



# **NEW CASTLE COUNTY POLICE**

## Disciplinary Procedures

# **DIRECTIVE 26**

(OCTOBER 11, 2023)

## **I. DISCIPLINARY PROCEDURES**

- A. The Code of Conduct Manual is provided to each employee and contains general conduct rules and other rules and regulations for the New Castle Division of Police. (See Appendix 26-B/General Conduct) **(26.1.1)**
1. All supervisors have the authority to administer summary or major discipline. Major discipline is defined as termination, demotion, or a suspension greater than 40 hours. Summary discipline is defined as an oral warning, written reprimand, or a suspension of 40 hours or less.
  2. Compliance with all Division directives, codes, rules, and regulations is mandatory for all personnel. It is understood that noncompliance may be addressed by disciplinary procedures.
  3. Conduct unbecoming an officer may be addressed by disciplinary procedures.
  4. Except as necessary, the consumption of intoxicants is prohibited while an employee is on duty. Members shall not consume intoxicants to such a degree that it impairs their on-duty performance.
  5. Members shall not solicit or accept gratuities, gifts, fees, loans, or anything of value connected with Division membership or activity connected with duty.
  6. Members shall not use their official position for personal or financial gain, or privileges, or to avoid consequences of illegal acts.
  7. No member shall use excessive or unreasonable force in the performance of duty.
  8. Sexual harassment or other forms of unlawful harassment in the workplace are prohibited. Any unlawful harassment should be reported to the employee's supervisor. If the offending party is in the complainant's chain of command, then the incident should be reported to the offending party's supervisor. Harassment consists of verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, sexual orientation, national origin, age, disability, marital status, citizenship, or any other characteristic protected by law.

**(26.1.3)**

9. The Chief of Police shall prescribe the uniform of the day.
  - a. The uniform shall fit properly.
  - b. The uniform shall be neat, clean, and pressed.
  - c. Non-regulation articles of clothing are prohibited, except by permission of the commanding officer.
  - d. The uniform shall be worn in its entirety.
  - e. The uniform should be inspected regularly by supervisors.
  - f. All sworn uniformed personnel shall wear the uniform hat when in public contact outside the police vehicle.
    1. An exception would be made when the officer is in a vehicle or inside a building.
  - g. All hairstyles will be neat and clean and shall not protrude or hang down beyond the collar. Hair will be of a conservative style and the bulk or length of the hair shall not interfere with the normal wearing of the uniform hat. Officers may wear wigs or hair pieces if they conform to the standards for natural hair. Uniform hats will not be replaced due to changes in hair style. Sideburns shall not extend below the top of the exterior opening of the ear canal. Hair shall represent a natural shade and may be colored as long as it meets this standard.
  - h. A clean-shaven appearance is required except for mustaches, which shall be neatly trimmed. Mustaches shall not extend below the corners of the mouth, in their natural state. Mustaches shall not extend past the top edge of the upper lip, in their natural state. Mustaches shall not be styled with wax or any other products that result in the mustache appearing as a “handlebar, imperial, Hungarian, or English” style mustache.
    1. Officers that cannot comply with the grooming policy on facial hair due to a medical condition must submit a memorandum to the Medical Liaison Officer with a note from their medical provider. If approved the Officer’s Chain of Command will be made aware.

2. The Officer will follow the below listed guidelines for their beard:

- i. Beards must be worn in conjunction with a connecting mustache and must not exceed ¼” in length. The appearance of all facial hair must be shaped and trimmed above the neckline and maintain a professional appearance.
- ii. All facial hair must appear natural in color.
- iii. Officers that must don Personal Protective Equipment (PPE), who have facial hair, will be unable to wear an N95 mask due to an inadequate protective seal. In these cases, the Officer will be required to wear their WMD mask.
- iv. The Officer will be required to conduct a fit test with facial hair that meets this standard and their WMD mask to ensure the seal is effective.

- i. Makeup, if worn, will be as natural as possible, and no makeup, lipstick, or nail polish shall be noticeable. False eyelashes, eye shadow and fake nails will not be worn.
- j. Officers are permitted to wear ball or stud earrings only. The diameter of the earrings will not exceed 1/8 of an inch. No hoop or dangling earrings will be worn. Earrings must be worn on the lower earlobe only and worn in pairs (single earring in each ear).
- k. Wedding rings and school rings are the only rings permissible.
- l. Members may be exempted from the above restrictions by their supervisor, if working an undercover assignment.

**(26.1.1)**

- B. Requests for commendations will be submitted to the Chief of Police via the Recommendation for Awards Form (#DP-411) along with the appropriate police reports. The form can be completed electronically and printed out for submission. Although the form can be used to list multiple names, it is recommended that no more than four names be listed under Part I, Employee Data, name block. Any additional names should be listed on a separate page. The Recommendation for Awards form can be found in the documents section of the web-based pass-on system.

1. The Chief will review the request.
  2. The Chief will forward same to the Professional Development Unit Commander.
  3. An awards committee will be established to:
    - a. Examine the incident and circumstances for worthiness.
    - b. Determine the appropriate award.
    - c. Submit the recommendation to the Chief. **(26.1.2)**
- C. The Code of Conduct Manual, Disciplinary Policy, and Law Enforcement Bill of Rights will be made available to all members of the Division via PowerDMS and will include procedures for counseling and the use of training as a function of discipline. **(26.1.1) (26.1.4.a, b)**
1. Any incident deemed to be worthy of disciplinary action might also be considered worthy of remedial training. Any requests for remedial training will be approved by the Chief of Police and coordinated through the Professional Development Unit. **(26.1.4.a)**
  2. Verbal warning by the supervisor and counseling regarding the requirement(s) to correct the problem may constitute counseling. A written record will be made and retained in the supervisor's file. **(26.1.4.b)**
  3. Progressive discipline, as outlined in the New Castle County Discipline Policy (see Appendix 26-A) shall follow if the oral counseling is not effective or is not applicable.
    - a. Written reprimand, including:
      1. Reference to the preceding oral counseling,
      2. The specific charge or improper conduct,
      3. Warning regarding the course of action for future violations,
      4. The employee's signature, which does not imply agreement,

- a. Suspension may follow when written reprimand(s) do not correct the deficiency. (When suspension becomes imminent the Professional Standards Unit shall be consulted.)
    - 1. Reference will be made to previous discipline.
    - 2. The specific charge will be noted.
    - 3. Warning regarding a course of action for future violations will be noted.
      - a. A course of action may then be determined which may include demotion or dismissal of the member. The Chief of Police must approve suspension or dismissal.
      - b. Dismissals are discharges to be initiated when all previous progressive disciplinary procedures have failed to correct the conduct, or the County determines that the offense is serious enough to warrant dismissal.
        - 1. The member may request a pre-termination hearing to be scheduled within ten working days.
- D. Primary responsibility for discipline for minor infractions lies with the first line supervisor.
  - 1. Supervisors will confer with their immediate supervisor in turn,
  - 2. Conduct a thorough investigation of the incident in question; and,
  - 3. Review the incident with the Professional Standards Unit. **(26.1.4.c)**
- E. Commensurate with the responsibility of supervisors is the authority to take necessary corrective disciplinary action. This authority extends to commanders via the chain of command. **(26.1.5)**
- F. Appeal procedures in cases of summary or major discipline are implemented as per the contract between New Castle County and the Fraternal Order of Police Lodge #5, or the appropriate union legally representing the employee disciplined. **(26.1.6)**

- G. If discipline results in dismissal, the member shall receive in
- a. writing:
1. A statement containing the reason for dismissal. **(26.1.7.a)**
  2. The effective date of dismissal. **(26.1.7.b)**
  3. A statement of the status of fringe and retirement benefits after dismissal; and **(26.1.7.c)**
  4. A statement as to the content of the officer's employment record relating to the dismissal.
- H. "Conclusion of fact" for each allegation shall be classified as sustained, not sustained, unfounded, or exonerated; and covers,
1. Proper conduct (exonerated) – prove positive no violations occurred.
  2. Improper conduct (sustained) – prove positive a violation occurred.
  3. Policy failure (Professional Standards Unit shall be notified)
  4. Insufficient evidence (not sustained) – not enough evidence to prove a violation occurred or did not occur.
  4. Unfounded complaint (unfounded) – evidence confirms the complaint is false. **(26.1.7)**
- I. The Professional Standards Unit will maintain records of all disciplinary action. These are secure confidential files.
1. If no corroborative evidence supports a complaint against a member, no report or memorandum is necessary if none was previously written.
  2. All disciplinary hearings shall be recorded by either video, audio or by note taking. **(26.1.8)**

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**REFERENCES:**

**Directive 41: Patrol**

**Appendices:**

26-A / Discipline Policy

26-B / General Conduct

26-C / Rules and Penalties

26-D / Definitions

26-E / Collision Matrix

26-F / Bill of Rights

Fraternal Order of Police, Lodge #5, Contract