	<b>NEW PALTZ POLICE DEPARTMENT</b> <b>Policy and Procedures</b>	
	<i>Subject</i> <b>14.4 Disciplinary System</b>	
	<b>ISSUE: June 14, 2016</b>	<b>EFFECTIVE: June 14, 2016</b>
	<b>REVISED: November 17, 2020</b>	<b>RESCINDED:</b>
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### **Disciplinary System**

**PURPOSE**


The New Paltz Police Department has a written directive that establishes a disciplinary system identifying the legal and/or contractual authority under which the system will proceed.

**POLICY**


All disciplinary procedures shall conform and adhere to Article 75 of the New York State Civil Service Law and to the procedures set forth in section 6.3 of the contract between the Town of New Paltz and the New Paltz Police Union.

**PROCEDURE**

- A. **REPORTS OF ACCUSATIONS:** Whenever accusations are made by any person or information is received that an officer has violated any rule, regulation or order of the Department, the Chief of Police shall be notified.
  
- B. **DISPOSITION BY THE CHIEF OF POLICE:** Upon investigation, the Chief of Police may dispose of the matter by:
  - 1. A determination that no action is warranted and that the matter is closed. The Chief of Police will so inform the accused officer, in writing, and thereafter, shall forward a copy of the complete report, together with a final adjudication to the Employer; or
  
  - 2. A determination that, in the Chief of Police’s judgment, the penalties which can be imposed as Chief of Police would not be adequate punishment for any violation of the Rules and Regulations as reported to the Chief of Police. Upon such determinations, the Chief of Police shall forward a copy of the complete report to the Employer; or
  
  - 3. A determination that, in the Chief of Police’s judgment, the penalties which can be imposed as Chief of Police will be adequate punishment for any violation of the Rules and Regulations as reported to the Chief, if proven. Upon such determination, the Chief of Police shall advise the Police Commission of such determination and proceed as follows;
    - i. The Chief of Police shall cause the accused officer to appear before the Chief of Police, advising the officer of their right to be represented, if desired, and shall inform the officer of the following:


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1. The Chief of Police's decision to dispose of the matter.
2. The penalties that the Chief of Police can impose upon a finding of guilt, which penalties shall be limited to:
  - a. A letter of censure or reprimand; and/or
  - b. A fine to be expressed in the loss of no more than three (3) vacation days or suspension from duty for a period not to exceed three (3) days. The choice of vacation time or suspension time to be made by the officer. It is understood that selection of suspension time may result in a break in service for Civil Service purposes, as required by Civil Service Law and/or the Rules of the Ulster County Personnel Office.
  - c. An adjournment of the matter for a period not exceeding ninety (90) days. It is understood that the total combined time from when the Administration became aware of the matter and the end of the adjournment period will not exceed one hundred and ten (110) days. The adjournment must be for a definite period and must include conditions to be met and the proposed action that will be taken if those conditions are not met. At the end of the adjournment period, if all conditions have been met, the officer will be notified, in writing, that the matter is dismissed. If the officer has not met the conditions of the adjournment, the officer will be advised, in writing, and the previously proposed action will be instituted.
3. The officer's right to an "Informal Inquiry", to be conducted by the Chief of Police, resulting in an adjudication of both the question of guilt and the penalty, if any, to be imposed.
4. The Chief of Police's proposed penalty if the officer is found guilty of the alleged violation.
5. That if the officer desires an "Informal Inquiry" and adjudication by the Chief of Police, the officer must execute, in writing, their consent to have the matter

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adjudicated by the Chief of Police and, if determined to be guilty, their willingness to accept the punishment proposed by the Chief of Police.

6. If the accused officer does not desire "Informal Inquiry" and adjudication by the Chief of Police, or does not execute in writing such consent, the Chief of Police shall forward the completed report to the Employer.
4. Upon the execution of such consent by the accused officer, the Chief of Police shall conduct an "Informal Inquiry", after which the Chief of Police shall make a final adjudication to include a finding of any violation of the Rules or Regulations sustained. If none is proven, the Chief of Police shall so find, the matter will be closed, and the accused officer will be so advised in writing. Upon a finding that an officer is in violation of the Rules or Regulations, the Chief of Police can impose the penalty previously explained to the officer and will so advise the accused officer. The Chief of Police shall forward a copy of the completed report to the Employer.
5. The Chief of Police will maintain all records pertaining to the disciplinary actions of employees.
6. One year after an "Informal Inquiry" has been conducted by the Chief of Police, the officer may request of the Chief of Police, in writing, that any documentation related to that "Informal Inquiry" be removed from their personnel file. Within five (5) days, the Chief of Police will approve or deny the request in writing. If approved, all documentation will be given to the officer for destruction; if denied, the officer may appeal within five (5) days to the Employer.
7. Upon receipt of an appeal, the Employer will make a determination within five (5) days and advise the officer and Chief of Police of its decision in writing. If the Employer rules that the items should be removed, the Employer will direct the Chief of Police to turn documentation over to the officer for destruction. If denied, the Employer will advise the officer and Chief of Police, in writing, and the documents will remain in the file until the automatic purge date as indicated below.
8. Eighteen (18) months after documentation resulting from an "Informal Inquiry" handled by the Chief of Police is placed in an officer's personnel file, it will be automatically purged and turned over to the officer for destruction provided that:
  - i. during the eighteen (18) month period, the officer has not been found guilty of any other disciplinary charges, and


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ii. no disciplinary charges are then currently pending against the officer.

9. An officer shall have the right to appeal the determination of an "Informal Inquiry" only if new evidence, not available or considered at the time of the original determination, is developed that would serve to mitigate the actions of the officer involved.

C. **DISPOSITION BY THE EMPLOYER:** When the Employer receives a report from the Chief of Police involving accusations against an officer that does not contain a final adjudication by the Chief of Police, the Employer may dispose of the matter by:

1. A determination that no action is warranted and that the matter is closed. The Chief of Police and the accused officer will be so informed, in writing; or
2. A determination that the allowable action by the Chief of Police is insufficient.
3. The officer, in lieu of going to a "Formal Disciplinary Action" in accordance with Article V, Title B of the Civil Service Law of the State of New York, may elect to accept punishment from the Employer as follows:
  - i. Suspension without pay for a period not to exceed fifteen (15) days.
  - ii. The officer will be advised by the Employer of the number of days, prior to electing to accept such punishment.
4. A determination that "Formal Disciplinary Charges" will be preferred by the Chief of Police against the officer and that such disciplinary procedure shall be in accordance with Article V, Title B of the Civil Service Law of the State of New York.
  - i. Penalties and Procedures provided by such statute will apply.
  - ii. The Employer waives its right to hear these charges or appoint a Hearing Officer and both parties hereby agree that a neutral Hearing Officer shall hear the charges and determine the penalty.
  - iii. The Hearing Officer shall be one (1) from a list of five (5) names provided by the Public Employment Relations Board (PERB). The Union shall dismiss two (2) names and the Employer shall dismiss two (2) names. The remaining shall be appointed as Hearing Officer. Should there be an insufficient number of names, the total shall be changed to

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three (3) names, with each party dismissing one (1) name. In the event PERB is unable to appoint a Hearing Officer, a Hearing Officer shall be selected from the American Arbitration Association.

- iv. The Employer agrees to abide with the recommended penalty of the Hearing Officer, unless the Employer finds the penalty excessive and chooses to impose a lesser penalty permitted by statute.
- v. Time on suspension without pay, not to exceed thirty (30) days, pending determination of such charges will be counted in any adjudication of such charges. An officer found "Not Guilty" of the charges shall be reimbursed for all salary lost during the period of the suspension. Lost wages which directly result from procedural delays requested by the accused officer will not be reimbursed.
- vi. The cost of the stenographer and transcripts of the hearing shall be borne by the Employer unless otherwise agreed to by the Employer and the Union.

5. Limitations:

- i. No disciplinary charge may be preferred against an officer if the Employer has knowledge of the alleged act or conduct more than ninety (90) days prior to the date the officer is notified that disciplinary action is proposed, unless the alleged act or conduct would, if proven, constitute a crime under any provision of the New York State law.
- ii. The procedure as set forth in Section 6.3 of the Collective Bargaining Agreement shall be the exclusive remedy for disciplinary action.
- iii. It is understood and agreed that if the Employer has any reason to orally reprimand an officer, it shall be done in a manner that will not unduly embarrass the officer before other officers or the public, and that all discipline shall be applied in a progressive manner.


6. Role of supervisory and command staff in the disciplinary process and the authority of each level thereof relative to disciplinary actions;

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- i. Supervisors are defined as sworn members of the department maintaining the rank of Sergeant and above.
- ii. Supervisors are responsible to ensure that Departmental members and employees perform their duties in accordance with the policies, procedures, rules, regulations training and authoritative instructions of the Department.
- iii. Supervisors are required to initiate actions in response to the acts of commission or omission of personnel who are either;
  1. assigned to their command, or
  2. come to their attention, or
  3. under their supervision (for however brief a period).

#### D. AUTHORITY

1. Supervisors are required to initiate the following corrective measures to fulfil their responsibility of assuring compliance with Department rules, regulations, policies, and procedures. In all cases, the supervisor is required to instruct the subordinate on how to correct noted inadequacies and document same. NOTE: Nothing established herein should preclude the supervisor from regularly instructing officers on their performance.
2. Supervisors will;
  - i. Give remedial instruction in all instances that are or may be construed to be violations of Departmental directives. Such oral instruction to an employee shall be officially recorded as a record of counselling and documented in the “Progressive Training” file, a copy of which is to be forwarded to the Lieutenant.
  - ii. Initiate an oral or written reprimand.
    1. In the case of an oral counselling the Supervisor shall maintain documentation of each incident.
    2. In the case of written reprimands, a copy of same shall be forwarded to the Chief of Police through the chain of Command and placed in the employees training file.
  - iii. Initiate command discipline proceedings as allowed by current directives.

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- iv. If a supervisor feels that an officer is unfit for duty (for either medical or psychological reasons), they may relieve that officer from duty for the remainder of their tour and will make immediate notification to the Lieutenant.
- v. Any supervisor or command staff may also relieve an officer from duty for any serious violation of the Departments regulations or for insubordination. When an officer is so relieved, they will have to appear before the Chief of Police at the earliest possible time, this will usually be the morning of the next business day. A notification via email memo documenting all details of the incident shall be immediately forwarded to the Chief of Police through the chain of Command.
- vi. If formal charges are preferred against an officer all procedures will be consistent with Article 75 of the Civil Service Law and the collective bargaining agreement between the Town of NEW PALTZ and the Police Union. The Board of Police Commissioners are the body before which such hearings are held.