

PROCEDURES FOR ADMINISTRATIVE REVIEW BOARD	Document Number	GO 303
	Effective Date	07-05-2011
	Revision Date	02-07-2013
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1. PURPOSE

To set forth the department's Policy and Procedures regarding Administrative Review Boards and their proceeding and findings.

2. PERSONS AFFECTED

All department personnel.

3. POLICY

3.1. An Administrative Review Board hearing is an administrative hearing to review charges against Police Department personnel involving violations of department's orders, to determine the validity of the charges, and to recommend appropriate disciplinary action. The Board does not have investigation powers but can require that additional investigation be conducted.

3.2. It is the duty of the Board to determine the appropriate disposition of charges made against department personnel. Determination is to be made upon the basis of investigative reports, statements, documents, and such other evidence that it deems appropriate.

3.3. The Board hearing requires a test of evidence sufficient to convince a reasonable mind of guilt. The rules of evidence need not be strictly adhered to.

4. DEFINITIONS

4.1. **Unfounded** – A complaint is "unfounded" when the investigation indicated that the act or acts complained of did not occur.

4.2. **Exonerated** – A complaint is referred to as "exonerated" when the investigation indicates that the act or acts complained of did occur but that they were justified lawful and proper.

4.3. **Not Sustained** – A complaint is referred to as "not sustained" when the investigation fails to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint.

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4.4. **Sustained** – A complaint is referred to as "sustained" when the investigation discloses sufficient evidence to clearly prove the allegations made in the complaint to indicate that the act or acts complained of merit disciplinary action.

5. BOARD COMPOSITION AND PROCEDURES

5.1. Composition of the Board

5.1.1. The Board shall be composed of at least five (5) members of the Police Department; a chairman and four (4) members selected by the Police Chief who shall hold the rank of Captain or above. A simple majority of Board members will constitute a quorum.

5.1.2. Notwithstanding the composition of the Board as described in subsection 5.1.1 above, the Police Chief may select individuals from outside of the Police Department to compose a Special Review Board when he determines that such action is appropriate. Selection of the specific persons to serve shall be by mutual agreement with the union. Mutual agreement with the union shall not apply to excluded members.

5.1.3. Unless otherwise authorized by the Police Chief or designee, the Board shall conduct the hearing within thirty (30) days after the completed investigation is received by the Board chairman.

5.1.4. The accused member shall be notified in writing by the Chairman of the date, time, and place of the Board hearing and shall be afforded an opportunity to appear before the Board.

5.1.5. A unanimous decision of the Board is required for the disposition of charges.

5.1.6. The Board shall convene as needed.

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5.2. Chairman of the Administrative Review Board

- 5.2.1. The Chairman shall preside over the Board proceedings and decide any questions of procedure, conflicts of interest of Board members, acceptability of the evidence, relevancy of evidence, and all related matters. Documentation of the Board action is the responsibility of the Chairman.
- 5.2.2. The Chairman will circulate amongst the members of the Board the completed investigation report for their review and comments.
- 5.2.3. Any member subject to an Administrative Review Board shall be notified in writing of the Board members and the charges presented.
- 5.2.4. Members shall submit a written response of their review to the Chairman within one week upon receipt.
- 5.2.5. Any member who is disciplined under the aforementioned procedure may appeal such action through the grievance procedure of the applicable collective bargaining contract.
- 5.2.6. Members who are excluded from collective bargaining units may appeal discipline so assessed to the Department of Human Resources Merits Appeal Board.

5.3. General Administrative Review Board Proceedings

- 5.3.1. Powers and Authorization
 - a. The Board, through its Chairman, is authorized to summon any member of the department.
 - b. The Board, through its Chairman, is authorized to require that additional investigation be conducted.
 - c. The Board is authorized to review the accused member's personnel file.

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- d. Deliberation and determination of disciplinary action shall be in closed session of the Board (Chairman and members only). This session shall not be a matter of record.
- e. All Administrative Review Board hearings are closed to everyone except those summoned by the Board.

5.4. Board Attire

- 5.4.1. Officers who choose to appear before the Board shall be guided by approved dress standards as outlined in General Order 800.
- 5.4.2. Officers are prohibited from appearing before the Board while in possession of their issued or supplemental firearms.

5.5. Determination

- 5.5.1. A unanimous decision of the Board shall determine the appropriate disposition of the charges which shall be one of the following:
 - a. Unfounded
 - b. Exonerated
 - c. Not Sustained
 - d. Sustained
- 5.5.2. Should the Board sustain the charges, it shall then determine by majority consensus the recommended appropriate disciplinary action to be taken. The Board, through its Chairman, shall report the results of their deliberation and recommended disciplinary action to the Police Chief no later than one week after the date of hearing.
- 5.5.3. A Disciplinary Order imposing the disciplinary action shall be issued by the Police Chief.

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5.5.4. The accused member shall be informed in writing of the final decision.

5.5.5. When an employee's misconduct results in dismissal, the following information will be provided to the employee:

- a. A written statement citing the reason for dismissal.
- b. The effective date of the dismissal.
- c. A statement of the status of retirement benefits after dismissal.

5.6. Maintenance of Records

5.6.1. The Assistant Chief of Administration, or designee, shall ensure that:

- a. Records of Administrative Review Board proceedings are maintained in a secure file with access for authorized personnel only;
- b. Records of Administrative Review Board proceedings are retained in accordance with the records retention schedule and collective bargaining agreement; and
- c. A weekly status report of all Review Board findings and actions is submitted to the Chief's Office.