



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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DIRECTOR OF PERSONNEL

Friday, September 5, 2025

Mr. Zachary Shepherd
2540 Severn Ave., Suite 400
Metairie, LA 70002

Re: **Henry Beba Jr. VS.
Department of Fire
Docket Number: 9707**

Dear Mr. Shepherd:

Attached is the decision of the City Civil Service Commission in the above-referenced appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 9/5/2025 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Roman Nelson
Elizabeth A Weigand
Bruce Hamilton
Henry Beba

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

HENRY BEBA, JR.
Appellant

Docket No. 9707

v.

DEPARTMENT OF FIRE,
Appointing Authority

DECISION

Appellant, Fire District Chief Henry Beba, Jr., brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from the Department of Fire's (NOFD) imposition of a six-hour suspension communicated by letter dated March 26, 2025. (Ex. NOFD-25). At all relevant times, Appellant had permanent status as a Fire District Chief. (Tr. at 83). A Hearing Examiner, appointed by the Commission, presided over a hearing on May 22, 2025. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, post-hearing briefs submitted by the parties, the Hearing Examiner's report dated June 30, 2025, and controlling Louisiana law.

For the reasons set forth below, Chief Beba's appeal is DENIED.

I. FACTUAL BACKGROUND

In January of 2025, Chief Beba was enrolled in the Basic-EMT class at Delgado Community College. (Tr. at 7). When completing a required assignment, Chief Beba posted a comment on a group discussion board that even though he was ranked number six for Fire Deputy

Chief, he was passed over in favor of the fourteenth ranked candidate “because he fits more the description of a DEI promotion.” (Tr. at 9, 84; Ex. NOFD-1). Chief Beba testified that he was unaware that his post was viewable by the entire class. (Tr. at 85-86).

Larry White, the Deputy Chief of Suppression, testified that the Department of Fire has no DEI initiative. (Tr. at 30). The individual ranked number fourteen and promoted to Deputy Chief was Michael Windsay, who is African American. (Tr. at 30). Chief Beba testified he was referring to the preference given to Chief Windsay for military service, not to any racial preference. (Tr. at 105). Approximately 17-21 students were enrolled in the course, including some students from the Department of Fire. (Tr. at 11, 47).

Superintendent Roman Nelson testified that Chief Beba’s comment was disparaging toward Chief Windsay and toward the Department of Fire. (Tr. at 52). Superintendent Nelson suspended Chief Beba for six hours for violating the Workplace Harassment & Discrimination Policy by making derogatory comments about Chief Windsay and the Department of Fire. (Tr. at 52-53). The disciplinary hearing panel recommend the maximum penalty because of Chief Beba’s leadership position and the egregious nature of the comments. (Tr. at 44, 58-59, 66-67).

II. ANALYSIS

A. Legal Standard for Commission’s Review of Discipline

“Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A).” *Whitaker v. New Orleans Police Dep’t*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep’t of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). “Legal cause exists whenever an employee’s conduct impairs the efficiency of the public service in which the employee is engaged.” *Id.* “The

Appointing Authority has the burden of proving the impairment.” *Id.* (citing La. Const., art. X, § 8(A)). “The appointing authority must prove its case by a preponderance of the evidence.” *Id.* “Disciplinary action against a civil service employee will be deemed arbitrary and capricious unless there is a real and substantial relationship between the improper conduct and the “efficient operation” of the public service.” *Id.* “It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, the appointing authority has the burden of proving by a preponderance of the evidence: 1) the occurrence of the complained of activity, and 2) that the conduct complained of impaired the efficiency of the public service in which the appointing authority is engaged. *Gast v. Dep’t of Police*, 2013-0781 (La. App. 4 Cir. 3/13/14), 137 So. 3d 731, 733 (quoting *Cure v. Dep’t of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094).

1. The Appointing Authority must show the discipline was commensurate with the infraction

The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance of evidence that it had good or lawful cause for disciplining the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Durning v. New Orleans Police Dep’t*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *Abbott v. New Orleans Police Dep’t*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984). The appointing authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep’t of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable

discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

B. The Department of Fire Has Carried Its Burden of Showing Cause for the Discipline of Chief Beba

The Department of Fire has shown the occurrence of the complained-of activity. Chief Beba made the public statement that Chief Windsay received a “DEI promotion” in violation of the Department of Fire’s policy against Workplace Harassment & Discrimination. (Ex. NOFD-3). The undersigned Commissioners find Chief Beba’s explanation that “DEI” referred to military service is not credible.

Disparaging comments made by a District Chief in a public forum suggesting a Deputy Chief received a promotion solely based on his race impairs the efficient operation of the Department of Fire. Superintendent Nelson testified that Chief Beba’s derogatory comments impair his ability to lead other firefighters, negatively affecting the command structure of the Department of Fire. (Tr. at 58-59).

The undersigned Commissioners reject Chief Beba’s argument that his conduct did not impair the efficient operation of the Department of Fire because it was only viewable by the members of the EMT class at Delgado Community College. (Appellant’s Post-Hearing Memorandum at 4-5). The Fourth Circuit Court of Appeal has affirmed the Commission’s denial of an appeal based on a disparaging social media post about the leadership of the Department of Police, finding that the post was viewed by at least one member of the public when another individual placed a heart emoji on the post. *Burnette v. New Orleans Police Dep’t*, 2023-0684 (La. App. 4 Cir. 3/6/24), 385 So. 3d 314, 320. Further, Chief Windsay, who was not a member of the class, saw a copy of Chief Beba’s post. (Tr. at 75). Part of the reason for the discipline was Chief

Beba's disparagement of another member of the Department of Fire, who was ultimately aware of the comment.

The undersigned Commissioners also reject Chief Beba's argument that his conduct did not impair the operations of the Department of Fire because he was off-duty. *See Martin v. Dep't of Fire*, 2021-0070 (La. App. 4 Cir. 10/20/21), 331 So. 3d 379, 384 (concerning off-duty conduct).

1. The penalty is commensurate with the violation

The Commission finds that the Department of Fire appropriately aggravated the penalty for Chief Beba's derogatory statements based on his leadership position within the organization. The penalty is commensurate with the violation.

Chief Beba's appeal is DENIED.

WRITER:



[John Korn, Vice-Chairperson \(Sep 3, 2025 13:14:06 CDT\)](#)

JOHN KORN, VICE-CHAIRPERSON

CONCUR:



[Mark Surprenant, Commissioner \(Sep 3, 2025 20:02:04 EDT\)](#)

MARK SURPRENANT, COMMISSIONER



[Ruth Davis, Commissioner \(Sep 4, 2025 20:58:22 CDT\)](#)

RUTH DAVIS, COMMISSIONER