



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 26.3.3

### TITLE: RETALIATION

**EFFECTIVE: 7/30/2023**

**REVISED: Replaces in part Chapter 26.3**

---

#### PURPOSE

The purpose of this policy is to prevent Department members from subjecting others to, or being subjected to retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

#### POLICY STATEMENT

1. The New Orleans Police Department is an equal opportunity employer and is committed to creating and maintaining a healthy work environment that will provide all employees the opportunity to perform their duties to their fullest potential. The working environment must be free of retaliation.
2. Retaliation exposes the Department and its employees to serious liability and can lower morale, undermine the integrity of employee relationships, and interfere with the efficiency of Department operations. Retaliation constitutes serious misconduct that will not be tolerated. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.
3. The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may or may not violate state or federal law but still could subject a member to administrative discipline.

#### DEFINITIONS:

Definitions relevant to this Chapter include:

**Complainant**—Any person, including an NOPD officer or employee, who makes a complaint against an officer or employee of NOPD.

**Discrimination**—Discrimination is the disparate or adverse treatment of an individual based on or because of that person's actual or perceived characteristics such as race, color, ethnicity, national origin, ancestry, creed, religion, gender, gender identity, sexual orientation, economic status, age, cultural group, disability, housing status, or affiliation with any other similar identifiable group.

**Retaliation**—Treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has filed a charge of discrimination or complaint, participated in an investigation, opposed a discriminatory practice, or otherwise exercised his or her rights or performed his or her work-related duties. Examples of retaliatory acts include, but are not limited to: threats; unsupported negative evaluations; withholding work-related information; giving punitive work assignments; denial of job benefits; giving demeaning or unnecessary job assignments; blocking advancement (e.g., promotion). This list is not exhaustive. Any conduct reasonably deemed to be retaliatory, harassing, or discriminatory may also violate this Chapter.

#### **RETALIATION PROHIBITED**

4. This Department expressly prohibits all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.
5. No employee of the Department who is the subject of a misconduct complaint shall intentionally contact, or take any action against, a complainant or a witness involved in the misconduct complaint in retaliation for the complainant or witness having filed or provided information in support of a misconduct complaint. If the accused employee makes such contact or takes such action, the complainant or witness should immediately notify a supervisor. If the accused employee makes contact with, or takes any action against, a complainant or witness who is a member of the public, the accused employee shall immediately advise a supervisor. If the accused employee is a supervisor, including the supervisor of the complainant or a witness, and makes such contact or takes such action, the complainant or witness should immediately notify a supervisor.
6. Retaliation is an egregious offense that will not be tolerated. Any employee who retaliates against another employee or member of the public shall be subject to disciplinary action up to and including termination of employment.

#### **MEMBER RESPONSIBILITIES**

7. This policy applies to all Department personnel. All members shall follow the intent of these guidelines in a manner that reflects Department policy, professional law enforcement standards and the best interest of the Department and its mission.
8. Any member who believes, in good faith, that he/she has been subjected to retaliation, or who has observed retaliation, should promptly report such conduct in accordance with the requirements of this chapter and **Chapter 52.1.1—Misconduct Complaint Intake and Investigation** so that appropriate investigative and disciplinary actions may be taken. If the member's immediate supervisor is the accused employee, the member may report allegations to a supervisor higher in the chain of command or directly to the Public Integrity Bureau.
9. Any employee who encounters retaliation is encouraged to inform the offending party that his or her actions are unwelcome and/or offensive.

#### **CAPTAINS AND SUPERVISORS RESPONSIBILITIES**

10. Supervisors receiving written or verbal allegations of violations of this Chapter shall take such allegations seriously, deal with them in a prompt and effective manner, and, where appropriate, initiate a disciplinary investigation, by completing NOPD Form 230 – PIB Intake Form – Commendation – Complaint or Documentation of Minor Violation, and take

all appropriate investigative and disciplinary actions, consistent with **Chapter 52.1.1—Misconduct Complaint Intake and Investigation**.

11. A supervisor to whom a complaint is given shall meet with the complainant and document the incident(s) complained of; the persons(s) performing or participating in the alleged acts of retaliation; any witnesses to the incident(s); and the date, time, and place of the incident(s).
12. All complaints of alleged inappropriate behavior shall be documented in writing and forwarded to the Public Integrity Bureau.
13. Supervisors shall take appropriate corrective action to stop or prevent further retaliation as soon as it is reported or observed.
14. Captains and supervisors shall ensure that employees do not suffer reprisal or retaliatory actions for presenting complaints or allegations of inappropriate behavior.
15. If a complaint can be resolved without a formal investigation through non-disciplinary counseling or training, supervisors shall thoroughly document this action in writing and forward to the Public Integrity Bureau in a Universal Complaint Form (see **Chapter 35.1.7—Non-Disciplinary Counseling for Minor Violations**).
16. Supervisors are not authorized to advise employees about their legal remedies as provided by Federal and/or State agencies.

#### **PUBLIC INTEGRITY BUREAU RESPONSIBILITIES**

17. The Public Integrity Bureau shall separately track all complaints of retaliation and maintain all files of such complaints. All files concerning complaints of inappropriate behavior shall be kept in such a manner as to allow the files to be accessed by the name of the accused and the name of the complaining employee. Access to the files shall be restricted to supervisory individuals conducting pertinent police business.
18. Failure of a Captain or supervisor to take corrective action on a complaint of retaliation shall be reported to the Captain of the Public Integrity Bureau.

#### **EQUAL OPPORTUNITY COMPLAINTS**

19. No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Department after the employee has first filed an internal complaint within the Department and allowed the Department to investigate the complaint and take corrective action as needed. Employees who believe that they have been harassed or discriminated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

#### **QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT**

20. Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, Employee Relations, the Personnel Director or the Chief Administrative Officer or they may contact the Louisiana Commission on Human Rights.

**TRAINING**

21. Members shall abide by the provisions of the City of New Orleans for retaliation in accordance with M.C. Ordinance 86-45 and as part of the training requirements for **Chapter 26.3.2 – Workplace Discrimination** and **Chapter 26.3.1 – Workplace Sexual Harassment**.

**INFORMATION POSTINGS**

21. The Deputy Chief of the Management Services Bureau and Captains shall ensure that the Equal Employment Opportunity Commission (E.E.O.C.) or Louisiana Workforce Commission posters, notifications or other governmental information is properly posted in the workplace as required.