



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 52.4

TITLE: ADJUDICATION OF MISCONDUCT AND SUSPENSIONS OF MEMBERS

EFFECTIVE: 05/15/2016

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PURPOSE

The purpose of this policy is to establish procedures for conducting disciplinary hearings following internal investigations of misconduct and for the administration of penalties.

POLICY STATEMENT

1. Members of the NOPD are expected to conduct themselves, both in interactions with one another and with the public, in a manner that conveys respect, honesty, integrity, and dedication to public service. In turn, Members of the Department can expect to be treated fairly, honestly, and respectfully, by their peers and other Members of the Department who hold positions of greater or lesser organizational authority.
2. The NOPD shall hold Members who commit misconduct accountable through a fair, impartial, timely, and consistent disciplinary process in which penalties are imposed objectively, without favoritism or bias in any form. Similar penalties shall be imposed for similar violations, depending on the aggravating or mitigating circumstances of each case. Discipline shall be based upon the nature of the violation, with consideration of aggravating and mitigating circumstances, rather than the identity of the accused or his or her status within the NOPD.
3. The administration of discipline shall not discriminate against anyone on the basis of race, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, disability, or any other basis protected by federal, state, or local law.
4. The NOPD believes that truthfulness is essential in an internal investigation, and it is expected and demanded from all Department Members who may be the subject of, a witness in, or investigating a misconduct investigation.
5. The timely disposition of an investigation is an indispensable component of handling misconduct complaints and imposing discipline, and the untimely imposition of discipline is unfair to the Members involved, community members affected by Member misconduct, and the NOPD as a whole. Accordingly, NOPD shall ensure a timely disposition of all investigations.

DEFINITIONS:

Definitions relevant to this Chapter include:

Aggravating circumstances—Conditions or events that increase the seriousness of misconduct and may increase the degree of penalty. Aggravating circumstances may be considered at a pre-disciplinary hearing to deviate from the recommended or presumptive punishment. For example, if an offense carries a penalty range of one to three days' suspension, a hearing officer may choose to impose a three-day suspension in light of aggravating circumstances.

Discipline—A punitive personnel action for violation of an established law, order, rule, NOPD policy and/or procedure, including a written reprimand, suspension, demotion, or dismissal.

Disposition—The outcome of an investigation or disciplinary hearing. The investigation of a misconduct allegation may result in a recommended disposition of exonerated, not sustained, sustained, or unfounded.

Emergency suspension—The immediate relieving of a police department Member from all work-related duties (See Chapter 52.1 – Complaint Intake and Investigation)

Exonerated—The recommended disposition when a misconduct investigation determines by a preponderance of the evidence that the alleged conduct did occur but did not violate NOPD policies, procedures, or training.

Hearing Officer—The NOPD officer who presides over a pre-disciplinary hearing for an accused Member. The hearing officer may be the Deputy Superintendent of PIB, the Captain of PIB, the accused Member's District/Division Captain, a Deputy Superintendent, or the Superintendent of Police or their designee, who must be a supervisor with the rank of Lieutenant or higher and have a rank equal to or higher than the rank of the accused.

Hearing Panel – Three to five members appointed by the Deputy Superintendent of PIB, or the Superintendent of Police or their proxy, to review investigations to determine the appropriateness of a disposition and recommend a disciplinary penalty. The Hearing Panel is chaired by the Hearing Officer, who ultimately presides over a Pre-disciplinary Hearing for all internal investigations with a recommended disposition of sustained and must include a representative from the accused Member's bureau.

Member—For the purposes of this Chapter, the term Member refers to members of the New Orleans Police Department as well as commissioned members, recruits, and reserve officers. Although the deadlines for a completed investigation do not apply to non-commissioned Members (see La. R.S. 40:2531), the general procedure for adjudication of misconduct complaints is the same for commissioned and non-commissioned Members.

Mitigating Circumstances—Conditions or events that do not excuse or justify misconduct but are considered in deciding the degree of penalty. Mitigating Circumstances may be considered at a Pre-Disciplinary Hearing to deviate from the recommended or presumptive punishment. Mitigating circumstances do not allow for penalties below the range provided by the disciplinary matrix in NOPD Chapter 52.5. For example, if an offense carries a penalty range of one to three days' suspension, a Hearing Officer may choose to impose a one-day suspension in light of mitigating circumstances.

Sustained But Null – The investigation determines by a preponderance of evidence that the alleged misconduct did occur. For the purposes of this policy, "null" shall mean no discipline, demotion, dismissal, or adverse action of any sort whatsoever may be taken against an accused officer because the standards required by Louisiana Revised Statute 40:2531 (C) have not been met.

Adverse action includes a significant change in employment status, such as hiring, firing, refusing to consider for promotion, or reassignment with significantly different responsibilities resulting in a significant change in benefits. Recommendation for additional training and non-disciplinary counseling are not adverse actions.

Notice of Completed Investigation—Written notice provided to an accused Member that a misconduct investigation has been completed. For commissioned Members, this is the “Notice to Accused Law Enforcement Officer Under Investigation of a Pre-Disciplinary Hearing” (NOPD Form #308). For non-commissioned Members, this is known as the “Notice of Recommended Disposition to Non-Commissioned Member.” The notice provides the accused Member with a brief summary of the investigation’s findings, and it contains a statement of the charges. The notice also includes the investigator’s recommended disposition for each charge and informs the accused Member that a pre-disciplinary hearing will occur.

Not sustained—The disposition of a misconduct investigation or disciplinary hearing when the investigator or hearing officer is unable to determine, by a preponderance of the evidence, that alleged misconduct occurred.

Pre-Disciplinary Hearing—A hearing, conducted by the accused Member’s Captain, or a Hearing Panel, in which the recommended penalty for a sustained violation is determined. The hearing provides an opportunity for the accused to respond to any misconduct allegations, present relevant information to dispute or clarify the allegations, and to call witnesses to testify on their behalf. Mitigating and Aggravating Circumstances may be presented at a Pre-Disciplinary Hearing

PIB investigation—Any misconduct investigation undertaken by the Public Integrity Bureau, as opposed to investigations assigned by PIB to other bureaus.

Preponderance of the Evidence—Such evidence that when considered and compared with that opposed to it has more convincing force and produces in one’s mind the belief that what is sought to be proven is more likely true than not true.

Sustained—The disposition of a misconduct investigation or disciplinary hearing that determines, by a preponderance of the evidence, that the alleged misconduct occurred.

Suspension—The relieving of a police department Member from all work-related duties as a result of a sustained infraction of department rules, policies and/or procedures.

Unfounded—The disposition of a misconduct investigation that determines, by a preponderance of the evidence, that alleged misconduct did not occur or did not involve the subject Member.

PRE-DISCIPLINARY HEARINGS

6. The PIB Deputy Chief is responsible for ensuring the review of unfounded, not sustained, and exonerated complaints to ensure the appropriate recommended disposition.
7. When a misconduct investigation results in a preliminary recommendation of a sustained disposition, and the accused Member has not resigned, the case shall proceed to a Pre-Disciplinary Hearing. The charts found in Appendix B of this chapter illustrate the procedures for adjudication of misconduct, from the end of the investigation to the transmittal of a disciplinary letter.
8. When a misconduct investigation is completed, the investigator shall provide the accused Member with a written Notice of Completed Investigation (NOPD Form #308) at least ten (10) days before a scheduled Pre-Disciplinary Hearing.
9. In all cases in which the PIB or District investigator recommends a sustained violation, PIB shall ensure a Pre-Disciplinary Hearing is held to develop a final recommended

disposition and penalty for any recommended sustained disposition in accordance with NOPD Chapter 52.5 (Discipline Matrix/Penalty Schedule). The Pre-Disciplinary Hearing shall be held within 45 days of the issuance of the written Notice of Completed Investigation (NOPD Form #308) unless the case has been remanded to the investigator to correct any deficiencies or for further investigation.,

10. PIB shall ensure the accused officer is provided written notice of the initial Pre-Disciplinary Hearing at least 10 days prior to the scheduled date of the Hearing. This notice must be re-issued in the event a hearing is rescheduled.
11. If the Member contests the timeliness of the disciplinary process pursuant to the "Police Officer's Bill of Rights," La. R.S. 40:2531, or disputes whether the complained-of conduct impaired the efficiency of the Department or bears a real and substantial relationship to the Department's efficient operation, the Member shall state the basis for their argument in writing at least five (5) days before a Pre-Disciplinary Hearing. For good cause shown, the Panel (by majority vote) can waive this restriction and allow arguments that contest the timeliness of the disciplinary process pursuant to the "Police Officer's Bill of Rights," La. R.S. 40:2531, or disputes whether the complained-of conduct impaired the efficiency of the Department or bears a real and substantial relationship to the Department's efficient operation for an alleged violation at the Pre-Disciplinary Hearing.
12. At the same time that PIB notifies the accused Member that an investigation has been completed, PIB shall also notify the Office of the Independent Police Monitor (OIPM) and provide the OIPM with the summary of the investigation's findings provided to the accused Member. the OIPM may provide PIB with a written memorandum regarding the investigation. The Independent Police Monitor or their designee shall be notified of, and permitted to attend, the Pre-Disciplinary Hearing.

FORUM OF PRE-DISCIPLINARY HEARING

13. When a misconduct investigation conducted by NOPD, or an outside agency, results in a sustained disposition, the Superintendent of Police, through the Deputy Superintendent of PIB, shall choose the appropriate forum for a Pre-Disciplinary Hearing in accordance with this Chapter (Captain's hearing, Deputy Superintendent's hearing, Superintendent's Committee hearing, or Superintendent of Police hearing).
14. The hearing may be chaired by the accused Member's District/Division Captain, the accused Member's Deputy Superintendent, a Superintendent's Committee, or the Superintendent of Police, according to the following guidelines:

A. Captain

With the approval of the Superintendent of Police, a District/Division Captain may preside over a Pre-Disciplinary Hearing when:

- 1) The violation does not involve criminal activity;
- 2) The accused Member's classification is subordinate to the Captain's classification; and
- 3) The Captain did not serve as investigator or initiate the investigation into the case being heard.

B. Deputy Superintendent

With the Superintendent of Police's approval, a Deputy Superintendent may preside over a Pre-Disciplinary Hearing for any Member within their respective Bureau unless the Deputy Superintendent was an investigator on or initiated an investigation on the case being heard.

C. Superintendent's Committee (Hearing Panel)

The Superintendent of Police, through their designee, may appoint a Superintendent's Committee to serve as the Hearing Panel, to conduct any Pre-Disciplinary Hearing. The appointed Hearing Officer should preferably be from the District/Division or Bureau of the accused employee but may be the Deputy Superintendent or Captain of PIB in the event a District/Division or Bureau representative is unable to serve as the Hearing Officer.

D. Superintendent of Police

The Superintendent of Police may conduct any Pre-Disciplinary Hearing at her sole discretion.

15. Captain's hearings and Deputy Superintendent's hearings, as described in paragraph 14(A-B), shall only be held for incidents in which the investigation was conducted by a supervisor assigned to the same district or division as the accused Member for an allegation that did not constitute serious misconduct (e.g., a District Sergeant investigates a formal disciplinary investigation regarding courtesy allegations against a District Desk Officer).
16. All Pre-Disciplinary Hearings in which the investigation was conducted by an investigator outside of the accused Member's bureau shall be composed of a Superintendent's Committee (Hearing Panel). The hearing shall be subject to the following:
 - (a) A majority vote shall control all the committee's recommendations.
 - (b) Only those committee members who voted to sustain a violation, which was recommended to be sustained by majority vote, shall vote on the penalty recommendation in that case.
17. The Pre-Disciplinary Hearing shall include the accused Member.
18. The case investigator shall appear at the Pre-Disciplinary Hearing. The investigator should be notified at least ten (10) calendar days prior to the date of the hearing.
19. The District/Division, Section, or Unit level Commander of the accused Member shall appear at any Pre-Disciplinary Hearing involving any subordinate under their command.

CONDUCT OF PRE-DISCIPLINARY HEARING

20. A recommended sustained disposition may be altered during the Pre-Disciplinary Hearing. The penalty for any sustained violation must be considered and determined. Mitigating circumstances and aggravating circumstances may be presented and considered at a Pre-Disciplinary Hearing.
21. During the hearing, the accused Member may request permission from the Hearing Officer to call witnesses to testify on their behalf; however, approval is at the sole discretion of the Hearing Officer on a case-by-case basis, considering such factors as the gravity of the charges and the severity of the potential penalty.
22. The accused Member shall have the right to legal counsel or another representative at the Pre-Disciplinary Hearing, and the representative shall be allowed to offer advice to the accused Member and make statements on the record.
23. During the Pre-Disciplinary Hearing, the accused Member may present relevant information to dispute or clarify the allegations made against them or present information relevant to their defense. The accused Member or their representative may propose questions to the Hearing Officer regarding information needed from certain witnesses or the investigator. The legal counsel or representative may only question the investigator

or any witnesses with permission from the Hearing Officer. The accused may present mitigating circumstances at the Pre-Disciplinary Hearing.

24. Evidence presented shall be limited to the questions of an appropriate disposition and penalty based on a preponderance of the evidence standard.
25. The Hearing Officer shall conduct the hearing according to the below guidelines.

a. OPENING

The hearing shall be analog or digitally recorded. The Hearing Officer shall state the time, date, place, and identity of all those present at the disciplinary hearing, and the type of hearing being conducted. The Hearing Officer shall, utilizing the Pre-Disciplinary Hearing Disposition Form, read into the record the sustained violations and the circumstances of the misconduct. The Hearing Officer shall provide an explanation of any relevant policy, procedure, and regulations of law.

b. BODY

The body of the hearing shall provide the accused Member with an opportunity to provide exculpatory evidence and/or evidence of mitigating circumstances that may be relevant to the determination of an appropriate disposition and penalty for any sustained violation.

26. PIB shall provide information regarding the discipline that has been imposed on other NOPD Members across all Bureaus for similar violations. The District/Division, Section, or Unit level Commander of the accused Member may make a statement regarding the accused Member's disciplinary record or other mitigating or aggravating circumstances.
27. Examination or cross-examination of the investigator and/or PIB representative, accused Member, and the accused Member's District/Division, Section, or Unit level Commander shall be conducted by the Hearing Panel member(s) only.

PENALTY RECOMMENDATION

28. The Hearing Panel (by majority rule) shall recommend an appropriate penalty for each sustained violation in accordance with **NOPD Chapter 52.5** (Discipline Matrix/Penalty Schedule).
29. The Hearing Officer shall document the penalty recommendation on the Pre-Disciplinary Hearing Disposition Form and provide a written memorandum explaining any deviation from the penalty schedule and/or penalties imposed in similar cases as identified by PIB. Instructions on properly completing the Pre-Disciplinary Hearing Disposition Form can be found in Appendix A of this chapter.
30. The Hearing Officer shall record a separate penalty for each violation (and not a cumulative penalty for the case).
31. If the penalty is a suspension, the Hearing Officer shall indicate that the suspension time involves working days (example: ten working days).
32. Should the penalty include a fine, the Hearing Officer shall record in the comments section of the Pre-Disciplinary Hearing Disposition form the exact amount of any monetary fine assessed, and how that amount was determined.
33. Should the penalty include a prohibition on working paid off-duty details, the Hearing Officer shall record the number of calendar days during which the Member is prohibited from working details.
34. Should the penalty include any other restriction, such as loss of a take-home vehicle or other such privilege, the Hearing Officer shall record the number of days the property or

privilege is restricted.

35. Should the penalty include any remedial or other training, the type of training, and the person responsible for coordinating and scheduling the Member for the training shall be specified in the Comments section of the Pre-Disciplinary Hearing Disposition form.
36. Should the Hearing Panel assess a suspension of 30 days or greater and determine that the member will suffer an extreme hardship if the penalty is served in one continuous block, they may break the suspension days into increments of 5 consecutive days per pay period. All pay periods shall be consecutive unless a pay period has a paid City Holiday. If there is a pay period with a paid City Holiday, it shall be skipped, and the suspension period resumed with the next pay period. The Hearing Disposition Form shall specifically indicate that the break in suspension days and the nature of the extreme hardship. In no case shall the number of suspension days per pay period be less than 5 days.
37. Should the Hearing Officer have documentation that any criminal charges related to the case have been dismissed or otherwise nullified because the arrest lacked probable cause, any violation regarding Rule 2: Moral Conduct, Paragraph 1 – Adherence to Law, or related offenses that relied upon the probable cause for the arrest, may be noted as “Not Sustained” or other appropriate finding by the determination of the court and the Hearing Officer shall not assess a penalty for that charge/those charges. The lack of probable cause relating to one charge shall not impact the findings or penalties for other charges not related to the lack of probable cause.
38. At the conclusion of the hearing, the Hearing Officer or Hearing Panel shall consider the allegations and the accused Member’s response. The Hearing Officer shall then verbally notify the accused Member of their, or the Hearing Panel’s, recommended for each allegation. The recommendation on each allegation shall be one of the following: Unfounded, Sustained, Not Sustained, or Exonerated.
39. If the Hearing Officer or Hearing Panel determines any of the investigator’s recommended dispositions should be changed, the Hearing Officer shall document the reasons for the finding in an interoffice memorandum (form 105), which shall be included in the investigative file.
40. If the Hearing Officer is a Captain, the final recommended dispositions shall proceed to the Deputy Superintendent of PIB for review prior to final approval by the Superintendent of Police. The entire hearing packet, including any concurrence or non-concurrence, shall then be forwarded to the Superintendent of Police for final approval.
41. If the hearing officer is a Deputy Superintendent, the final recommended dispositions, and all associated paperwork, shall proceed to the Superintendent of Police, or their designee, for final approval.
42. If the Hearing Officer is a Lieutenant, the final recommended dispositions shall proceed directly to their Captain for review, prior to review and concurrence or non-concurrence by the Member’s chain of command.

Disciplinary Hearing Dispositions

43. Beyond the dispositions provided in the investigation (Sustained, Not Sustained, Unfounded, or Exonerated), a Pre-Disciplinary Hearing may result in one of the following noting the final disciplinary outcome of the dispositions, if appropriate:

A. Sustained But Null

The investigation determines by a preponderance of evidence that the alleged misconduct did occur, but no discipline, demotion, dismissal, or adverse action of any sort whatsoever may be taken against an accused officer because the standards required by Louisiana Revised Statute 40:2531 (C) have not been met.

Adverse action includes a significant change in employment status, such as hiring, firing, refusing to consider for promotion, or reassignment with significantly different responsibilities resulting in a significant change in benefits. Recommendation for additional training and non-disciplinary counseling are not adverse actions.

If a hearing disposition is Sustained But Null the hearing officer shall notify PSAB of the disposition for review.

B. Retired / Resigned Under Investigation (RUI) citing the disposition of the completed investigation

If the accused Member retires or resigns before the investigation is concluded or before the completion of discipline, the investigation shall be completed, and the disposition shall reflect both "RUI" and the investigator's disposition of each accusation. No hearing is conducted.

SCHEDULING AND NOTIFICATIONS

44. In all formal disciplinary investigations (FDIs), the investigator shall inform the complainant in writing of the classification of the complaint and the unit assigned to investigate the complaint within ten business days of the classification as an FDI.
45. PIB also shall inform the complainant of the final disposition of the investigation within ten business days of the investigations' final disciplinary determination, and whether any disciplinary action was taken within ten days of the completed disciplinary decision.
46. In all cases, the investigator shall prepare and transmit to the accused a Notice of Completed Investigation (NOPD Form #308), which the investigator shall forward to PIB with the completed investigation file.
47. Except in documented extenuating circumstances, a Pre-Disciplinary Hearing shall be scheduled on a date not to exceed 30 calendar days from the date of the completed and approved investigation.
48. The Notice of Completed Investigation (NOPD Form # 308) shall be issued to (via email) or signed by the accused Member at least 10 calendar days prior to the date of any hearing. The original shall be maintained in the case file, and a photocopy shall be issued to the accused Member. The accused Member may request an extension of the hearing date in writing, but the Deputy Superintendent of PIB, or their designee, may grant an extension for good cause.
49. If the accused Member fails to appear at the Pre-Disciplinary Hearing after being notified and failing to request an extension, the failure to appear will be documented in an Interoffice Memorandum (Form 105) in the original case file.

HEARING PACKET SUBMISSION AND REVIEW

50. Following the Pre-Disciplinary Hearing, the Hearing Officer shall forward all Notification Forms, the Notice of Completed Investigation, the Hearing Disposition Form, the audio/digital recording of the hearing, the investigative report, and any other related materials through the Hearing Officer's chain of command to PIB.

51. For all cases in which the Hearing Officer is at the rank of Captain, upon receipt of the hearing records, the Deputy Superintendent of PIB shall review the recommended penalty and approve the recommended penalty or recommend a different penalty within 15 days of receipt of the records.
52. For all cases in which the Hearing Officer is at the rank of Deputy Superintendent, PIB shall ensure the hearing packet contains all the required documents and information, then forward the packet to the Superintendent of Police or their designee for final review and approval of a final disciplinary determination. If the Superintendent of Police or their designee recommends a different disposition and/or penalty, they shall explain the recommendation in the comments section of the Hearing Disposition Form or in an attached interoffice memorandum within 15 days of receipt of the records.
53. The Superintendent of Police or their proxy may approve, disapprove, or change any recommended disposition or penalty. Only the Superintendent of Police or their proxy has the authority to impose disciplinary action.

DISCIPLINARY LETTER

54. Upon receipt of the Superintendent of Police's decision regarding a penalty, PIB shall prepare a disciplinary letter and record the disposition in the appropriate internal tracking system promptly. The disciplinary letter shall include the following:
 - (a) A statement citing the reason for the disciplinary action;
 - (b) The effective week of the action, or date of dismissal;
 - (c) A statement of the status of fringe and retirement benefits after dismissal;
 - (d) A statement as to what documentation shall be retained in the Member's personnel file relative to discipline and/or dismissal;
 - (e) A statement of the time frame for filing a Civil Service appeal; and
 - (f) A statement directing the Member to refer to Civil Service Rules governing appeals.
55. PIB shall notify the Deputy Superintendent of the accused Member's Bureau when the disciplinary letter is ready to be issued to the Member. PIB shall establish a time limit for the Member to appear at the PIB office to receive their letter. The Deputy Superintendent of the accused Member's Bureau shall establish sufficient procedures to ensure that the Member is instructed to appear at the PIB office to receive their disciplinary letter and sign a receipt. The Deputy Superintendent of the accused Member's Bureau shall ensure PIB is notified in writing if a Member is unable to appear to sign for their disciplinary letter within the specified time frame.
56. If there is no Deputy Superintendent in the accused Member's chain of command, the Superintendent of Police may assign the appropriate supervisor to assume those responsibilities.

RESPONSIBILITIES OF THE PUBLIC INTEGRITY BUREAU

57. PIB shall review all investigative reports submitted in disciplinary matters.
58. PIB shall forward a copy of the investigative case file, along with the accused Member's disciplinary record, to the designated Hearing Officer for consideration in a Pre-Disciplinary Hearing.
59. The Commander of PIB shall coordinate all forms of pre-disciplinary hearings and assign a Member from PIB to attend all pre-disciplinary hearings. The Commander of PIB shall coordinate all notices for pre-disciplinary hearings, which may be prepared by

investigators.

60. PIB shall maintain a record of every disciplinary hearing and shall be responsible for maintaining audio recordings of every hearing. Pre-disciplinary hearings shall be audio recorded by the Hearing Officer. The audio recording shall be forwarded to PIB for filing. PIB shall maintain for seven years the files of all disciplinary hearings. The names of all the people in attendance shall be entered into the audio record of the hearing.
61. PIB shall review each recommended disposition and penalty resulting from a pre-disciplinary hearing to ensure the disposition is appropriate and the recommended penalty is compliant with the NOPD's established penalty schedule, as provided in Chapter 52.5 – Disciplinary Matrix/Penalty Schedule.
62. PIB shall record the disposition of investigations in the PIB files and make the appropriate files available for viewing by the accused Member, as specified by the mandates of the Police Officer's Bill of Rights (in accordance with La. R.S. 40:2533) and the Public Records Law.
63. PIB shall ensure the disposition is recorded in the Department's Early Warning System.
64. PIB shall monitor the Departmental disciplinary process and recommend revisions to the Superintendent of Police and the Professional Standards and Accountability Bureau (PSAB). PSAB should include PIB-related audits in its annual audit program.
65. PIB shall monitor each appeal by a Member of the Department presented to, and heard by, the Civil Service Commission and shall make recommendations to the Superintendent of Police and PSAB on these appeals.

RESPONSIBILITIES OF ACCUSED MEMBER

66. In addition to cooperating with all misconduct investigations, including presenting all evidence requested by investigators, every accused Member is responsible for responding to notifications and appearing at their pre-disciplinary hearing.
67. If the Member contests the timeliness of the disciplinary process pursuant to the "Police Officer's Bill of Rights," La. R.S. 40:2531, or disputes whether the complained-of conduct impaired the efficiency of the Department or bears a real and substantial relationship to the Department's efficient operation, the Member shall state the basis for their argument in writing at least five (5) business days before any pre-disciplinary hearing.
68. It is the accused Member's responsibility to notify the Hearing Officer if they are unable to appear at a Pre-disciplinary Hearing. It is also the accused Member's responsibility to request, in writing, an extension for a Pre-Disciplinary hearing if one is necessary. Any request for an extension must be sent to the Hearing Officer at least five (5) business days before the date of the hearing.
69. The District/Division, Section, or Unit level Commander shall ensure that any subordinate who appears for a disciplinary hearing is, for payroll purposes, entered into the NOPD payroll system as regular working for the term of the hearing. The entry shall reflect the PIB complaint tracking number in the Remarks section.
70. Every NOPD Member is required to be truthful at all times in spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of employment and operations of the Department.

DISCIPLINARY SUSPENSION

71. Any Member may be suspended as a result of a disciplinary infraction only after a Disciplinary Letter has been signed by the Superintendent of Police or their designee and issued to the Member.
72. In the event that a member refuses to sign for the Disciplinary Letter, additional disciplinary action may be taken. This refusal will not negate the disciplinary letter and/or the penalty assessed. The supervisor issuing the disciplinary letter shall note on it refused to sign and/or unavailable to sign.

DISCIPLINARY SUSPENSION – CAPTAIN’S RESPONSIBILITIES

73. Commanding Officers shall review a copy of the Disciplinary Letter noting a suspension on any members under their command and shall ensure that the members are carried suspended the correct number of days as indicated on the suspension letter and within the time frame designated.
74. The suspended Member’s Captain shall be responsible for ensuring the disciplined member is instructed to surrender all Departmental property in their possession prior to serving any suspensions lasting more than five (5) consecutive working days or if there is a risk of harm, as determined by the Deputy Superintendent of PIB or their proxy. The disciplined Member’s commander shall assign an on-duty supervisor from the Member’s chain of command who shall, on the last working day prior to beginning a suspension for disciplinary reasons, confiscate the following Department property and issue the Member a receipt for same:
 - (a) Member’s badge and frontispiece;
 - (b) Member’s police or departmental identification;
 - (c) Member’s personal PIM Card;
 - (d) Member’s radio;
 - (e) Member’s assigned vehicle, keys, and gas card;
 - (f) Member’s departmental weapon(s);
 - (g) Member’s vest;
 - (h) Any other department issued property specified by the Superintendent of Police or the Member’s Bureau Chief.
75. The Member’s Captain shall be responsible for securing all confiscated Department property until the Member is restored to full duty. The commander shall store the property in a secure location within their command or may secure the confiscated property in the Central Evidence and Property Section.
76. If a Member’s firearm is confiscated, that Member’s Captain shall be responsible for ensuring the Municipal Training Academy Range Staff is notified. NOPD-issued firearms shall be properly secured by Municipal Training Academy Range Staff or the Special Operations Division Armory Staff for any suspensions lasting more than five (5) consecutive working days.

DISCIPLINARY SUSPENSION – PUBLIC INTEGRITY BUREAU RESPONSIBILITIES

77. The Public Integrity Bureau shall ensure a copy of the suspension form will be delivered to the Department of Civil Service within five calendar days of the completion of the suspension form. A receipt, signed and dated by the Civil Service Representative accepting the suspension form, shall be included as part of the permanent case file in PIB.

DISCIPLINARY SUSPENSION – MEMBER’S RESPONSIBILITIES

78. A Member while on suspension **is not commissioned**. That member shall not:
- (a) Drive any city vehicle,
 - (b) Carry a firearm as a “peace officer” (La. R.S. 40:2405),
 - (c) Wear uniform parts,
 - (d) Make any public appearances representing themselves as a Member of the New Orleans Police Department, or
 - (e) Work any police secondary employment assignments.

ARREST OF POLICE DEPARTMENT MEMBERS

79. The Public Integrity Bureau Chief shall be notified of the pending arrest of any Member of the department, in advance of the arrest if possible.
80. If circumstances require a Member to be immediately arrested, the arresting officer shall notify the Deputy Chief of the Public Integrity Bureau immediately after the arrest. The Deputy Chief of the Public Integrity Bureau shall ensure the Superintendent and Member’s Bureau Chief are notified.
81. If the Member is being arrested by another agency or jurisdiction, it is the responsibility of all Members of the department to immediately inform a supervisor and the Deputy Chief of the Public Integrity Bureau upon notification of that Member’s arrest.

Appendix A - PRE-DISCIPLINARY HEARING DISPOSITION FORM INSTRUCTIONS

Place a check in the appropriate block to designate the type of hearing.

Date and PIB CTN:

Record the date the pre-disciplinary hearing disposition form is completed.

Record the P.I.B. complaint tracking number for the case heard.

From:

List the rank and name of the person(s) who conducted the hearing, i.e., the Hearing Officer.

Opening paragraph:

List the date the disciplinary hearing was held, and the rank/name/ID #/assignment of the accused Member. List the names, ranks, IDs, assignments, and/or relationship to the accused Member of every witness who testifies during the hearing and list the names of all others present during the hearing.

Violation name and recommended disposition:

List each Rule violation identified in the investigative report. Cite each Departmental Rule allegedly violated by both number and nomenclature. After each Rule, refer to the particular Departmental order, policy, or procedure (Chapter, Policy, Procedure, Section, Special Order, General Order, Personnel Order, Bulletin, etc.), which most specifically addresses the alleged violation. (Example: Rule 4: Performance of Duty; Paragraph 2: Instructions from Authoritative source, to wit, Chapter 33.3: Firearms Requalification).

State the recommended disposition next to each cited Rule violation.

Aggravating and mitigating circumstances

List or summarize all aggravating and mitigating circumstances considered in determining the recommended penalty.

Violation name and recommended penalty:

List each Rule violation recommended as sustained by the hearing officer. Next to each cited sustained Rule, state the recommended penalty per violation.

Comments:

Record any appropriate comments relative to the disposition or penalty, including an explanation of any deviation from the presumptive penalty.

Signature(s) of hearing officer(s):

All the people who conducted the hearing shall place their signatures and the date signed.

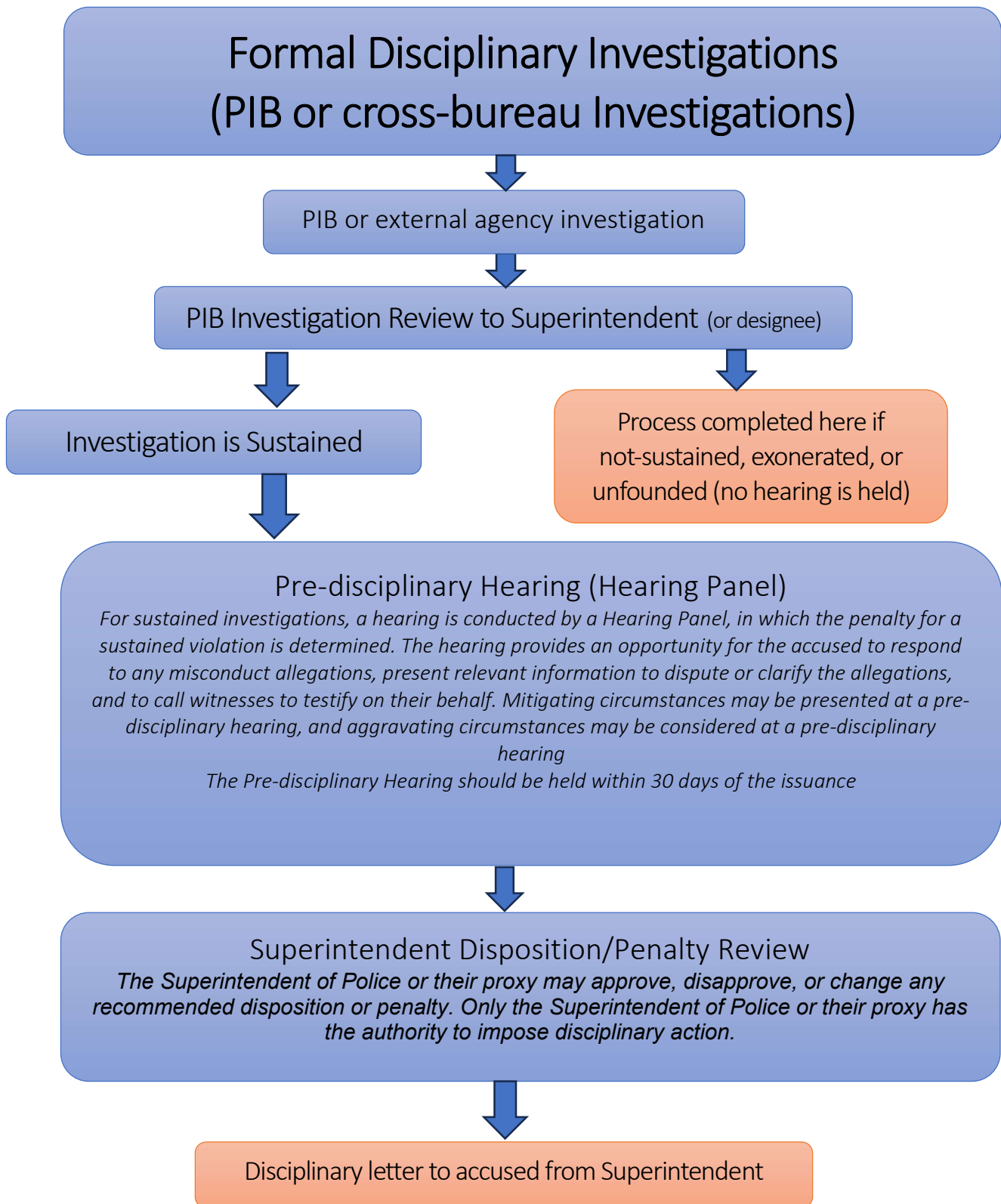
Concur / do not concur (Deputy Superintendent):

To be signed and dated by the Deputy Superintendent of the accused Member's Bureau or their designee.

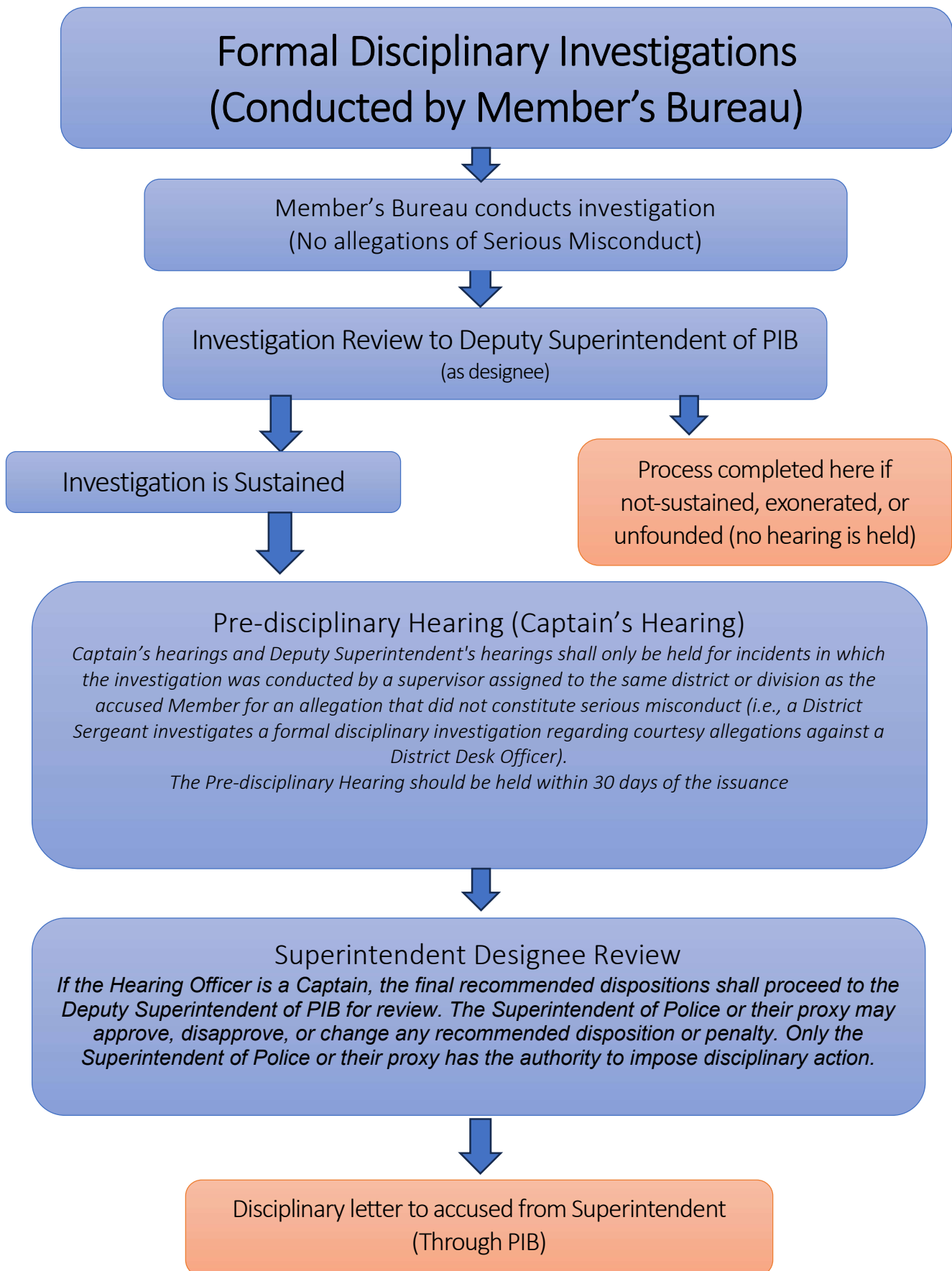
Concur / do not concur (Superintendent):

To be signed and dated by the Superintendent of Police or their designee.

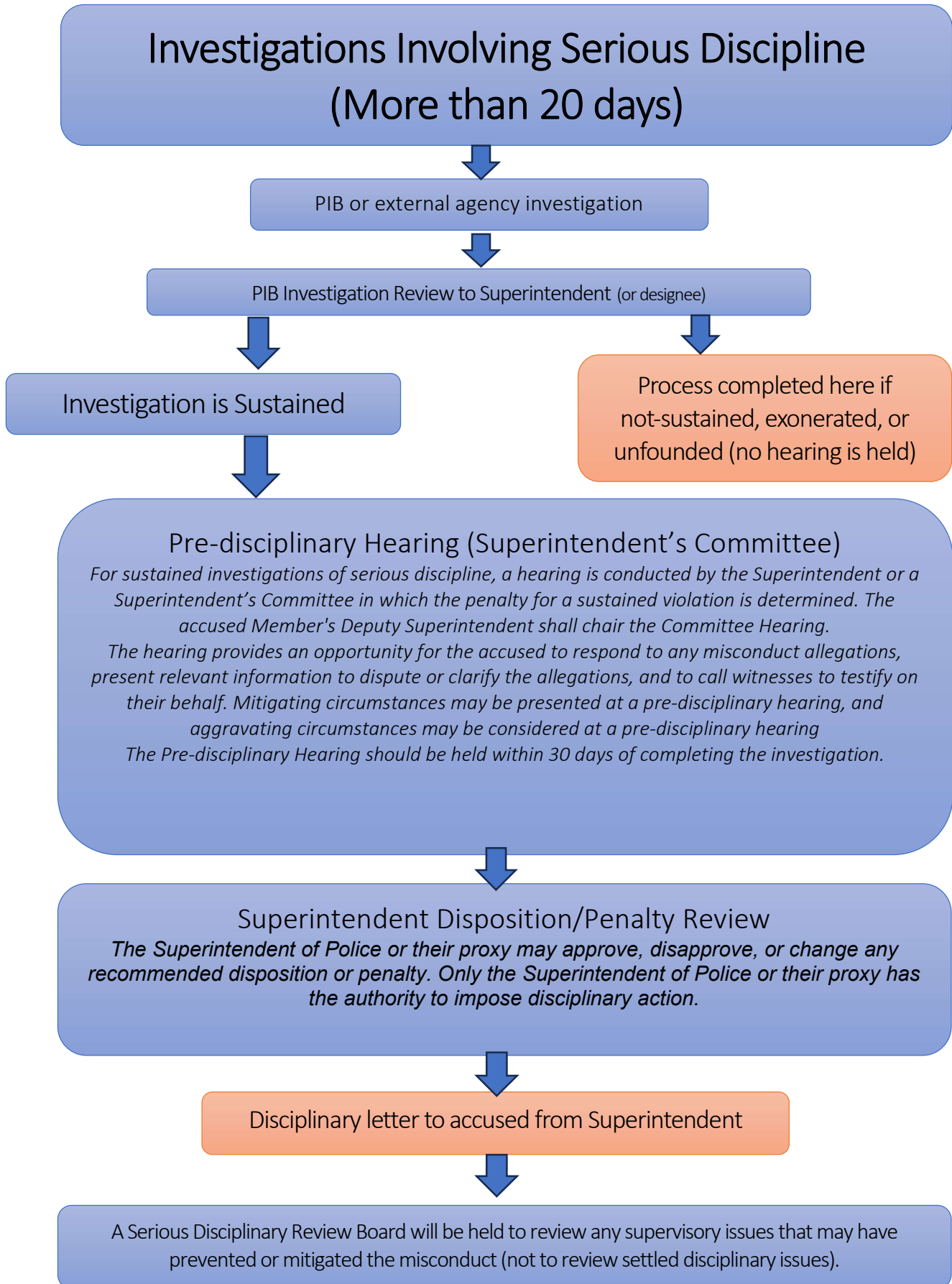
Appendix B-1 – Adjudication of Misconduct Process Flow Charts



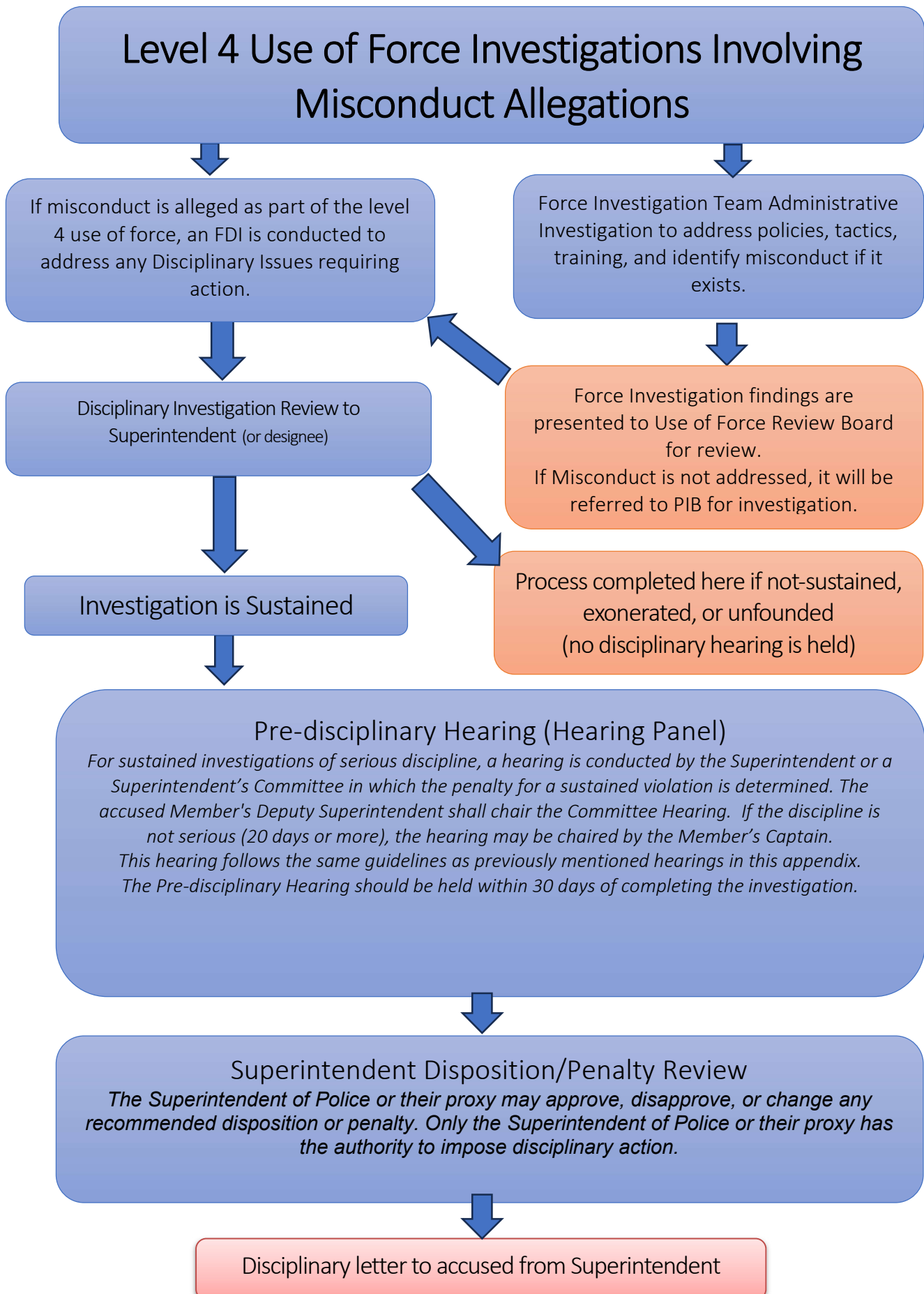
Appendix B-2 – Adjudication of Misconduct Process Flow Charts



Appendix B-3 – Adjudication of Misconduct Process Flow Charts



Appendix B-4 – Adjudication of Misconduct Process Flow Charts



Appendix C – Scheduling of Pre-Disciplinary Hearings**Captain or Deputy Superintendent Hearings:**

Captain and Deputy Superintendent Hearings shall be scheduled within 30 days of the completion of the investigation unless documented extenuating circumstances exist to cause delay. So long as the hearing is conducted within the allowed timeframe, these hearings may be conducted as permitted by the schedule of the Captain or Deputy Superintendent conducting the hearing.

Hearing Panels:

All Pre-Disciplinary Hearings conducted by hearing panels, except Superintendent Committee hearings, shall be scheduled within 30 days of the completion of the investigation and shall take place at the NOPD Headquarters large conference room every Wednesday immediately following MAX meetings.

In the event a hearing is rescheduled or delayed for any reason from the set Wednesday hearing day, it shall be rescheduled to the immediately following Friday. In all cases where the hearing is rescheduled, it shall be heard no later than Friday of the following week.

Superintendent Committee Hearings:

Superintendent Committee Hearings shall take place on the second and fourth Thursdays of each month, immediately following, or (if there is nothing else scheduled) during the allotted time for, Use of Force or Serious Disciplinary Review Boards.

In the event a hearing is rescheduled or delayed for any reason from the set Thursday hearing day, it shall be rescheduled to the immediately following Friday. In all cases where the hearing is rescheduled, it shall be heard no later than Friday of the following week.

Notifications:

The Notice of Completed Investigation (NOPD Form # 308) shall be emailed to or signed by the accused member at least 10 calendar days prior to the initial date of any hearing. All rescheduling of the pre-disciplinary hearing shall be set in accordance with this appendix.