

# Personnel Complaints

## 1010.1 PURPOSE AND SCOPE

State **MODIFIED**

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Syracuse Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

## 1010.2 POLICY

Best Practice **MODIFIED** NYSLEAP- 8.7 - 14.4, 25.1

The Syracuse Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and investigate all complaints of misconduct, including anonymous complaints, in accordance with this policy and applicable federal, state, and local laws; and municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation. Retaliation or intimidation against any individual that files a complaint or seeks to file a complaint is strictly prohibited.

## 1010.3 PERSONNEL COMPLAINTS

Best Practice **MODIFIED**

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

The Chief of Police, or designee, shall make available to the public the procedures for registering complaints against the Department or its employees. This shall be accomplished through the use of the Department's website and information disseminated by the Department.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

### 1010.3.1 COMPLAINT CLASSIFICATIONS

Best Practice **MODIFIED** NY\_CALEA6.13 - 26.3.1 (a), 26.3.1 (b) NYSLEAP- 8.7 - 25.1 (A), 25.1 (C)

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Division Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

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**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Office of Professional Standards, depending on the seriousness and complexity of the investigation.

**Closed - Pending** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Office of Professional Standards, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.3.2 SOURCES OF COMPLAINTS

Best Practice MODIFIED NY\_CALEA6.13 - 26.2.1

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone (front desk, 911 center, etc.).
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.
- (f) Claims filed through the Civilian Review Board.

#### 1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

Best Practice MODIFIED

##### 1010.4.1 COMPLAINT FORMS

Best Practice NY\_CALEA6.13 - 26.2.4

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

##### 1010.4.2 ACCEPTANCE

Best Practice MODIFIED

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If

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a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete an entry in Blue Team as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### 1010.5 DOCUMENTATION

**Best Practice** **MODIFIED** NY\_CALEA6.13 - 82.2.2 (b), 26.2.5 NYSLEAP- 8.7 - 25.1 (B)

Supervisors shall ensure that all formal and informal complaints are documented in Blue Team. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in Blue Team that records and tracks complaints.

The log in the Office of Professional Standards shall include the nature of all formal complaints and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

#### 1010.6 ADMINISTRATIVE INVESTIGATIONS

**Best Practice**

Allegations of misconduct will be administratively investigated as follows.

##### 1010.6.1 SUPERVISOR RESPONSIBILITIES

**Best Practice** **MODIFIED** NY\_CALEA6.13 - 26.1.5, 26.2.3, 26.3.1 (a), 26.3.1 (b), 26.3.2, 26.3.4 (a) NYSLEAP- 8.7 - 25.1 (A), 25.1 (C)

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal and/or informal complaint, a Blue Team entry is completed.
  1. The original complaint form will be directed to the Division Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Commanding Officer or the Chief of Police, who will initiate appropriate action.

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- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution in Blue Team and forward as appropriate.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Division Commander, Commanding Officer of the OOPS, and Chief of Police or their designee are notified via the chain of command as soon as practicable including if a member is:
  - 1. Arrested or charged with a criminal offense.
  - 2. Accused or questioned regarding conduct that would constitute a crime.
  - 3. Temporarily relieved of duty.
  - 4. Involved in an action resulting in physical injury or death to another person.
  - 5. Accused of serious misconduct.
  - 6. Accused of using excessive force or violating a person's civil rights.
- (e) Promptly contacting the Division Commander for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic, EEOC or other forms of prohibited harassment or discrimination.
  - 1. Promptly contacting the Human Resources Division in addressing an employee complaint that relates sexual, racial, ethnic, EEOC, or other forms of prohibited harassment or discrimination by another employee.
- (f) Forwarding unresolved personnel complaints to the Division Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.6.2 DUTIES AND RESPONSIBILITIES OF OFFICE OF PROFESSIONAL STANDARDS PERSONNEL

Agency Content

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It shall be the duty and responsibility of personnel assigned to the Office of Professional Standards to:

- (a) Record, register and provide staff control (for the Chief of Police, 1st Deputy Chief and Bureau Deputy Chiefs) over investigations delegated to other levels of command within the Department.
  - 1. Office of Professional Standards personnel will receive all Blue Team entries and import those entries into to IAPro for review and any necessary further action.
- (b) Conduct the following specific types of serious complaint investigations:
  - 1. Complaints alleging criminal conduct by Department personnel.
  - 2. Complaints alleging violations of a person's civil rights.
  - 3. Complaints alleging excessive use of force.
  - 4. Complaints involving multiple officers of various commands.
  - 5. Allegations of a serious violation of Department policy, procedure or rules.
  - 6. Actions by members that result in physical injury or death to another person.
  - 7. Situations involving the use of deadly force by Department personnel, to include the discharge of firearms in other than lawful sport activity, the destruction of dangerous or injured animals or at an approved firing range.
  - 8. Investigations so complex that it would be impractical for supervisory personnel to undertake the task.
  - 9. Any complaint when specifically directed by the Chief of Police.
- (c) Maintain a liaison with the City of Syracuse Corporation Counsel and District Attorney to assure that the results of Office of Professional Standards investigations are adjudicated fairly, impartially and thoroughly.
- (d) Maintain Office of Professional Standards records and prepare associated reports.
- (e) Report on all matters pertaining to the Office of Professional Standards directly to the Chief of Police, 1st Deputy Chief and Bureau Deputy Chiefs, as directed.
- (f) Notify the complainant, via form letter, that the matter is being handled administratively (as per §50-a of the Civil Rights Law).
- (g) OoPs will be responsible for reviewing all use of force complaints and ensuring that proper protocol has been followed (hyperlink a checklist of protocol).
- (h) The CO of OoPS has the authority to report directly to the Chief.
- (i) When employees are notified they have become the subject of an internal affairs investigation, the department shall issue the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.

[See procedure for EXAMINATIONS](#)

#### 1010.6.3 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW

State **MODIFIED** NY\_CALEA6.13 - 26.3.5, 26.3.6 (c), 26.3.6 (f)

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Whether conducted by a supervisor or a member of the Office of Professional Standards, the following applies to employees covered by Civil Service Law (Civil Service Law § 75):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, they shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Syracuse Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) All interviews conducted by the Office of Professional Standards will be audio recorded. All employee interviews conducted at the division level will be documented on an interdepartmental memo (10.1). All witness/complainant interviews at the division level will be video recorded. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - 1. The employee shall be informed in advance and in writing of the right to representation.

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2. If the employee is unable to find representation within a reasonable time, the interview will proceed.
  - (j) All employees shall provide complete and truthful responses to questions posed during interviews.
  - (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

#### 1010.6.4 ADMINISTRATIVE INVESTIGATION PROCEDURES OTHER EMPLOYEES

**Best Practice** **MODIFIED**

Whether conducted by a supervisor or a member of the Office of Professional Standards, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, they shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Syracuse Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - (a) An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - (b) No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously

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interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.

- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

#### 1010.6.5 NOTICE OF CHARGES

##### State

Any charges brought against an employee shall be in writing and within the time frame prescribed by law (Civil Service Law § 75; Second Class Cities Law § 137; Town Law § 155; Village Law § 8-804).

#### 1010.6.6 ADMINISTRATIVE INVESTIGATION FORMAT

##### Best Practice

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.6.7 DISPOSITIONS

##### Best Practice

##### MODIFIED

NY\_CALEA6.13 - 26.3.8

Each personnel complaint shall be classified with one of the following dispositions:



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**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that have no foundation or basis in fact will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### 1010.6.8 COMPLETION OF INVESTIGATIONS

Best Practice MODIFIED NY\_CALEA6.13 - 26.3.3

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation 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 progress report will be submitted to the Chief of Police and the Citizens Review Board. The investigating officer shall keep the complainant advised in such instances of the case status.

#### 1010.6.9 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

Best Practice MODIFIED NY\_CALEA6.13 - 26.3.4 (b)

Upon receipt of a complaint, the receiving member of the department will verify with the complainant that the complaint has been received. The member conducting the investigation shall provide the complainant with a status notification monthly or as requested, as well as upon conclusion of the investigation.

#### 1010.7 ADMINISTRATIVE SEARCHES

Best Practice

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

#### 1010.8 ADMINISTRATIVE LEAVE

Best Practice MODIFIED NY\_CALEA6.13 - 26.3.7 NYSLEAP- 8.7 - 14.4 (B)

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When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay for no more than 30 days (Civil Service Law § 75; Village Law § 8-804).

#### 1010.9 CRIMINAL INVESTIGATION

Best Practice MODIFIED NYSLEAP- 8.7 - 25.1 (E)

Where a member is accused of potential criminal conduct, the OoPS shall be assigned to investigate the criminal allegations and the administrative investigation.

The Chief of Police shall be notified as soon as practicable by the Division Commander of the accused member and/or the OoPS when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Syracuse Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### 1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Best Practice MODIFIED

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

[See procedure for INITIATING DISCIPLINARY ACTION](#)

[See procedure for COMMENCING DISCIPLINARY ACTION](#)

##### 1010.10.1 COMMANDING OFFICER RESPONSIBILITIES

Best Practice MODIFIED NYSLEAP- 8.7 - 14.4 (C)

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Upon receipt of any completed personnel investigation, the Commanding Officer of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Commanding Officer shall make recommendations regarding the pursuit of discipline.

Prior to forwarding recommendations to the Chief of Police, the Commanding Officer may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Commanding Officer shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

[See procedure for SUSPENSIONS](#)

#### 1010.10.2 CHIEF OF POLICE RESPONSIBILITIES

**Best Practice** **MODIFIED** **NYSLEAP- 8.7 - 14.4 (C)**

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the appropriate supervisor for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with:

- (a) A written notice;
- (b) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (c) Any response to the proposed discipline shall be made pursuant to the current Collective Bargaining Agreement and Civil Service Law.

The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

#### 1010.10.3 ARBITRATION HEARING

**State** **MODIFIED**

Arbitration hearings will be conducted pursuant to the current collective bargaining agreement.

#### 1010.10.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

**State** **NY\_CALEA6.13 - 26.3.4 (c)**

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

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#### 1010.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

##### Best Practice

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

#### 1010.12 DISCIPLINARY SYSTEM

##### Agency Content

##### 1010.12.1 NON-PUNITIVE DISCIPLINE

##### Agency Content

- (a) Supervisory officers shall, whenever practical, employ non-punitive discipline to reinforce or modify a member's behavior. Supervisory officers may employ the following non-punitive disciplinary actions:
1. Commendations - Supervisors may request that the police Department officially recognize members who have performed outstanding or notable acts while in the course of their duties. Nominations shall be made in accordance with the provisions of the Department's policy governing "Commendations".
  2. Training - In cases involving minor violations of Rules and Regulations, General Orders, Memo Orders, Standard and Temporary Operating Procedures, supervisors shall utilize training as a corrective method of positive discipline. Training activities shall be documented, and recorded in the members training file.
  3. Counseling - In cases where the member has failed to respond to training, the supervisor shall counsel the member with regard to the unacceptable behavior. During counseling the supervisor shall:
    - (a) Identify and define the behavior to be modified.
    - (b) Review any applicable rules and regulations, orders and operating procedures or laws.
    - (c) Clearly explain the behavior expected of the member.
    - (d) Explain the potential consequences of continuing the unacceptable behavior.
    - (e) Document the counseling effort and record the counseling in the members training file.

##### 1010.12.2 PUNITIVE DISCIPLINE

##### Agency Content

- (a) In cases involving serious violations of rules and regulations, orders, standard and temporary operating procedures, violations of law or in those instances in which non-punitive methods have been tried and failed, supervisory officers shall request punitive measures to correct a member's behavior. Supervisors initiating a request for punitive action shall:

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1. Prepare a "Disciplinary Action Report" as described in the Department's policy governing "Internal Affairs Division".
  2. Collect and record facts and potential evidence pertaining to the alleged misconduct. Demonstrate, where applicable, that non-punitive corrective action has been attempted and has failed.
  3. Recommend that a punitive action should be taken. The first supervisor responsible for recommending a specific punitive action will have access to the member's complaint history.
  4. The supervisory officer shall forward the request for punitive action through the chain of command.
- (b) Each level of command shall review the case and forward it to the next level with an appropriate recommendation that the requested disciplinary action is:
1. Endorsed.
  2. Not Endorsed. If the action is not endorsed, commentary shall be provided to explain the reasons for such decision, and recommend action.
  3. The Chief of Police is the final authority regarding punitive discipline and will be responsible for approving, modifying, or disapproving requests for punitive actions against members.
- (c) The Chief of Police shall authorize punitive disciplinary actions:
1. Written reprimands, loss of leave and loss of pay authorized by the Chief of Police shall be executed by Internal Affairs Division Officer(s), unless otherwise directed.
  2. Internal Affairs Division Officer(s) shall execute suspensions, demotions and termination.
- (d) If employee misconduct results in dismissal, the Department shall provide the following information to the subject member in writing:
1. Internal Affairs Division Officer(s) shall provide to the subject employee the reason for the suspension pending termination, and the effective date of the suspension pending termination, and, once determined, the effective date of termination.
  2. Human Resources Division Officers shall provide to the subject employee a statement of the status of salary and fringe benefits accrued up to dismissal.
  3. Audit and Budget Control personnel shall provide to the subject employee a final pay check disbursement.
  4. The New York State Retirement System shall provide to the subject employee a statement of the status of that person's retirement benefit, if any.

#### 1010.13 POST-DISCIPLINE APPEAL RIGHTS

State **MODIFIED** NY\_CALEA6.13 - 26.1.6

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Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

[See procedure for GRIEVANCES](#)

#### 1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

##### Best Practice

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

In cases where an individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate, the probationary period may be extended at the discretion of the Chief of Police.

#### 1010.15 CONCLUSION OF FACT

##### Agency Content

All investigations into allegations of misconduct by members of the agency will result in a conclusion of fact. The employment status of the accused member shall not prohibit a conclusion of fact related to the allegations of misconduct. The conclusion of fact should include recommended changes to policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as recommended modifications or expansions of training.

#### 1010.16 RETENTION OF PERSONNEL INVESTIGATION FILES

##### State MODIFIED NY\_CALEA6.13 - 26.2.2 NYSLEAP- 8.7 - 14.4 (A)

All personnel complaints shall be maintained in accordance with the established records retention schedule of the NYS Education Department MU-1 and as described in the Personnel Records Policy. The Office of Professional Standards shall maintain a record of all complaints against the department or employees of the department. Records will be kept in a secure location to protect confidentiality.

#### 1010.17 STATISTICAL SUMMARIES

##### Agency Content

The Office of Professional Standards will compile quarterly statistical summaries of complaints against the agency and its employees, and internal affairs investigations. These summaries shall be made available to both the public and agency employees.

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#### **1010.18 LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE**

**State** NYSLEAP- 8.7 - 9.1 (A)

Members who become aware of misconduct concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest, or abuse by another member relating to their work with the department, or by a person having business dealings with the department relating to those dealings shall, in addition to any requirements in this policy, promptly report it to the Law Enforcement Misconduct Investigative Office (LEMIO) (Executive Law § 75).

##### **1010.18.1 ADDITIONAL CHIEF OF POLICE RESPONSIBILITIES**

**State**

The Chief of Police shall advise the governor, appropriate members of the legislature, and the Division of Criminal Justice Services within the required period of any remedial action taken against a member in response to the LEMIO's recommendation. The Chief of Police shall also refer complaints that meet the requirements of Executive Law § 75 to the LEMIO (Executive Law § 75).