parties mutually agree, there may be an additional meeting between the Mayor and/or his designee and the representatives of the Union Council.
 4. Step 4 - Arbitration Level: If the grievance remains unresolved and if the grievance involves an alleged violation by the City of an express provision of the contract, then the Union may submit the grievance in writing (copy to the City) to the American Arbitration Association for the selection of an arbitrator to resolve the grievance in accordance with its rules and regulations. The decision of the arbitrator shall be final and binding upon both parties to the grievance.
- (b) If a written copy of the grievance was not served on the City within one (1) week of the act, occurrence or event giving rise to the grievance, or if the grievance was not submitted in writing to the American Arbitration Association within sixty (60) days after service of the written copy of the grievance on the City, the grievance will be deemed waived and there shall be no right to arbitration, unless the parties by mutual agreement in writing, extended one of the above two time limits for a specified period of time. If the City fails to answer, or meet, within one of the Step time limits set forth in this Section, the Union may proceed directly to the next Step of the procedure. The parties may, by mutual agreement in writing by-pass Step 1, Step 2 or Step 3 of the grievance procedure.

1005.3 EXAMINATIONS

Agency Content

- (a) Office of Professional Standards investigations may require that a subject member submit to certain specific examinations. The scope of the demand for information, or for submission of person for testing or examination must be directly and narrowly related to the particular investigation. If the Office of Professional Standards investigation pertains to alleged criminal conduct, search warrants or court orders may be necessary before examinations are conducted.

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- (b) The express authorization of the Chief of Police shall be obtained prior to requiring a member to submit records, photographs or his person for testing or examinations.
- (c) Examinations may be ordered by the Chief of Police and shall be conducted at Department expense. Examples include, but are not limited to the following:
 - 1. Medical – Medical examinations must be performed under the supervision of a licensed physician. These tests may involve the taking of blood, body fluids, removal of body hairs or fingernail clippings and scraping.
 - 2. Psychological – Only a licensed Ph.D. Psychologist selected by the Department shall conduct psychological examinations. The Chief of Police may order a psychological examination to be initiated when a member:
 - (a) Exhibits behavior, which may be indicative of severe emotional disturbance.
 - (b) Receives repeated complaints of a similar nature.
 - (c) Receives complaints, which are sustained.
 - 3. Polygraph – Only a certified polygraphist shall conduct polygraph examinations. Polygraph examinations may be ordered and their results may be utilized during Office of Professional Standards investigations:
 - (a) When a polygraph is used, the subject member shall be informed of the questions to be asked prior to taking the test. The polygraph examiner may add questions of his choice, but these questions will be common in nature and not related to any other incident.
 - (b) Complainants and witnesses may be requested to submit to a polygraph examination.
 - 4. Breath-Test – Only a breath test operator, certified by the New York State Department of Health shall conduct breath test analysis.
 - 5. Physical identification line-up - A member may be required to participate in an in-person identification line-up conducted in accordance with the rules of evidence.
 - 6. Photographs - photographs may be taken of a member to show to complainants or witnesses. If photographs are used for identification purposes, they shall be presented in accordance with the rules of evidence.
 - 7. Documents, Personal Papers, Financial Statements, Electronically Stored Information, Recordings, etc., - Members may be required to submit information related to active Office of Professional Standards investigations. Personnel will comply with all lawful orders to produce such information.
 - 8. Departmentally Owned Property - Lockers, desks, computers, vehicles, equipment and facilities assigned to Department members remain the property of the Department. As such, no grant of property right or privacy right is made or implied. Communications in Department facilities may be monitored and recorded.

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9. Searches – Searches of or on Department owned property shall be conducted pursuant to law.
- (d) A subject member under investigation may request that examinations be conducted when the member believes such actions would be beneficial to his defense. Such requests shall be submitted in writing to the Chief of Police. Authorization for such examinations shall be at the discretion of the Chief of Police.
- (e) Members shall be provided with copies of the results of all examinations in which the member participates.
- (f) Office of Professional Standards investigations shall be completed within thirty (30) days of receipt of the complaint. If the investigation is not completed after thirty days from the time it was initiated, a weekly progress report will be submitted to the Chief of Police. The investigating officer shall keep the complainant advised in such instances of the case status.

1005.4 INITIATING DISCIPLINARY ACTION

Agency Content

- (a) A Disciplinary Action Report (Form 9.17) will be used to report unsatisfactory performance or conduct of members of the Department. Procedures for reporting, processing, and filing the report shall be as follows:
 1. The form will be completed in duplicate. The Officer requesting disciplinary action shall complete Section A by entering the Name, Rank, IBM, Bureau, Division or Platoon of the employee being charged. The initiating officer shall indicate the date and time the violation occurred, list the specific section(s) of the Rules and Regulations violated and provide a brief statement of charges in Section B. The initiating officer will print their name and rank then sign and date section B. The form and all other related reports will be forwarded to the Division/Platoon Commander of the employee being charged.
 2. The Division or Platoon Commander will review the case, make a disciplinary recommendation and sign and date the report in Section C. The case will then be forwarded to the Office of Professional Standards within five duty days.
 3. The Office of Professional Standards will review the case for accuracy and content. If the case is insufficient it will be returned to the Division Commander for further action. If the case is sufficient it will be forwarded to the Bureau Chief of the employee being charged within two duty days.
 4. The Bureau Deputy Chief will review all information pertaining to the member: the incident, the involved person's work record, disciplinary history, and meritorious service record. The Bureau Deputy Chief will recommend disciplinary action and sign and date Section D, and forward the case to First Deputy Chief.
 5. The First Deputy Chief will review the case and recommend disciplinary action and sign and date Section E, and forward the case to the Chief of Police.

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6. The Chief of Police will review the case and complete the final action, sign and Date Section F, and forward the report to the Office of Professional Standards for action.
 7. The Office of Professional Standards will administer the disciplinary action completing Section G, and maintain the report as a record of disciplinary action.
- (b) Procedural Exceptions:
1. Discipline reports initiated by the Chairman of the Accident Review Committee will be forwarded along with associated reports directly to the Office of Professional Standards.
 2. Discipline reports initiated by the Office of Professional Standards will be forwarded directly to the Bureau Commander.

1005.5 COMMENCING DISCIPLINARY ACTION

Agency Content

- (a) The Department will notify a member in writing of the intent to commence disciplinary action and the general circumstance for which the discipline is being sought.
- (b) A meeting may be held within seven days (excluding Saturday and Sunday) between the member, the Chief of Police or his designee, a union representative and their attorneys if requested, to discuss the voluntary resolution of the disciplinary charges.
- (c) If a voluntary resolution of the charges has not been achieved, the member must file written notice within three days (excluding Saturday and Sunday) after such meeting as defined in sub-section B has occurred, indicating the member's waiver of rights under Section 75 of the Civil Service Law (CSL) and the member's desire to invoke arbitration contracts between the City of Syracuse and the Syracuse Police Benevolent Association.
 1. If written notice is not made within the time periods as stated in sub-section [B] and [C] above, the right to arbitration is automatically waived and procedures as indicated in Section 75 of the Civil Service Law (CSL) shall be followed.
 2. If a member has been suspended without pay, they may immediately waive their rights under Section 75 of the Civil Service Law (CSL) and invoke arbitration immediately. Under this sub-section, the Department shall provide the member a description of charges within seventy-two hours.

1005.6 SUSPENSIONS

Agency Content

- (a) A superior officer may suspend an employee when it reasonably appears that such action is in the best interest of the Department. Examples of such suspensions are:
 1. When an employee fails to comply with a direct order from a superior or supervisor.

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2. When it is determined that the employee is under a physical or mental condition, which in the superior or supervisory officer's judgment, might render the employee incapable of adequately performing duties or performing them in such a way as to embarrass or discredit the Department or jeopardize the safety of any person or property.
 3. When there is substantial evidence to believe that the accused has committed an act or omission of such a flagrant nature as to render his/her continued presence in this Department a source of embarrassment.
- (b) Upon suspending an employee under this section, the suspending superior officer shall immediately notify the Chief of Police, the First Deputy Chief of Police, the bureau deputy chief, the Commanding Officer of the Office of Professional Standards, and the suspended employee's Commanding Officer.
- (c) The suspending superior officer, shall ensure that the following articles are obtained from the employee:
1. Breast badge.
 2. Secondary badge, if possessed.
 3. Detective's badge, if possessed.
 4. Cap badge.
 5. Identification card.
 6. Baton (Nightstick).
 7. Mace.
 8. Duty weapon.
 9. Off duty weapon, if not licensed by New York State.
 10. Any other Department owned property as directed by the Chief of Police.
- (d) The mace and firearms are to be turned into the Armament Section. The other items listed above are to be turned into the Human Resources Division.
- (e) If the Armament Section and/or Human Resources Division are not open, these items are to be secured within a locked cabinet in the vault at the Patrol Front Desk, and a 10.1 report submitted to the Human Resources Division listing all items secured. The Human Resources Division will recover the stored items from the vault, taking the mace and any firearms to the Armament Section.
- (f) An employee suspended will be notified when to report to the Chief's Office to respond to the charges placed against him/her.
- (g) No employee of the Department, while under suspension, shall use or have access to any Departmental equipment, files, computer services or offices not open or available to the general public. Also, police officers under suspension are relieved of the responsibility as required by this Department of enforcing laws or of taking action when a crime is observed or is brought to their attention.