

RULE 7
COMPLAINT AND DISCIPLINARY PROCEDURES

Section 7.001 Department Policy

The purpose of this rule is to establish a system of complaint and disciplinary procedures which will maintain the integrity of the Department by insuring a prompt and fair disposition of complaints. The procedures will subject the Department employee to discipline and/or corrective action if improper conduct is evident and will protect those who discharge their duties properly.

Section 7.002 Applicability

The procedures apply to all commissioned members of the Department.

Section 7.003 Inspector of Police

A title historically used in Missouri statutes that identifies the highest-ranking commander over the Internal Affairs (IA) function.

Proposed Section 7.004 Standards of Conduct (26.1.1)

- A. A Department employee will be subject to disciplinary action for the violation of the rules of conduct set forth by the Department as described herein. These rules of conduct are neither intended to cover every situation, nor be exclusive of any other Department directive or pronouncement by the Board of Police Commissioners, the Chief of Police or his/her delegates, or of a superior officer.
- B. Employees will always maintain reasonable standards of courtesy in contact with the public and with other Department employees and will not act in a manner that brings discredit upon themselves or the Department.
- C. Acts contrary to good conduct include, but not be limited to, the following:
 - 1. Any conduct unbecoming to a member of the Department which is contrary to the good order and discipline of the Department, on or off duty. For example, such conduct shall include, but not be limited to:
 - a. Leaving early from duty, being absent from duty, or failing to report for duty at the regularly scheduled time without permission from one's supervisor (each occurrence is a separate charge).
 - b. Failing to obey a reasonable order or showing disrespect toward a supervisor or officer of a higher rank.
 - c. Abuse of subordinates by an officer of a higher rank.

- d. Failing to take appropriate action to prevent any misconduct by another law enforcement officer/agent.
 - e. Failing to promptly report any misconduct or alleged misconduct by another Department employee.
 - f. Knowingly associating, on or off duty, with convicted criminals or lawbreakers under circumstances which could bring discredit upon the Department or impair an officer in the performance of duty.
 - g. Engaging in a strike, work stoppage, or work slowdown against the Department.
 - h. Receiving five (5) separate sustained investigations within a three (3) year period (this does not include “unsatisfactory inspections” which consists of snap-outs and verbal warnings; more than 28 days in a calendar year of suspension would lead to dismissal).
2. Failure to perform essential functions of the job, including but not limited to:
- a. Failing to acknowledge a radio call, to respond to a dispatched call for service, or to follow radio procedures.
 - b. Failing to notify one’s Supervisor of information concerning police matters, including but not limited to criminal activity, criminal investigations, and internal investigations, that come into a Department member’s possession.
 - c. Any conduct detrimental to the public peace or welfare.
 - d. Failing to conduct a proper investigation of (a) suspected criminal activity; or (b) a non-criminal incident which requires police action.
 - e. Unintentionally providing inaccurate information in an official document or investigation.
 - f. Intentionally providing false information in an official document or investigation or intentionally withholding relevant information in the scope of the Department employee’s job duties and responsibilities.
 - g. Failing or refusing to qualify with a Department owned/approved firearm.

3. Individual disclosure requirements, including but not limited to:
 - a. Revocation of, or failure to maintain, Peace Officers Standards and Training (POST) license.
 - b. Conviction of a felony or misdemeanor under any federal or state statute or an ordinance violation in any jurisdiction. A conviction includes a finding of guilt by the trier of fact, a guilty plea, an Alford plea and/or any acknowledgement of guilt (e.g., Suspended Execution/Imposition of Sentence).
 - c. Failing to immediately report to one's Supervisor or IA when: (a) a Department employee is detained for any offense in any jurisdiction; (b) law enforcement in any jurisdiction is called to the Department employee's residence; (c) a Department employee is arrested as a suspect of any offense in any jurisdiction; (d) a Department employee is under investigation for any offense in any jurisdiction; or (e) a Department employee is the subject of an Order of Protection in any jurisdiction.
 - d. Failing to promptly report legal service of a lawsuit arising from a Department employee's official acts or conduct.
 - e. Suspension/revocation of a Department employee's driver's license; failing to promptly notify Commander/Supervisor of suspension/revocation.
4. Secondary employment requirements, including but not limited to:
 - a. Failing to devote one's time and attention to the business of the Department during scheduled duty hours.
 - b. Engaging in secondary employment without first obtaining written permission from the chain-of-command to engage in secondary employment.
 - c. Wearing the uniform while off-duty, except when traveling to or from assignment, unless authorized by the Chief of Police or a Deputy Chief.
5. Requirements related to legal proceedings, including but not limited to:
 - a. Failing, upon receipt of proper notice, to attend any trial, hearing, or proceeding before a court, board, bureau or tribunal of the United States, State of Missouri, political subdivision of the State of Missouri, or City of St. Louis, and to remain in attendance until the conclusion of

the applicable proceeding or until excused by the person causing such an appearance.

- b. Voluntarily appearing in a court of law or administrative hearing for the purpose of providing expert/opinion-based testimony which may impact the Department without permission of the Chief of Police.
 - c. Interfering or tampering with a witness, potential witness or one in a position to appear in any capacity in any legal proceeding or Department hearing.
 - d. Causing or procuring any person other than a licensed attorney, union, or ethical organization representative to intercede with a Board member or another Department employee on one's behalf while one is under suspension or under charges.
6. Responsibilities related to intoxication, medication, injury and illness, including but not limited to:
- a. Reporting for duty in an intoxicated condition or consuming alcohol while on duty or while in any part of the uniform which would readily identify the individual as a Department employee to the public.
 - b. Failing to notify a Commander/Supervisor potentially behavior-influencing medication.
 - c. Failing to comply with prescribed medical protocol during treatment for a work-related injury or illness.
 - d. Failing to promptly notify one's Commander/Supervisor of the ability to return to duty by the Department Medical Provider or private physician, and report at the earliest time scheduled for duty.
 - e. Use of controlled substances not medically prescribed to the employee.
 - f. Feigning injury.
7. Notification requirements, including but not limited to, when not on duty, being absent from one's place of residence for a period exceeding seventy-two (72) hours without first notifying the commanding officer and providing information sufficient to permit emergency contact.

8. Prohibitions against:
 - a. Soliciting money or other things of value for gift or testimonial purposes, while in uniform or on duty, or when representing oneself as a Department employee, without consent of the Chief of Police.
 - b. Procuring or soliciting for attorneys, bondsmen, towing companies or any other business while dealing with the public.
 - c. Knowingly borrowing, obtaining, receiving, soliciting, or accepting anything of value, either directly or indirectly, from any person: (a) under investigation; (b) against whom a complaint has been made; (c) for whom an arrest warrant has been issued; (d) in official custody; or (e) free on bond.
 - d. Offering or providing anything of value in exchange for the aid of any person to influence hiring, promotion, or transfer on one's behalf or on behalf of another.
9. Failing to provide appropriate identification as a Department employee when requested. Name, rank or position, badge number, or similar identifying information will be provided in a civil manner to any person who may inquire absent exigent security circumstances. When taking police action or when off-duty, Department employees not in full uniform will respond to requests to view Department identification by displaying the requested item absent exigent security circumstances. When policing individuals engaged in expressive activity, failing to visibly display a unique identifier and identity of affiliated law enforcement agency.
10. Electronically recording the conversation or videotaping/photographing actions of another Department employee or a member of the public without that person's prior knowledge and approval unless otherwise approved by other rules, regulations or special orders, or unless done in conjunction with a sanctioned investigation in which the said recording is specifically authorized and approved in advance of the recording by the Board, the Chief of Police, a Deputy Chief or IA.
11. Prohibition against improper disclosures, including but not limited to:
 - a. Improperly disclosing information from a closed record or protected Criminal Justice Information, as defined in RSMo § 610.120.
 - b. Peer support advisor violating the confidentiality of the peer support counseling program by sharing information learned in a peer support counseling session with personnel who are not supervisors or staff

of the peer support counseling program unless otherwise exempted under RSMo § 190.1010 and RSMo § 590.1040. Violation of confidentiality may result in removal from the peer support counseling program.

**Section 7.005 Standards of Conduct Related to Political Activity (26.1.1) (A 4.6.1)
(C 3.6.1)**

The purpose of this Rule is to set forth the permissible limits within which Department employees, ~~commissioned and civilian~~, may participate in the elective process of any level of government and engage in political activity. It is intended to give Department employees the right to engage in political activity consistent with the primary objective of preventing any real or apparent misuse or abuse of a position within the Department in the area of political activities and in the exercise of the right of suffrage.

A. Permissible Activity

All Department employees are free to engage in political activity in the widest extent consistent with the restrictions imposed by the Hatch Act, the Hatch Act Modernization Act of 2012, at RSMo. § 67.145 and Section 7.005.

B. Use of Official Authority and Political Campaigning – Prohibition

1. A Department employee may not engage in coercive conduct or misuse official authority, position or influence for partisan purposes.
2. A Department employee may not engage in political activity while on duty or in uniform.
3. Activities prohibited while on duty or in uniform include, but are not limited to:
 - a. directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions or other funds for a political purpose;
 - b. organizing, selling tickets to, promoting, or actively participating in a fundraising activity of a political candidate, political party or political club;
 - c. soliciting votes in support of, or in opposition, to a candidate for public office or political party office;
 - d. acting as recorder, watcher, challenger, or similar office at the polls on behalf of a political party or candidate;

- e. driving voters to the polls on behalf of a political party or candidate;
- f. endorsing or opposing a candidate for public office or political party office in a political advertisement, broadcast, campaign literature or similar material;
- g. serving as a delegate, alternate or proxy to a political party or convention; and
- h. addressing a convention, caucus, rally or similar gathering of a political party in support of, or in opposition to, a candidate for public office or political party office.

C. Determination of Questioned Activities – Appeal

1. A Department employee may request, in advance, that a determination be made whether a given activity is permitted or prohibited. The request must be made in writing and clearly set forth all the facts pertaining to, or connected with, the activity in which the employee wishes to engage. The request must be directed to the Chief of Police (or the person designated by the Board).
2. A written determination will be made and delivered to the employee making such request no later than thirty (30) days after receipt of such request.
3. An employee aggrieved by such a determination may appeal to the Board within ten (10) days after receipt of the determination. The appeal must be in writing and clearly set forth the reason why the determination is alleged to be incorrect.
4. The decision of the Board based on the written submissions of the parties (unless the Board requests additional information) on such appeal will be a final decision and binding on all parties.

Section 7.006 Complaints

- A. A complaint is defined as an allegation that a Department employee has violated a Department rule, special order, or regulation, a federal or state statute, or a city ordinance.
- B. Complaints may arise from:
 1. Citizens complaints;
 2. Observations of supervisory or commanding officers;

3. Reports of misconduct to supervisory officers by other members of the Department;
4. Misconduct uncovered during the course of a complaint investigation;
5. Referral to the Department by an agency;
6. Criminal charges; and
7. Civil lawsuits.

Section 7.007 Procedure of Receiving Complaints

A. Accepting Citizen Complaints

1. Procedures for citizens to register allegations of misconduct against Department employees will be maintained on the Department's website. Complaint forms are available at each police facility and online for use by a citizen in recording a complaint against a Department employee. A complaint must be submitted in writing, online or in person. **(26.2.4) (C 1.4.12)**

A complaint made by telephone must be reduced to writing by a Department employee. A verbal complaint made at the scene of an accident, crime, investigation or other police matter must be reduced to writing by a Department employee.

For all complaints, the Department employee must obtain information including the nature of the alleged violation, personal identifying information of the complainant and the name of the Department employee involved.

A complaint is deemed "received" under RSMo § 590.502 when (a) the complainant submits a written complaint to the Department; or (b) a Department employee submits a complaint in writing. A Department employee has 24 hours from receipt of a verbal complaint to reduce the information to writing and deliver it to the supervisor of the Department employee involved.

At the time of filing the complaint, or at anytime thereafter, any citizen may be accompanied by counsel or by an interested observer to assist in the filing.

2. The supervisor of the involved Department employee will fill out an Employee Misconduct Report (EMR) and forward the EMR to IA.

For external complaints, the complainant will be asked if they would like to

appear personally before IA (transportation to be arranged, if needed).

3. It is preferable that complainants be interviewed by Command personnel or Supervisor who will complete the EMR and forward the complaint form to IA.

If the complainant is unable or unwilling to complete the complaint form or go to the Department, Commander/Supervisor must complete the EMR as fully as possible. Commander/Supervisor is required to make arrangements for the form to be delivered to IA within 24 hours.

4. Citizens may opt to complete the complaint form at a later time, in which case they will be instructed to take or mail the completed form to IA. Citizens shall be given a copy of the completed complaint form. IA will mail a receipt notice to the complainant when a complaint form is mailed by a citizen.
5. When it appears that the complainant is under the influence of an intoxicant/drug, suffering from a mental disorder, or exhibits any other behavior or condition bearing on the complainant's credibility, these conditions will be noted on a separate Intra-Departmental Memorandum, by the Department employee receiving the complaint. All such remarks and statements will be followed by the signature of the Department employee making the remarks. The separate memorandum will be attached to the original EMR or complaint form and forwarded to IA. The memorandum containing the observations may not be provided to the complainant.
6. Photographing Complainant:
 - a. If a complainant alleges any manner of physical abuse or injury to their person during an encounter with an officer, the person receiving the complaint should digitally photograph any purported injury. A photograph of the complainant's face must also be taken.
 - b. If photographs are taken, same must be documented in a memorandum. The digital files of the photographs taken must be forwarded to IA with the EMR.
7. Courts are the proper venue for complaints which deal solely with differences of opinion between an officer and a citizen concerning the issuance of a traffic ticket or summons, absent an allegation of violation of Department rules or a law violation against the officer. These differences are not considered complaints and may not be investigated; an Allegation of Employee Misconduct Report should not be prepared.

B. Complaints Internally Generated by Commanders/Supervisors

1. Violations of Department rules, internally initiated, must be submitted in writing and referred to IA.
2. If the initial investigation reveals that an allegation will be made against the Department employee, IA will determine whether the allegation will be further investigated by IA or referred to the Department employee's Commander for investigation. **(26.3.1) (C 1.4.1) (A 2.3.3) (A 2.3.4)**
3. If investigated by Command staff, the investigating Commander will submit an Administrative Report Transmittal Sheet (ARTS) to IA. If investigated by IA, IA will complete and ARTS. IA will then submit the Notice of Recommended Discipline form through the proper chain of command for final disposition. **(26.1.5)**

Section 7.008 Authority and Responsibilities

Each Department employee is required to perform the duties and assume the obligation of their rank in the investigation of complaints or allegations of misconduct. Command personnel and supervisors will conduct investigations at the direction of IA when the person complained of or observed in an infraction is within the scope of their authority.

Section 7.009 Referral of Complaints to Internal Affairs Division (26.3.1) (C 1.4.1) (A 2.3.3) (A 2.3.4)

- A. Complaints requiring immediate referral to IA:
 1. All complaints initiated by a citizen;
 2. Any alleged criminal violation; or
 3. Serious violations of Departmental rules.
- B. All complaints must be initially referred to IA within 24 hours of receipt or observation, ~~except complaints made against IA which must be submitted to the Chief of Police's Office who will conduct the investigation.~~
- C. The EMR must be completed by Commander/Supervisor and submitted to IA. A copy of the citizen complaint form, if prepared, must be attached when forwarded.
- D. IA will maintain a database of all complaints referred to IA, and each complaint received is assigned a number.
- E. The Inspector of Police or designee has the authority to report directly to the Chief of Police on any matters concerning investigations of allegations of misconduct against Department employees. **(26.2.3) (C 1.4.2)**

Section 7.010 Complaints Alleging Criminal Violation

- A. If the complaint alleges a violation of the criminal law, or if during the investigation, evidence is obtained to support a criminal violation, IA must immediately notify the Inspector of Police. If there is probable cause to believe that a Department employee has committed a criminal violation, the Inspector of Police will initiate a criminal investigation. The criminal investigation will be separate from the internal investigation of an allegation of the Rules of Conduct.
- B. In a criminal investigation, the assigned investigator will prepare an incident report as defined in 610.100.1(4), RSMo. The criminal investigator may share information with the internal investigator. Because the internal investigation is prepared for the purpose of disciplining an employee and not as part of the criminal investigation, information obtained in the internal investigation is not shared with the criminal investigator and is treated as a closed record under 610.100.2, RSMo.
- C. Documents prepared as part of the internal investigation which may never be shared with a criminal investigator include, but are not limited to, the ARTS, disciplinary history of officer, Consent to Accept Discipline, Employee Activity inquiry, compelled statement including transcripts and an IA administration card file. Reports prepared by the internal investigator as a result of the investigation are also included. These reports are confidential and will be treated as personnel records, unless otherwise ordered by a court of competent jurisdiction.

Section 7.011 Duties of the Inspector of Police - Complaints

- A. Upon receipt of a complaint, the Inspector of Police may, at his/her discretion:
 - 1. refer it to an appropriate command;
 - 2. conduct a preliminary investigation and then assign it to an appropriate command to complete the investigation; or
 - 3. assign the investigation to the IA.
- B. The Board may supersede the Inspector of Police's designation for investigation at its discretion.
- C. As indicated, IA must complete the EMR whenever a complaint is received and include any complaint form prepared by a citizen, if applicable, unless the EMR has previously been completed by another Department employee.
- D. IA will notify each complainant in writing that:
 - a. the complaint has been received; **(26.3.4.a) (A 2.3.6.a) (C 1.4.5.a)**

- b. the investigation has been completed; **(26.3.4.b) (A 2.3.6.b)** and
- c. the complaint has received a final disposition. **(26.3.4.c) (A 2.3.6.c) (C 1.4.5.c)**
- E. The Inspector of Police, the involved Department employee, and complainant may voluntarily agree to mediate a citizen complaint at any time during the investigation, if reasonable and appropriate. If the citizen agrees to withdraw the complaint as a result of the mediation, the investigation will be closed and will be classified as “Complaint Withdrawn” in the Department employee’s disciplinary file. If the citizen does not agree to withdraw the complaint, the investigation will continue.
- F. IA will conduct an investigation at the request of any Department employee who feels threatened by a false accusation on a contrived situation involving false evidence against the Department employee. Any Department employee may report such a situation directly to IA, unless it involves a member of IA, in which case the request must be submitted to the Chief of Police’s Office who will conduct the investigation.
- G. Any Department employee upon whom a complaint has been filed, and any Department employee who has been suspended, will be notified immediately in writing of the circumstances of the complaint and the name of the complainant, as well as the employee’s rights and responsibilities. The employee’s immediate supervisor will also be notified. If the nature of the complaint is such that the Department employee’s knowledge of the complainant would impede the investigation, IA is not required to notify the employee immediately, but the employee must be notified at least 24 hours prior to any interrogation or interview. **(26.3.5) (A 2.3.7) (C 1.4.6)**
- H. The Inspector of Police or designee will notify the Chief of Police immediately whenever an allegation of criminal misconduct is received. **(26.3.2) (A 2.3.1.e) (C 1.4.3)**
- I. The Inspector of Police will ensure a monthly report is submitted to the Chief of Police regarding the number and types of investigations currently open, as well as the status of each open investigation. **(26.3.2) (A 2.3.1.e) (C 1.4.3)**

Section 7.012 Power to Suspend

The power to suspend, vested by State Statute in the Board of Police Commissioners, is hereby delegated to officers of command rank, including acting command rank.

Section 7.013 Administrative Suspension (26.3.7) (A 2.3.8) (C 1.4.8)

- A. A Department employee may be placed on administrative suspension if unfit for duty or when there is evidence of serious misconduct reflecting upon the integrity of the individual or the Department and the nature of the misconduct necessarily requires

immediate relief from duties. However, in the following cases, the employee will be placed on administrative suspension: (1) pursuant to the provisions of RSMo. 84.120 in the event a felony indictment is issued against the employee; and (2) where the recommended discipline for any alleged infraction is that the employee be dismissed from the rolls of the Department.

- B. Except when the administrative suspension is ordered by the Chief of Police or the Board of Police Commissioners, it must be reported immediately to the Chief of Police for approval; the Chief of Police has the authority to set aside such administrative suspension and restore the employee to duty.
- C. While under administrative suspension, an employee shall surrender all Department property in their possession to their Commander, upon such demand. If uniformed, the uniform insignia of rank may not be worn. In cases where a commissioned officer owns a personal weapon, the privilege of carrying the weapon is revoked during the period of administrative suspension and the officer will be so warned.
- D. A Department employee under administrative suspension must obey all Department rules, regulations and orders not in direct conflict with any rights as an accused.
- E. The Department will continue to pay the salary and health insurance premiums of an employee who is on either administrative or disciplinary suspension; and also any combination of family coverage, for up to one year, while the employee is on either administrative or disciplinary suspension. An employee on administrative suspension and the employee's family will also be allowed to use the services of the Department's Employee Assistance Program.

Section 7.014 Conduct of Investigations – Preliminary Considerations

- A. When the Department receives an anonymous telephone complaint or an unsigned letter, it will be filed in the involved Department employee's pertinent information file, and no further action will be taken. If at a later date, additional information is forthcoming with personally identifying information of the complainant which reinforces the original information to justify a formal investigation, an investigation will be opened.
- B. At least 24 hours prior to questioning or interviewing a Department employee under investigation, the Department must provide the involved employee with an ARTS describing the nature of the alleged violation and identify the individuals who will be conducting the investigation.
- C. Questioning a Department employee under investigation may only be conducted while the employee is on duty. Questioning must be conducted at the Department for a reasonable period of time with not more than two investigators at a time.

- D. A Department employee may have counsel present when being questioned with respect to a complaint if the employee:
1. is the subject of a written EMR;
 2. is specifically named in a complaint and is being questioned in order to determine whether an EMR should be filed against them;
 3. if the focus of an investigation has turned upon said Department employee and consideration is being given to filing an EMR against said Department employee;
or
 4. is a witness to the alleged misconduct.

The Department employee may suspend questioning for up to 24 hours to seek representation.

- F. During the investigation and when supported by good cause, the Department may require the involved Department employee to submit to the gathering of non-testimonial evidence, including but not limited to:
- a. Medical, psychological, or laboratory examinations. **(26.3.6.a) (C 1.4.7.a)**
 - b. Photographs or fingerprints. **(26.3.6.b) (C 1.4.7.b)**
 - c. Audio or video recordings. **(26.3.6.c)**
 - d. Line-ups. **(26.3.6.d)**
 - e. Financial disclosure statements. **(26.3.6.e) (C 1.4.7.c)**

The Department must make the request for an examination within five (5) business days of determining good cause exists to request such examination.

- G. No Department employee will be required to submit to a polygraph examination. The employee, however, may voluntarily submit to a polygraph examination. **(26.3.6.f) (C 1.4.7.d)**
- H. At any time during the course of the investigation, the Department employee, the complainant, the attorney for either, or any community representative may submit relevant evidence to the investigating unit and such information will become part of the investigation.
- I. If a complainant withdraws a complaint, the investigating unit may, with the approval of the Inspector of Police cease the investigation.
- J. If an anonymous allegation against a Department employee is criminal in nature, the allegation must be investigated by IA. Any resulting internal investigation arising from IA's criminal investigation may not include additional Department violation allegations ancillary to the criminal allegations against the involved Department

employee or Department violation allegations against another Department employee, unless the allegation is a body worn camera violation.

- K. If a complaint alleges a violation of criminal law or if during the internal investigation, evidence is obtained to support a criminal violation, the employee under investigation (prior to said employee being questioned) shall be advised of his/her rights under *Miranda*. The employee will also be advised that they may be required to answer questions relating to the internal investigation, under penalty of dismissal or other action, even though there is a criminal aspect of the case.
- L. If a voluntary statement is obtained after an employee has been advised of and waived their *Miranda* rights during a criminal investigation, the statement will be included in both the internal investigation report and the criminal offense report.
- M. If an employee refuses to waive their constitutional rights, they will be given a *Garrity* warning that they must answer questions relating to their Departmental duties for purposes of the internal investigation.
 - 1. If the employee fails to answer questions, the employee can be disciplined up to dismissal.
 - 2. In the event the employee thereafter makes a statement after refusing to waive their *Miranda* rights, that statement will not be used against him/her in any criminal prosecution; however, the statement will be included in the internal investigative report.
- N. The Department must complete its investigation and render a disciplinary decision, if any, within ninety days. For good cause, the Department may request an extension of up to sixty (60) days from the Board to complete the investigation. The Department is limited to two extensions per investigation; except that, if there is an ongoing criminal investigation there shall be no limitation on the amount of 60-day extensions. **(26.3.3) (A 2.3.1.f) (C 1.4.4)**

Section 7.015 Classification of Complaint Investigation Reports (26.3.8) (C 1.4.9)

- A. Each complaint investigative report must specify the allegation(s) which are to be classified in one of the following five (5) categories:
 - 1. ***Unfounded*** – The complaint was not based on fact, as shown by the investigation, or the incident complained of did not occur.
 - 2. ***Exonerated*** – The action complained of did occur, but the investigation disclosed that the actions were reasonable, lawful and proper.
 - 3. ***Complaint Withdrawn*** – Complainant withdrew complaint.

4. ***Not Sustained*** – Insufficient evidence is available to either prove or disprove the allegations in the complaint.
5. ***Sustained*** – Investigation disclosed sufficient evidence to support the allegations in the complaint.
- B. In any instance when a complaint is finally disposed of as “Unfounded,” “Exonerated,” “Complaint Withdrawn,” or “Not Sustained,” records pertaining to the complaint and its disposition may not be considered in future personnel or disciplinary matters.
- C. IA shall provide the involved Department employee with notice, in writing, within five (5) days of the conclusion of the internal investigation informing the employee of the findings.

Section 7.016 Administration of Discipline

- A. The Board has the power and authority to discipline any Department employee. The Chief of Police or the Inspector of Police shall administer discipline imposed by the Board.
- B. Included in the range of recommended disciplinary actions are: written reprimand, disciplinary suspension (without pay), cancelation of secondary employment, transfer, reduction in rank and dismissal.
- C. Commanders/Supervisors may orally reprimand a Department employee and such oral reprimand must be documented in a Performance Observation Form (POF) and forwarded to IA to be maintained in the Department member’s pertinent information file. **(26.1.4.b) (A 4.6.3.b) (C 3.6.5.b)**
- D. Corrective action alone, such as reinstruction or counseling, is not considered discipline. When discipline is recommended, however, reinstruction or counseling may be attached to disciplinary actions, as needed. **(26.1.4.a) (A 4.6.3.a) (C 3.6.5.a)**
- E. When discipline is recommended, the Board or IA has the discretion to determine whether a Department employee must surrender any Department weapon and badge for the period of suspension.
- F. All recommended discipline will be administered through complaint investigations reported via administrative reports.

Section 7.017 Complaint Investigation Completed by Commands Other Than Internal Affairs

- A. When a Command personnel or Supervisor completes a complaint investigation report (Administrative Report Transmittal Sheet or ARTS):

1. Commanding Officer(s): Commander/Supervisor sends the completed ARTS to the involved Department employee's Commanding officer immediately for review and signature.
 2. Inspector of Police: After the Commanding officer approves and signs the ARTS, it is forwarded to the Inspector of Police. The Inspector of Police reviews the ARTS for content and completeness, then signs.
 3. Chief of Police: Once the Inspector of Police approves and signs the ARTS, it is forwarded to the Chief of Police for final approval and signature.
- B. When the final recommended discipline is written reprimand, the Inspector of Police will instruct the Commanding officer of the involved Department employee to provide the employee with a Notice of Recommended Discipline and to administer the discipline.
 - C. When the final recommended discipline is 1–15 days disciplinary suspension, the Inspector of Police will instruct the Commanding officer of the involved Department employee to provide the employee with a Notice of Recommended Discipline and the right to a Summary Board Hearing.
 - D. Commanders/Supervisors completing the ARTS will state the recommended discipline for the violation. Complaint investigations containing multiple violations will denote the recommended discipline for each violation.

Section 7.018 Complaint Investigation Reports/Investigations Completed by the Internal Affairs Division

- A. Complaint investigation reports (Administrative Report Transmittal Sheet or “ARTS”) completed by IA will be, immediately upon completion, submitted to the Inspector of Police and the Chief of Police who will review the ARTS for content and completeness.
- B. When the recommended discipline is written reprimand, the Inspector of Police will instruct the Commanding officer of the involved Department employee to provide the employee with a Notice of Recommended Discipline and to administer the discipline.
- C. When the recommended discipline is 1–15 days disciplinary suspension, the Inspector of Police will instruct the Commanding officer of the involved Department employee to provide the involved Department employee with a Notice of Recommended Discipline and the right to a Summary Board Hearing.
- D. If the recommendation of the Chief of Police is for 16 or more days disciplinary suspension, cancelation of secondary employment, transfer, reduction in rank or dismissal, IA will provide the involved Department member with a Notice of

Recommended Discipline and the right to a hearing before the Board of Police Commissioners.

Section 7.019 Preparing the Investigative Administrative Report Transmittal Sheet (ARTS) for Investigations into Allegations of Employee Misconduct

A. ARTS for Investigations by Commanders/Supervisors

1. Subject Line: Include the name of the complainant, type of alleged misconduct, name, rank, and DSN of the officer(s) involved.

EXAMPLE: Alleged (insert violation)
Complainant – John Doe
RE: Police Officer Jane Doe, DSN XXXXX

2. Summary: Include an accurate, concise synopsis of the incident from which the allegation arose, summarizing the incident report and other supporting documents, when available. If an incident report was prepared, the first paragraph of the summary will include the incident complaint number, date, and type of incident. The concluding paragraph will reflect the date, time, and location where the complainant filed the allegation, and whether it was signed by the complainant.

3. Description of Each Allegation of Misconduct

- a. Each allegation will be addressed separately and given an alphabetical designator (e.g., Allegation A.; Allegation B.; etc.), even when there is only one allegation.

- b. Each allegation will include:

1. Name and job title of the specific employee(s) against whom the allegation of misconduct is made.
2. Short summary of the alleged misconduct.
3. Law, policy, directive, or regulation alleged to have been violated.

4. Findings: Findings will reflect the same order of alphabetical designators as allegations and generally reflect the following information:

- a. Initial statements of the involved employee(s), including whether they deny the allegation entirely or acknowledge its occurrence with explanation.
 - b. Statements of any employee or citizen witnesses, including their relationship to the complainant.
 - c. Additional pertinent information, including hospital treatment and diagnosis, obtained physical evidence, visual inspection of any reported injuries, and any information resulting from warrant applications.
5. Recommendation
- a. Each allegation will receive a recommended disposition, as described in Section II of this Order.
 - b. Recommendation for discipline or corrective action, considering all sustained allegations.
6. Endorsements: ARTS generated by Commanders/Supervisors will be endorsed by the Commander of Professional Standards.
- a. The recommended dispositions and discipline/corrective action for sustained allegations must be reviewed through the chain of command to Inspector of Police and Chief of Police to sign the ARTS, noting their concurrence or dissent.
 - b. Contrary recommendations for dispositions or discipline/corrective action for sustained allegations must be documented in a memorandum and attached to the ARTS.
 - c. The Chief of Police or designee, after reviewing the recommendations and evidence, will make the final determination on dispositions and discipline/corrective action for sustained allegations.
 - d. The final disposition(s) and discipline/corrective action for sustained allegations will be documented in IAPro.

B. ARTS for Investigations by IA

1. Subject Line: Include the name of the complainant, type of alleged misconduct, name, rank, and DSN of the officer(s) involved.

EXAMPLE: Alleged (insert violation)
Complainant – John Doe

RE: Police Officer Jane Doe, DSN XXXXX

2. Summary: Include an accurate, concise synopsis of the incident from which the allegation arose.
3. Investigation
 - a. Each allegation will be addressed separately and given an alphabetical designator (e.g., Allegation A,; Allegation B,; etc.), even when there is only one allegation.
 - b. Each allegation will include:
 - i. Name and job title of the specific employee(s) against whom the allegation of misconduct is made.
 - ii. Short summary of the alleged misconduct.
 - iii. Law, policy, directive, or regulation alleged to have been violated.
4. Recommendation: Recommendation for discipline or corrective action, considering all sustained allegations.
5. Endorsements:
 - a. The Inspector of Police, Deputy IA Commander, or anyone authorized by the Chief of Police to recommend dispositions and discipline/corrective action for sustained allegations will sign the ARTS, noting their concurrence or dissent.
 - b. Contrary recommendations for dispositions or discipline/corrective action for sustained allegations must be documented in a memorandum and attached to the ARTS.
 - c. The Chief of Police or designee, after reviewing the recommendations and evidence, will make the final determination on dispositions and discipline/corrective action for sustained allegations.
 - d. The final disposition(s) and discipline/corrective action for sustained allegations will be documented in IAPro.

Section 7.020 Imposing Discipline

The Notice of Recommended Discipline presented to the Department member will list the charge(s) and the recommended discipline.

A. Discipline Up to and Including 15 Days' Suspension (26.1.5)

1. *Written Reprimand*: The Commanding officer will impose the discipline within 30 days and document this fact on the Notice of Recommended Discipline. The Notice of Recommended Discipline, stating that the discipline has been imposed, will become a part of the investigation and submitted to IA to be placed in the Department employee's disciplinary file.

If the Department employee does not agree with the charge(s) and discipline of written reprimand, they may provide a brief written statement on the Department's memo form regarding their disagreement.

2. *Disciplinary Suspension for 1 -15 Days*: Once the Commanding officer has presented the Notice of Recommended Discipline to the Department employee, the employee will have five (5) working days to decide whether to accept the recommended discipline or request a Summary Board Hearing.

If the Department employee accepts the recommended discipline of disciplinary suspension and waives their right to a Summary Board Hearing, the employee may provide a brief written statement on the Department's memo form regarding their disagreement.

3. The EMR, the ARTS, the Notice of Recommended Discipline, attesting to the imposition of the discipline, and Department employee's statement, if applicable, will be included in the Department employee's disciplinary file and be forwarded to the Inspector of Police within 15 days of the imposition of the discipline.

B. Imposition of Discipline Exceeding 15 Days' Suspension (26.1.5)

1. When the proposed recommendation for discipline is 16 or more days disciplinary suspension, cancelation of secondary employment, transfer, or reduction in rank, IA must give the Department employee an opportunity to accept the recommended discipline by signing a Notice of Recommended Discipline, which will become a part of the Department employee's disciplinary file.

If the Department employee accepts the recommended discipline of 16 or more days disciplinary suspension, cancelation of secondary employment, transfer, or reduction in rank, and waives their right to a Board Hearing, the employee may provide a brief written statement on the Department's memo form regarding their disagreement. The employee's statement will also become part of the Department employee's disciplinary file.

Whenever the Department employee declines to accept the recommended discipline, the Board will be informed of the need for a Board Hearing.

2. When the proposed recommendation for discipline is for dismissal, IA will give the Department employee an opportunity to accept dismissal or resign in lieu of dismissal of employment with the Department. If the employee declines to accept the recommended discipline or chooses not to resign in lieu of termination, the Board will be informed of the need for a Board Hearing.
 3. In all discipline cases involving commissioned employees of the rank of Captain or above, wherein the recommended discipline is greater than a written reprimand and the involved Department employee does not waive a hearing, those cases will be referred to the Board for a hearing as outlined above.
 4. Nothing in this section prevents the Department and employee from stipulating an agreed upon resolution.
- C. Information provided to employees dismissed for cause:
1. IA will provide dismissed employees with information regarding the effective date of dismissal. **(26.1.7.a) (26.1.7.b) (A 4.6.6.a) (A 4.6.6.b) (C 3.6.8.a) (C 3.6.8.b)**
 2. Dismissed employees will be provided the status of accrued benefits and will be paid compensable benefits. For employees who are vested in a pension system, the Department will provide the contact information for the appropriate pension system regarding pension benefits after dismissal. **(26.1.7.c) (A 4.6.6.c) (C 3.6.8.c)**

Section 7.021 Summary Hearings (26.1.6)

- A. A Summary Hearing Board for Bargaining Unit employees will consist of a command rank officer of the rank of Captain or above and an alternate, appointed by the Chief of Police from a list of officers who have volunteered to serve. The St. Louis Police Officers' Association (Police Officers and Sergeants) or St. Louis Police Leadership Organization (Lieutenants) will appoint the appropriate ranking officer member and alternate officer member from the list of officers who have volunteered to serve. The third member and alternate third member will be picked by the other two members from the pool of volunteers of the appropriate rank. No officer can serve longer than six months in a calendar year. Officers assigned to IA or officers who have been employed by the Department for less than three (3) years may not serve on a Summary Hearing Board.
- B. An attorney, retained on behalf of the Inspector of Police may sit in on Summary Hearings in the capacity of a Hearing Advisor, and may be present during the entire hearing. The Hearing Advisor will assist the Hearing Board with legal, procedural, and evidentiary matters, and determinations made by the Hearing Board.

- C. When the Summary Hearing Board is notified in writing that an employee has requested a hearing, a hearing will be set within ten (10) working days.
- D. The Summary Hearing Board may, upon application of the accused or the Department representative, postpone the hearing for good cause shown. Each side may only receive one such continuance, which may not exceed two (2) weeks.
- E. The proceedings of a Summary Hearing Board will be informal and will be recorded for the record. Any transcript of same will be at the expense of the requesting party.
- F. The employee requesting the hearing may be represented by counsel. The Department will be represented by the Commander who made the initial recommendation for discipline, or a Commander designated by the Inspector of Police.
- G. The Board and Department have the right to have an attorney present its case if it so chooses.
- H. The parties have a right to discovery in preparation for the hearing or to present to the Summary Hearing Board, and may subpoena witnesses for attendance at the summary hearing.
- I. At least seven (7) days before the hearing, the employee requesting the hearing may access and review documents that are in the Department's possession and that were used as a basis for the recommended disciplinary action.
- J. The Summary Hearing Board will base its determination on facts and evidence presented during the investigation and hearing only. The Inspector of Police or any other employee of IA will not discuss the case with members of the Summary Hearing Board outside of the hearing or otherwise try to influence the decision of the Summary Hearing Board.
- K. At least two (2) members of the Summary Hearing Board must vote for a finding to sustain the original allegations.
- L. The Summary Hearing Board may affirm, increase the recommended discipline (up to a maximum of 15 days), decrease the recommended discipline or may recommend that a full hearing by the Board of Police Commissioners be held.
- M. The Summary Hearing Board must notify the accused employee of its decision in writing within one (1) week after the conclusion of the hearing.

- N. Either the Chairperson of the Summary Hearing Board or the Hearing Advisor will prepare Findings of Fact and Conclusions of Law within thirty (30) days of the decision of the Summary Hearing Board.
- O. The Summary Hearing Board must notify the Inspector of Police and the Chief of Police in writing of its decision.
- P. There will be no intimidation or retaliation against an officer serving on a Summary Hearing Board.

Section 7.022 Board Hearings (26.1.6)

When a hearing is requested and mandated under Rule 7.019, such hearing must be before a quorum of the Board of Police Commissioners, and must be conducted in accordance with the provisions of Chapter 536, Revised Statutes of Missouri, and the Administrative Review Rules of the Board of Police Commissioners as contained in Annex #2 to Rule 7. The Board may delegate the hearing authority to a non-Board Member Hearing Officer. The Board of Police Commissioners retains final authority over disciplinary matters.

Section 7.023 Annual Summary (26.2.5) (C 1.4.11)

- A. An annual summary of the results of complaint investigative reports must be prepared by the Inspector of Police and submitted through the Chief of Police to the Board, for inclusion in the Annual Report of the Board. Such summary will include a tabulation and the statistical data relative to complaints received, classifications assigned and disposition.
- B. This summary will be posted on the Department's website and included in any annual report to the public produced by the Department.

Section 7.024 Disciplinary Code (26.1.4.c) (A 4.6.3.c) (C 3.6.5.c)

- A. The Disciplinary Code which is contained in Annex #1 on the following pages provides penalties which are to be used when recommending or imposing disciplinary action. Penalties for manual violations not specifically identified in the Annex are written reprimand to dismissal.
- B. The Board of Police Commissioners may in its discretion increase the punishment set forth in the Disciplinary Code where the total disciplinary record of the accused reflects a course of conduct which has been contrary to the good order and discipline of the Department, or the Board finds it is otherwise appropriate to do so.

- C. Revisions will be made to the Disciplinary Code from time to time as the rules and regulations of the Police Manual and Special Orders are amended, revoked, or added to as circumstances or the good of the service may dictate.
- D. Discipline to be imposed as the result of more than one sustained allegation may be administered consecutively or concurrently, at the discretion of the Summary Hearing Board or Board of Police Commissioners.

Section 7.025 Records Retention, Security, and Access

A. Complaint and Disciplinary Records in IA (26.1.8) (26.2.2) (A 2.3.5) (A 4.6.7) (C 1.4.10) (C 3.6.9)

- 1. IA will maintain the Department's record of all complaints and disciplinary actions involving the Department and its employees.
- 2. Records will be retained in accordance with retention schedules promulgated by the Missouri Secretary of State. Records subject to litigation holds will be retained in accordance with instructions by the Department's Legal/Compliance Division.

B. Complaint and Disciplinary Records Maintained in Other Units (26.1.8) (26.2.2) (A 2.3.5) (A 4.6.7) (C 1.4.10) (C 3.6.9)

It will be the responsibility of each Commander/ Supervisor to comply with retention policies for "Police Clerk" records promulgated by the Missouri Secretary of State.

C. Security of, and access to, IA Records (26.2.2) (A 2.3.5) (A 4.6.7) (C 1.4.10)

- 1. Physical IA records will be maintained in a secured location within IA, with access limited to those approved by the Chief of Police and Commander of Professional Standards.
- 2. Access to electronic records will be governed by software security permissions established by IA.

Manual/ Special Order Reference	Finding	Penalty Provided			Penalty Provided / Time Frame**
		1 st Offense	2 nd Offense	3 rd Offense	
7.004 B	Engaging in any conduct or acts, on or off duty, which could bring discredit upon the Department or its personnel	Written Reprimand to Dismissal	Written Reprimand to Dismissal	Written Reprimand to Dismissal	3 Years
7.004 C 1 a	Leaving early or being absent from duty without permission	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	20 Days' Suspension to Dismissal	2 Years
7.004 C 1 a	Failure to report for duty at appointed time without permission	Written Reprimand to 3 Days' Suspension	Written Reprimand to 5 Days' Suspension	Written Reprimand to 15 Days' Suspension	1 Year
7.004 C 1 b	Failure to follow reasonable order of a supervisor or officer of a higher rank (includes written or oral orders)	Written Reprimand to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
7.004 C 1 b	Disrespect toward supervisor or officer of a higher rank	Written Reprimand to 10 Days' Suspension	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
7.004 C 1 c	Abuse of subordinates by an officer of a higher rank	Written Reprimand to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
7.004 C 1 d	Failing to take appropriate action to prevent any misconduct by another law enforcement officer/agent	Written Reprimand to Dismissal	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	5 Years
7.004 C 1 e	Failing to promptly report any misconduct or alleged misconduct by another Department employee	Written Reprimand to Dismissal	15 Days' Suspension to Dismissal	30 Days' Suspension to Dismissal	5 Years
7.004 C 1 f	Knowingly associating, on or off duty, with convicted criminals or lawbreakers under circumstances which could bring discredit upon the Department or impair an officer in the performance of duty	5 Days' Suspension to Dismissal	10 Days' Suspension to Dismissal	Dismissal	
7.004 C 1 g	Engaging in a strike, work stoppage, or work slowdown against the Department.	Dismissal			

7.004 C 1 h	Receiving five (5) separate sustained investigations within a three (3) year period*	5 Days' Suspension to Dismissal	5 – 10 Days' Suspension to Dismissal	10 – 15 Days' Suspension to Dismissal	3 Years
7.004 C 2 a	Failing to acknowledge a radio call, to respond to a dispatched call for service, or to follow radio procedures	Reprimand to Dismissal	Reprimand to Dismissal	Reprimand to Dismissal	1 year
7.004 C 2 b	Failing to notify Supervisor of information concerning police matters, including but not limited to criminal activity, criminal investigations, and internal investigations	Written Reprimand to Dismissal	1 Day Suspension to Dismissal	3 Days' Suspension to Dismissal	1 Year
7.004 C 2 c	Any conduct detrimental to the public peace or welfare	Written Reprimand to Dismissal	5 Days's Suspension to Dismissal	15 Days' Suspension to Dismissal	5 Years
7.004 C 2 d	Failing to conduct a proper investigation of (a) suspected criminal activity; or (b) a non-criminal incident which requires police action	Written Reprimand to 30 Days' Suspension	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	5 Years
7.04 2 e i	Unintentionally providing inaccurate information in an official document or investigation	Written Reprimand to Dismissal	1 Day Suspension to Dismissal	3 Days' Suspension to Dismissal	1 Year
7.004 C 2 e ii	Intentionally providing false information in an official document or investigation or intentionally withholding relevant information	Dismissal			
7.004 C 2 f	Failing or refusing to qualify with a Department owned/approved firearm	1 Day Suspension to Dismissal	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	2 years
7.004 C 3 a	Revocation of Peace Officers Standards and Training (POST) license	Dismissal			
7.004 C 3 A	Failure to maintain Peace Officers Standards and Training (POST) license	Written Reprimand to Dismissal	Written Reprimand to Dismissal	Written Reprimand to Dismissal	
7.004 C 3 b	Conviction of a felony under any federal or state statute in any jurisdiction	Dismissal			

7.004 C 3 b	Conviction an ordinance violation in any jurisdiction	Written Reprimand to Dismissal	5 Days' Suspension to Dismissal	10 Days' Suspension to Dismissal	5 Years
7.004 C 3 c	Failing to immediately report to one's Supervisor or Internal Affairs when: (a) a Department employee is detained for any offense in any jurisdiction; (b) law enforcement in any jurisdiction is called to the Department employee's residence; (c) a Department employee is arrested as a suspect of any offense in any jurisdiction; (d) a Department employee is under investigation for any offense in any jurisdiction; or (e) a Department employee is the subject of an Order of Protection in any jurisdiction	1 – 5 Days' Suspension	5 – 15 Days' Suspension	15 Days' Suspension to Dismissal	
7.004 C 3 d	Failing to promptly report legal service of a lawsuit arising from a Department employee's official acts or conduct	Written Reprimand to Dismissal	Written Reprimand to Dismissal	Written Reprimand to Dismissal	
7.004 C 3 e	Suspension/revocation of a Department employee's driver's license; failing to promptly notify superior/supervisor of suspension/revocation	Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	10 – 30 Days' Suspension	
7.004 C 4 a	Failing to devote one's time and attention to the business of the Department during scheduled duty hours	Written Reprimand	1 Day Suspension	3 Days' Suspension	1 Year
7.004 C 4 b	Engaging in secondary employment, without first obtaining written permission from the chain-of-command to engage in secondary employment	Reprimand to Dismissal	1 Day Suspension to Dismissal	3 Days' Suspension to Dismissal	2 Years
7.004 C 4 c	Wearing the uniform while off-duty, except when traveling to or from assignment, unless authorized by the Chief of Police or a Deputy Chief	Written Reprimand to 10 Days' Suspension	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	3 Years

7.004 C 5 a	Failing, upon receipt of proper notice, to attend any trial, hearing, or proceeding before a court, board, bureau or tribunal of the United States, State of Missouri, political subdivision of the State of Missouri, or City of St. Louis, and to remain in attendance until the conclusion of the applicable proceeding or until excused by the person causing such an appearance	Written reprimand to Dismissal	1 Day Suspension to Dismissal	3 Days' Suspension to Dismissal	3 Years
7.004 C 5 b	Voluntarily appearing in a court of law or administrative hearing for the purpose of providing expert/opinion-based testimony which may impact the Department without permission of the Chief of Police	Written Reprimand to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	
7.004 C 5 c	Interfering or tampering with a witness, potential witness or one in a position to appear in any capacity in any legal proceeding or Department hearing	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	30 Days' Suspension to Dismissal	
7.004 C 5 d	Causing or procuring any person other than a licensed attorney, union, or ethical organization representative to intercede with a Board member or another Department employee on one's behalf while one is under suspension or under charges	Written Reprimand to Dismissal	Written Reprimand to Dismissal	Written Reprimand to Dismissal	
7.004 C 6 a	Reporting for duty in an intoxicated condition	30 Days' Suspension to Dismissal	Dismissal		
7.004 C 6 a	Consuming alcohol while on duty	5 Days' Suspension to Dismissal	16 Days' Suspension to Dismissal	Dismissal	
7.004 C 6 a	Consuming alcohol while in any part of the uniform which would readily identify the individual as a Department employee to the public	Written Reprimand to Dismissal	5 Days to Dismissal	15 Days to Dismissal	5 Years

7.004 C 6 b	Failing to notify a supervisor or commander, when reporting for duty, of any recent use of potentially behavior-influencing medication	5 Days' Suspension to Dismissal	10 Days' Suspension to Dismissal	Dismissal	2 years
7.004 C 6 c	Failing to comply with prescribed medical protocol during treatment for a work-related injury or illness	Written Reprimand	1 Day Suspension	3 Days' Suspension to Dismissal	5 Years
7.004 C 6 d	Failing to promptly notify one's Commander/Supervisor of the ability to return to duty by the Department Medical Provider or private physician, and report at the earliest time scheduled for duty	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	20 Days' Suspension to Dismissal	3 Years
7.004 C 6 e	Use of controlled substances not medically prescribed to the employee	Written Reprimand to Dismissal	10 Days' Suspension to Dismissal	30 Days' Suspension to Dismissal	
7.004 C 6 f	Feigning injury	Written Reprimand to Dismissal	15 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
7.004 C 7	When not on duty, being absent from one's place of residence for a period exceeding 72 hours without first notifying their Commander and providing information sufficient to permit emergency contact	Written Reprimand to 5 Days' Suspension	1 – 10 Days' Suspension	5 – 15 Days' Suspension	2 Years
7.004 C 8 a	Soliciting money or other things of value for gift or testimonial purposes, while in uniform or on duty, or when representing oneself as a Department employee, without consent of the Chief of Police	Written Reprimand to 30 Days' Suspension	30 Days' Suspension to Dismissal	Dismissal	3 years
7.004 C 8 b	Procuring or soliciting for attorneys, bondsmen, towing companies or any other business while dealing with the public	5 Days' Suspension to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	2 Years

7.004 C 8 c	Knowingly borrowing, obtaining, receiving, soliciting, or accepting anything of value, either directly or indirectly, from any person: (a) under investigation; (b) against whom a complaint has been made; (c) for whom an arrest warrant has been issued; (d) in official custody; or (e) free on bond	Dismissal			
7.004 C 8 d	Offering or providing anything of value in exchange for the aid of any person to influence hiring, promotion, or transfer on one's behalf or on behalf of another	20 Days' Suspension to Dismissal	Dismissal		5 Years
7.004 C 9	Failing to provide appropriate identification as a Department employee when requested	Written Reprimand	1 Day Suspension	3 Days' Suspension	1 Year
7.004 C 10	Electronically recording the conversation or videotaping/photographing actions of another Department employee or a member of the public without that person's prior knowledge and approval	Written Reprimand	1 Day Suspension	3 Days' Suspension	
7.004 C 11 a	Improperly disclosing information from a closed record or protected Criminal Justice Information	Written Reprimand to Dismissal	3 Days' Suspension to Dismissal	5 Days' Suspension to Dismissal	
7.004 C 11 b	Peer support advisor violating the confidentiality of the peer support counseling program by sharing information learned in a peer support counseling session with personnel who are not supervisors or staff of the peer support counseling program	Written Reprimand to removal from peer support counseling program	1 Day Suspension to removal from peer support counseling program	3 Days' Suspension to removal from peer support counseling program	
7.005 B	Violation of Department policy related to prohibited political activity	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	30 Days' Suspension to Dismissal	

SO 1-01	Violation of use-of-force policy	1 Day Suspension to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
SO 2-05	Loss or damage to Department property through carelessness or neglect	Written Reprimand to 15 Days' Suspension	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	5 Years
SO 2-12	Failing to properly exercise the duties and functions associated with the Department employee's rank or position, including but not limited to neglect of duty, improper performance of duty, sleeping or loafing while on duty	Written Reprimand to Dismissal	10 Days' Suspension to Dismissal	20 Days' Suspension to Dismissal	5 Years
SO 2-12	Failure to properly supervise subordinates	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	30 Days' Suspension to Dismissal	
SO 3-03	Violation of Department Sick Reporting Policy	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	30 Days' Suspension to Dismissal	2 Years
SO 3-05	Changing one's place of residence and/or telephone number without notifying commanding officer within 24 hours after the change	Written Reprimand to 5 Days' Suspension	1 – 10 Days' Suspension	5 – 15 Days' Suspension	2 Years
SO 3-08	Violation of appearance standards – uniform or personal	Written Reprimand to 5 Days' Suspension	Written Reprimand to 15 Days' Suspension	Written Reprimand to 30 Days' Suspension	1 Year
SO 4-02	Failing to fully cooperate with a disciplinary investigation	Written Reprimand to Dismissal	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	5 Years
SO 5-05	Violation of Department pursuit policy	Written Reprimand to Dismissal	5 Days' Suspension to Dismissal	15 Days' Suspension to Dismissal	3 Years

SO 5-33	Violation of Department body worn camera (BWC) policies, including but not limited to the following subsections: (A) Failure to wear BWC while working on uniformed assignment and uniformed secondary employment (E) Failure to satisfy pre-shift inspection items (F) Failure to complete end-of-shift actions (G) Failure of supervisor to ensure compliance with BWC/ICC equipment and recordings (I, J, K, L) Failure to properly position / activate BWC/ICC equipment, terminate recordings or record prohibited activities	1 Day Suspension	3 Days' Suspension	5 Days' Suspension	3 Years
SO 8-03	Permitting a prisoner to escape through carelessness or neglect	Written Reprimand to 10 Days' Suspension	5 – 15 Days' Suspension	15 Days' Suspension to Dismissal	5 Years
SO 9-05	Failing to wear vehicle seat belt while operating a Department vehicle	1 Day Suspension	3 Days' Suspension	5 Days' Suspension	3 Years
SO 9-06	Violation of Department computer/technology policies	Written Reprimand to Dismissal	3 Days' Suspension to Dismissal	5 Days' Suspension to Dismissal	5 Years
SO 9-06	Violation of Department social media policy	Written Reprimand to Dismissal	3 Days' Suspension to Dismissal	5 Days' Suspension to Dismissal	5 Years
SO 9-09; SO 9-10	Failure to follow evidence, property handling procedures	Written Reprimand to 5 Days' Suspension	5 – 15 Days' Suspension	20 Days' Suspension to Dismissal	5 Years
RSMo 285.040	Violation of residency requirement	30 Days' Suspension to Dismissal	Dismissal		

* Unsatisfactory uniform inspections, including snap outs and verbal warnings – 28 days violations in one year will result in Dismissal

** The Time Frame is based on the date when the EMR is delivered to the employee.

NOTE: The above matrix establishes the standard recommended discipline for violations of the listed standards/regulations. Recommended discipline may vary from the standard when exigent or extenuating circumstances exist.

NOTE: If an applicable charge is not listed in the above matrix, the recommended discipline will be Written Reprimand to Dismissal.

Annex #2

A. GENERAL

1. Applicability

- a. These Rules apply to all administrative reviews, as hereinafter defined. These Rules, and any subsequent amendments thereto, become effective immediately upon their approval by the Board of Police Commissioners, and to the extent practicable, in the judgment of the Board, be applied to any administrative reviews pending at the time of approval.
- b. These Rules, and any subsequent amendments thereto, supersede any and all other Board or Department rules, procedures, bulletins or other written documents governing or purporting to govern the conduct of administrative reviews, as hereinafter defined.
- c. The provisions of these Rules may be cited as “Rule (section).(subsection).(sub-subsection)” (e.g., the instant provision would be cited A.1.c).
- d. A copy of these Rules, and any subsequent amendments thereto, are to be maintained by the Board Secretary, and also published in the Police Manual; however, the Board Secretary’s copy of the Rules, and any subsequent amendments thereto, are the authoritative Rules, in the event of any discrepancies in text with what is published in the Police Manual.

2. Definitions

As used throughout these Rules, the following terms, unless a different meaning is plainly required by the context, are defined as hereinafter set forth:

- a. “Administrative Review” means an internal process in which review of a decision made in a Rule 7 Proceeding is undertaken, culminating in a hearing;
- b. “Hearing” means an evidentiary proceeding in which the adversarial parties to the proceeding are informed of all evidence offered or considered, with the opportunity to test, examine, explain or refute such evidence, and have the right to present their contentions and to support them by proof and argument;
- c. “Hearing Officer” means an attorney, licensed in the State of Missouri, who has been approved and designated by the Board to conduct evidentiary proceedings and to make determinations on matters in controversy;
- d. “Parties” means the Respondent and the Department, and their respective attorneys; when notice is provided for hereafter in this Order, said notice will be

given and/or received by the attorney for a party, but if no attorney has been identified, then by the party itself;

e. “Respondent” means a person aggrieved by an adverse administrative action who has been notified the adverse action has been taken or will be taken;

f. “Rule 7 Proceeding” means a proceeding culminating in a hearing authorized pursuant to any of the provisions of Section 7.019.B of the Police Manual;

g. “Board” means the St. Louis Board of Police Commissioners, the administrative body with the power to make rules and/or to make final adjudications in contested cases pursuant to Chapter 536, RSMo., when a quorum of the members of said administrative body is present.

3. Forms

a. The Board may from time to time approve the creation, use and/or revision of forms in connection with administrative reviews, in which event said forms will be made available through the Board Secretary. Any request for said forms must be made in writing to the Board Secretary, and the Board Secretary may place conditions on the availability or number of forms provided, and on the duration or effective date of forms.

b. A copy of any form approved by the Board for use in administrative reviews will be published in the Police Manual. In the event a form approved by the Board is intended to replace an existing form, the existing form will be removed from the Police Manual.

c. Any form which has been in use for administrative reviews as of the time of the Board’s approval of these Rules shall continue to be used and effective until such time as it is replaced.

d. Any form approved by the Board is the exclusive form to be used in administrative reviews, and any other writing attempted to be used other than such form is null and void.

4. Time Computation, Extension

a. In computing any period of time prescribed or allowed under these Rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday nor a legal holiday.

b. When provision is made in these Rules for the time to submit something in writing to the Board, Board Secretary, or Hearing Officer, copies to all others authorized to receive same must be served on the same date as the original.

c. When by these Rules an act is required or allowed to be done at or within a specified time, for cause shown, the time limit may be extended upon written request, if the request was made before the expiration of the period prescribed. However, no such extension will be allowed for the process of striking names identified in the Hearing Officer panel, as set forth in Rule E.1.c. The discretion for granting such a request lies with the Board; however, the Board may delegate such discretion to a Hearing Officer, if one has been appointed.

5. Service, How Made, On Whom

a. Any writing made in the course of an administrative review, including any form filled out, must be copied and contemporaneously served upon the following:

- 1) The attorney for the adverse party;
- 2) The Hearing Officer, if one has been designated;
- 3) The Board Secretary.

b. The original of any writing served or transmitted must include information showing upon whom copies of the writing were served or transmitted, and be signed by the person serving or transmitting said writing.

c. When provision is made in these Rules for a writing to be served or transmitted on another person, except for service of charges and specifications on a Respondent and the original of a subpoena on a witness, service may be accomplished by United States mail, by facsimile transmission, or by electronic transmission. If served by electronic transmission, there must be an actual writing, prepared in portable document format (pdf), which must be attached to the e-mail.

B. ADMINISTRATIVE REVIEW, IN GENERAL

1. Administrative Reviews, What Governs

a. All administrative reviews must be conducted in accordance with the provisions of Chapter 536, RSMo.

b. To the extent any provision of these Rules is determined to conflict with Chapter 536, RSMo., such provision has no force and effect.

2. Board Discretion Over Administrative Reviews

- a. The Board's discretion over the holding of a hearing is set forth in Chapters 84 and 536, RSMo.
- b. When a hearing is requested, it may be held before the Board, or the Board may delegate its hearing authority to a Hearing Officer.
- c. For those matters in which the Board exercises its discretion to hold its own hearing, nothing herein prohibits the Board from delegating any or all other pre-hearing administrative review functions mentioned in Sections C, D, and E of these Rules to the General Counsel for the Board, in which case the Board Secretary will notify the parties.

3. Respondent's Requests, Board's Discretion

- a. A Respondent may request waiver of a hearing before the Board and instead have the hearing before a Hearing Officer. Such request must be made in writing and received by the Board Secretary no later than seven (7) calendar days after the date the Board Secretary sends written notice acknowledging the Board's decision granting or denying administrative review. Nothing in this provision will be construed to affect the Board's discretion to delegate any hearing to a Hearing Officer.
- b. Hearings are required to be confidential pursuant to § 590.502(3)(6), RSMo.

C. PROCEDURES APPLICABLE TO ALL HEARINGS

1. Initiation of an Administrative Review

- a. An administrative review is initiated once it is determined that a hearing is required under Rule 7, the Internal Affairs Division will transmit the Notice of Recommended Discipline to the Board Secretary requesting an administrative review;
- b. Upon receipt of the information in the previous paragraph, the Board Secretary will open a file for the administrative review, assign a unique identification designation, and prepare a written notice to the Respondent, with a copy of same to the Internal Affairs Division. If the request for hearing was untimely, the notice must so state and notify the requester that no further administrative proceedings are contemplated. If the request was timely, the notice will acknowledge the initiation of an administrative review and advise the recipients as follows:
 - 1) That the administrative review has been assigned a unique identification designation, which must be referenced on all future pleadings and correspondence;

- 2) That a hearing will be scheduled, at a date to be determined;
- 3) That the hearing, and all matters preliminary to the hearing, are governed by the provisions of Chapter 536, RSMo., and these Rules;
- 4) That the Respondent has the right to be represented by an attorney, through the Respondent's own arrangement, and that if the Respondent makes arrangement for representation by an attorney, written notice of this representation should be sent to the Board Secretary as soon as possible;
- 5) Such other information as the Board Secretary deems relevant to the administrative review.

2. Pre-Hearing Matters

- a. Hearings must be set for a date no later than ninety (90) days after the Board Secretary notifies the parties and the Hearing Officer of the selection of the Hearing Officer pursuant to Rule E.1.e. Hearing dates are solely within the discretion of the Board; however, if a Hearing Officer is appointed, said discretion lies with the Hearing Officer, subject to compliance with all provisions imposed by state statute and these Rules. Hearing dates for hearings before the Board will be communicated by the Board Secretary to all interested parties. These hearings will be set at the Board's discretion on weekdays, weekends, or evenings. Hearing dates for hearings before a Hearing Officer only will be communicated by the Hearing Officer to all interested parties.
- b. Any pre-hearing issue, comment, question, or request directed to the Board must be in writing, either in the form of a formal pleading or a letter, and should be addressed and transmitted to the Board Secretary.
- c. Pre-hearing matters conducted by a Hearing Officer will not be electronically recorded or transcribed unless the parties and the Hearing Officer all consent thereto. However, any pre-hearing determination by a Hearing Officer of a motion, discovery dispute, or other matter in controversy is required to be made in writing by the Hearing Officer and provided to the parties and the Board Secretary.

3. Notices Related to Proceedings

- a. At least thirty (30) calendar days prior to the date set for the hearing, a copy of the Charges and Specifications, together with a subpoena designating the time and place for the hearing, must be served on the Respondent personally, or on a family member over the age of fifteen (15) years at their residence, or to an attorney designated by the Respondent.

- b. If by reasonable diligence such service of the copy and subpoena cannot be made, service may be made by certified mail to the last known address of the parties.
- c. Service may be made by any officer designated by the Chief of Police or the Board.
- d. Notice of any Board hearing must be publicly posted in accordance with any requirements under Chapter 610, RSMo, however, the notice must state that the hearing is closed pursuant to § 610.021(3) and (14), RSMo.

4. Pre-Hearing Procedures

- a. A scheduling order must be entered for pre-hearing discovery, in the form of depositions of witnesses, including the use of subpoenas to compel the attendance of witnesses, is hereby authorized.
- b. Any discovery dispute between the parties must first be reasonably attempted to be resolved by the parties themselves. The party objecting to discovery or objecting to the sufficiency of a party's response to discovery is required to communicate (orally or in writing) to the adverse party the basis for the objection. Once this has occurred, if a dispute continues, either party may file a written motion seeking relief. Said motion must fully detail the nature of the dispute, the justification for whatever the party seeks, and a statement detailing the attempts made to resolve the dispute, including the times when communication was made in an attempt to resolve the dispute.
- c. The responding party may respond to all allegations in writing. Any response must be made no later than seven (7) calendar days following the initial motion.
- d. In the interest of scheduling, the following information must be disclosed, in accordance with the deadlines specified:
 - 1) A party must disclose in writing and transmit the name and address of any person the party intends to call as a witness, other than an expert witness, at hearing no later than twenty-eight (28) calendar days prior to the date of hearing.
 - 2) Any party desiring to present expert testimony must first obtain leave from the Board or Hearing Officer. Prior to granting leave, a party is required to disclose in writing and transmit the name, address, and qualifications of each non rebuttal expert witness the party intends to call at the hearing no later than twenty-eight (28) calendar days prior to the date of hearing. In addition, each party must disclose the subject matter and nature of the testimony each witness is expected to offer, and at the

same time furnish to the adverse party all materials said expert reviewed at the time of disclosure, as well as any journals, articles, or authoritative documents relied upon in connection with rendering opinions. A party requesting the deposition of any such expert witness must communicate said request to the adverse party no later than three (3) calendar days after receiving notice of the disclosure, and the party intending to call the expert witness must produce such expert witness for deposition if requested, no later than ten (10) calendar days after receiving said communication from the adverse party. If an expert witness has prepared a report, the report must be produced to the adverse party no later than fourteen (14) calendar days prior to the deposition or as directed by the scheduling order.

3) A party is required to disclose and transmit the name, address, and qualifications of each rebuttal expert witness the party intends to call at the hearing no later than ten (10) calendar days prior to the date of hearing. In addition, each party must disclose the subject matter and nature of the testimony each witness is expected to offer, and at the same time furnish to the adverse party all materials said expert reviewed at the time of disclosure, as well as any journals, articles, or authoritative documents relied upon in connection with rendering opinions. A party requesting the deposition of any such rebuttal expert witness must communicate said request to the adverse party no later than three (3) calendar days after receiving notice of the disclosure, and the party intending to call the expert witness must produce such rebuttal expert witness for deposition if requested, no later than four (4) calendar days after receiving said communication from the adverse party.

e. The Board, through the Board Secretary, will issue subpoenas for deposition upon the written request of any party. Such subpoenas are required to be processed in accordance with the provisions of Chapter 536, RSMo. No such subpoena will be considered valid and enforceable unless accompanied by the applicable witness fee prescribed in § 491.280, RSMo. and, if appropriate, the travel fee prescribed in § 491.280, RSMo. However, no travel fee is required to compel attendance of a current St. Louis Metropolitan Police Department employee at a hearing held at Police Headquarters.

f. The Board, through the Board Secretary, will issue subpoenas for hearing upon the written request of any party. Such request must be directed to the Board Secretary and must be received no later than ten (10) calendar days before the first scheduled date of the hearing, with a copy of the same served simultaneously on the adverse party. Subpoenas are required to be processed in accordance with the provisions of Chapter 536, RSMo. Any requests for subpoenas *duces tecum* must

also include the name of the person to be served, the date for their appearance, and a description of any documents or tangible materials sought to be produced. No subpoena will be considered valid and enforceable unless accompanied by the applicable witness fee prescribed in § 491.280, RSMo. and, if appropriate, the travel fee prescribed in § 491.280, RSMo. However, no travel fee is required to compel attendance of a current St. Louis Metropolitan Police Department employee at a hearing held at Police Headquarters. Return of service must be filed with the Board Secretary.

Motions to quash subpoenas must be directed to the Board Secretary and any Hearing Officer assigned and must be received no later than seven (7) calendar days prior to the date of hearing. Hearing Officers will make a reasonable attempt to rule on motions to quash subpoenas in advance of the scheduled hearing date.

g. Subpoenas for hearing must be served no later than five (5) days in advance of the first scheduled date of the hearing, except for good cause shown. Additional subpoenas will not thereafter be allowed, but persons timely served remain under subpoena until the party subpoenaing the witness has concluded its evidence. Copies of all subpoenas issued, regardless of which party may have requested them, must be transmitted to the Board Secretary by the parties.

5. Continuances

a. Any request for continuance of a hearing must be made in writing. Only one request for continuance of a hearing for each party, other than a request based on extraordinary and emergency circumstances, will be entertained based upon good cause shown.

b. No request for continuance will be granted unless made no later than ten (10) calendar days prior to the date of hearing, except when extraordinary and emergency circumstances warrant and are clearly and sufficiently explained in writing.

c. Prior to requesting a continuance, the requesting party is required to contact the other parties to determine whether they object to the continuance and to determine mutually acceptable dates to which the hearing may be rescheduled, and that information must be included in the party's request for continuance. If the request for continuance is made on behalf of the Respondent, the request must contain a statement indicating that the Respondent was personally consulted about the request and consented to it.

d. Any request for a continuance made because of an attorney's otherwise busy schedule must include a sworn statement made by the attorney in which he/she

lists all upcoming trials, hearings, appellate briefs, depositions, or any other scheduling impediment which the attorney believes merit continuing the hearing. This statement must also include the jurisdiction of the case(s), the cause number(s), the style of the case(s) and the upcoming trial date(s) of the cases.

e. If the request for continuance is approved, the parties will be notified in writing of the new hearing date within a reasonable time in advance of the new hearing date. Any order granting a continuance must be served on the parties by certified mail or personal service.

6. Policy on the Expediency of Hearings

a. The Board recognizes the practical limitations of administrative hearings which depend on the availability of the Hearing Officer, the parties, the facilities, and witnesses. It is the Board's policy that in the interest of expediency, as much of the administrative hearing as can be completed within the parameters of the available time scheduled should be then and there completed, and if additional time is thereafter needed, then such additional time will be arranged and scheduled as the parties require.

b. To effectuate the Board's policy on the expediency of hearings, the General Counsel for the Board or the Hearing Officer, prior to the day the hearing is to commence, will conduct a pre-hearing conference with the parties. During the pre-hearing conference, each party will be required to estimate the length of time it would take to present its case. The Hearing Officer may require the parties to provide information on the total number of witnesses, the number of witnesses under subpoena, the nature and estimated length of witnesses' testimony, and any circumstances regarding a witness's availability. The Hearing Officer is entitled to rely on the information provided by the parties in making any subsequent rulings. The Hearing Officer has the power to excuse, release or otherwise provide for the scheduling of the appearances of witnesses, including those under subpoena. In the event the Hearing Officer does excuse, release or otherwise provide for the appearances of witnesses, it is the duty of the party intending to call the witness to notify said witness that the witness need not appear as scheduled.

c. Any subpoenas timely served and not quashed remain valid during the pendency of the administrative review until such time as the party issuing the subpoena has concluded its evidence. In the event a subpoenaed witness is excused from the scheduled appearance or otherwise does not complete their testimony on the date originally subpoenaed, the party will send written notice to the witness of the rescheduled date when said witness is scheduled to appear. Said notice must be transmitted so as to provide reasonable advance notice to the

witness of the date and time for appearance. The notice may include a statement advising the witness that a previously served subpoena is still valid and in force.

7. Conduct of Hearings

- a. All hearings must be transcribed by a court reporter/stenographer.
- b. All testimony must be given under oath or affirmation. All oaths or affirmations administered to witnesses will be administered by a notary public of the State of Missouri.
- c. Exhibits offered on behalf of the Department will be identified by Arabic numeral; exhibits offered on behalf of the Respondent will be identified by letter.
- d. The order of proceeding at the hearing is: the Department proceeds first, followed by the Respondent, and then followed by rebuttal by the Department. The Department has the burden of proof to sustain each violation by preponderance of the evidence.
- e. The parties must furnish a sufficient number of copies of any exhibits offered for the Hearing Officer, the adverse party, and the court reporter/stenographer. The originals of all exhibits offered at the hearing will be kept by the court reporter/stenographer and appended to the original transcript. The original transcript will be transmitted to the Board Secretary.
- f. A party is deemed to have waived the right to present evidence or rebut evidence:
 - 1) By failing to appear at the hearing; or
 - 2) By oral statement at the hearing, entered on the record.
- g. In the event a hearing cannot be concluded due to scheduling conflicts or the unavailability of a witness, the hearing may be suspended and continued to a different date. If the hearing is before the Board, the Board has the discretion to determine whether to continue a hearing and if so, to determine the date to which the hearing is continued. If the hearing is before a Hearing Officer only, the Hearing Officer has the discretion to determine whether to continue a hearing and if so, to determine the date to which the hearing is continued.
- h. In the interest of convenience, expediency or fairness, the parties may agree to make exceptions to the prescribed order of proceeding at the hearing, with the consent of the Board if the hearing is before the Board, or the Hearing Officer if the hearing is before a Hearing Officer only.

i. Only the following evidence may be deemed relevant and admissible to the issue of punishment:

1) The Department may submit by documentary evidence the following:

a) The text of the Police Manual showing the range of punishment for any or all charges which may be sustained against the Respondent;

b) A record of the Respondent's disciplinary history, which may include sustained findings of misconduct or a Performance Observation Form documenting oral reprimands. Any such record must be verified by affidavit from the custodian of the record.

2) The Respondent may submit by documentary evidence the following:

a) Prior written decisions of the Board or its successor-in-interest showing the punishment imposed for any or all of the same charges which may be sustained against the Respondent;

b) A transcript of a deposition of the Respondent, made with proper notice to and the opportunity for cross-examination by the adverse party, solely concerning the mitigation or reduction of punishment for any or all of the charges that may be sustained against the Respondent. Any objections to form or relevance must be made upon the record of the deposition.

8. Post-Hearing Matters

a. After all of the evidence has been submitted, the parties may voluntarily file or, if ordered, may be required to file, suggested findings of fact and conclusions of law within ten (10) calendar days of the receipt of the transcript from the court reporter/stenographer. The parties may also file briefs, if so desired. No other pleadings or submissions will be accepted.

b. For hearings before a Hearing Officer, once the period for post-hearing submissions specified in Rule C.8.a has expired, the Hearing Officer will proceed to issue in writing recommended findings of fact and conclusions of law. These recommended findings of fact and conclusions of law must be submitted to the Board Secretary.

c. The Board Secretary, upon receipt of the recommended finding of fact, will transmit them, along with copies of the record of the entire proceedings, including any transcripts, exhibits and recordings, to the Board.

D. PROVISIONS SPECIFIC TO HEARINGS BEFORE THE BOARD

1. Procedures, Use of Hearing Advisor

- a. For hearings before a quorum of the Board, the presiding member of the Board, or in the absence thereof, member designated to act in their stead, or another Board member designated by the presiding member of the Board, will preside over the hearing. In any such hearing, the General Counsel for the Board will be present and seated next to the Board members during all or a portion of the hearing.
- b. The Board members may question any witness.
- c. If requested by the presider, the General Counsel for the Board will assist the Board members with legal matters, deliberations, and evidentiary rulings.

2. Board Discretionary Matters

- a. After all evidence is received at the hearing, the Board may deliberate and may reach an informal decision on whether to sustain any or all of the charges, but no decision of the Board will be official until it is reduced to writing, including or accompanied by findings of fact and conclusions of law.
- b. The Board may instruct the Board Secretary, with the assistance of the General Counsel for the Board, to prepare findings of fact and conclusions of law for its consideration.

E. PROVISIONS SPECIFIC TO HEARINGS BEFORE HEARING OFFICER

1. Selection of Hearing Officer

If the Board exercises its discretion to delegate, hearings may be conducted before a Hearing Officer, who will be selected as follows:

- a. No sooner than eight (8) calendar days after the date the Board Secretary sends written notice acknowledging the initiation of administrative review, the Board Secretary will notify all Hearing Officers in the available pool of the request for hearing. The notification must include the name of the Respondent, as well as any other information the Board Secretary deems relevant. Upon receipt of this notification, all Hearing Officers must indicate any reason that may recuse them from hearing the case. If any Hearing Officer fails to respond within three (3) calendar days of the notification, they will be deemed to have no reason to be recused. The Board Secretary has the discretion to determine whether any basis offered for recusal is acceptable.

b. The General Counsel for the Board will then select from among the available pool who have not been disqualified, five (5) Hearing Officers to make the available panel of Hearing Officers for selection for the hearing. The General Counsel for the Board will create the panel with a preference for those Hearing Officers who have gone the longest time without presiding over a hearing. The Board Secretary will advise the parties in writing identifying the panel of available Hearing Officers from which the selection is to be made.

c. Once the Board Secretary has advised the parties of the identity of the Hearing Officers on the panel, each party will have the opportunity to strike two names from the list, in the following manner:

1) The parties will alternatively and independently strike names from the list, with the Department proceeding first. Each party must give written notification of its strike to the Board Secretary, and to the other party. Each party will have seven (7) calendar days to make its strike, starting from the date written notice was received, as applicable, from the Board Secretary as to the identity of the panel, or from the other party of its strike. If after seven (7) calendar days no strike has been made, it will be deemed as a waiver of said strike, and the procedure for strikes will continue as if a strike had been made on the seventh calendar day.

2) The Hearing Officer will be chosen by the General Counsel for the Board from among the identified panel who have not been stricken.

d. As an alternative to the procedure in the preceding paragraph, once the General Counsel for the Board has identified the five Hearing Officers for the panel, the parties may confer and, prior to any strikes being made, may notify the Board Secretary that they have agreed upon the selection of a Hearing Officer. If such agreement is reached, the parties must file a writing, directed to the Board Secretary, stating that they have agreed to waive the aforementioned strike procedure, and identifying the Hearing Officer from among the panel who they have agreed to select.

e. Once the Hearing Officer has been selected, the Board Secretary will notify the Hearing Officer and the parties of the selection.

f. If at any time after being selected the Hearing Officer determines that recusal is required, the Hearing Officer must notify the Board Secretary, who will determine whether the basis for recusal is sufficient. If the basis for recusal is sufficient, a new Hearing Officer will be selected in the following manner:

1) If there are any Hearing Officers from the previous panel of five who were not stricken by one of the parties, the General Counsel for the Board Secretary will select one of the Hearing Officers not stricken.

2) If there are no Hearing Officers from the previous panel of five who were not stricken, the Board Secretary will notify the parties and ask the parties to confer and determine whether the parties can agree on the selection of a Hearing Officer from among those on the panel who were stricken. The parties will then have seven (7) calendar days to confer and notify the Board Secretary if they have agreed on the selection of a Hearing Officer. If no notification is received by the Board Secretary within seven (7) calendar days, it will be deemed that the parties could not agree on a selection, in which event the General Counsel for the Board will make a selection. The General Counsel for the Board may select a Hearing Officer from among any and all available Hearing Officers in the pool, including any Hearing Officers not included in the original panel of Hearing Officers.

2. Hearing Officer Responsibilities

a. Hearing Officers are required to rule on all pre-hearing matters, including continuances.

b. Any ruling on a pre-hearing dispute or other decision made by a Hearing Officer must be communicated in writing to the Board Secretary at the same time it is communicated to the parties. This includes, but is not limited to, requests for continuance and discovery disputes.

c. In addition to a transcript, hearings conducted before a Hearing Officer will be recorded on video, and a video record will be provided to the Board, along with the transcript and all exhibits admitted into evidence, so that the Board may personally consider the portions of the record cited or referred to in the arguments or briefs.

d. Hearing Officers are acting at the behest of the Board when they preside over the evidentiary portions of hearings. All requirements which pertain to a hearing before the Board likewise apply to a hearing before a Hearing Officer.

e. A Hearing Officer must make recommended findings of fact and conclusions of law to the Board upon receiving the transcript of the proceedings. A copy of the recommended findings of fact and conclusions of law must be transmitted to the Board Secretary with a copy to the General Counsel for the Board.

f. In the event that a Hearing Officer, for any reason, does not make recommended findings of fact and conclusions of law to the Board within a reasonable time after receiving the transcript of the hearing, the Board may notify the Hearing Officer that it has chosen to reassert its jurisdiction over the matter, in which event the Hearing Officer must cease further consideration of the matter. The Board will then review the transcript and/or video recording of the hearing, as well as exhibits admitted into evidence at the hearing, and with the assistance of the General Counsel for the Board, make findings of fact and conclusions of law and enter its decision and order. The written decision or decisions of the Board, once compliant with Rule F.1.a herein, will be deemed a final decision, for purposes of Chapter 536, RSMo.

F. ISSUANCE OF FINAL DECISION

1. What Constitutes Final Decision

a. For purposes of Chapter 536, RSMo., a final decision must be a writing or combination of writings, signed by at a majority of the members of the Board, which disposes of all issues relative to a Respondent's guilt on charges and specifications, and punishment, if any, on said charges and specifications.

b. A final decision is deemed to have been issued on the date the Board Secretary certifies service of the decision.

2. Board Action

a. In reaching a final decision, the Board may, in addition to the transcript, exhibits, and video record, consider:

- 1) The recommended findings of fact and conclusions of law of a Hearing Officer, if one was appointed;
- 2) Any post-hearing submissions by the parties; or
- 3) Any advice from the General Counsel for the Board.

b. The final decision must be signed by at least a majority of the members of the Board.

c. Following the issuance of a final decision, the Board Secretary is required to retain the original for record-keeping and mail copies of the final decision to:

- 1) The parties;
- 2) The Hearing Officer, if any; or
- 3) The Internal Affairs Division.

d. The final decision must contain a certificate of service signed by the Board Secretary, identifying the date of the mailing and the parties to whom a copy of the final decision was mailed.

AMENDMENT TO RULE 7

Section 7.021 Summary Hearings (26.1.6)

- A. A Summary Hearing Board for Bargaining Unit employees will consist of a command rank officer of the rank of Captain or above and an alternate, appointed by the Chief of Police from a list of officers who have volunteered to serve. The St. Louis Police Officers' Association (Police Officers and Sergeants) or St. Louis Police Leadership Organization (Lieutenants) will appoint the appropriate ranking officer member and alternate officer member from the list of officers who have volunteered to serve. The third member and alternate third member will be picked by the other two members from the pool of volunteers of the appropriate rank. No officer can serve longer than six months in a calendar year. Officers assigned to IAD or officers who have been employed by the Department for less than three (3) years may not serve on a Summary Hearing Board.

REVISED

- A. A Summary Hearing Board for Bargaining Unit employees will be appointed from a list of officers who have volunteered to serve. The first member must be a command rank officer of the rank of Captain or above and an alternate, appointed by the Chief of Police. The St. Louis Police Officers' Association (Police Officers and Sergeants) or St. Louis Police Leadership Organization (Lieutenants) must appoint an officer member and an alternate officer member who are the same rank as the involved employee. The third member and alternate third member must be one rank above the involved employee and randomly selected by the other two members appointed to the Summary Hearing Board. No officer can serve longer than six months in a calendar year. Officers assigned to IA or officers who have been employed by the Department for less than three (3) years may not serve on a Summary Hearing Board.