

ARTICLE 6**DISCIPLINARY PROCEEDINGS****DISCIPLINARY CONFERENCE**

Section 6.1 On order of the Director, a bureau or office commander shall convene a disciplinary conference when a non-exclusively represented member is to be formally charged with a violation of Civil Service or department rules, regulations, policies, or job responsibilities. The conference shall be conducted by the commander of the bureau in the direct chain of command of the accused, or their designee, and a representative from Labor Relations.

Section 6.1a The disciplinary conference shall serve as an informal department meeting to review discipline charges against non-exclusively represented members. This conference is intended to fairly apprise members of the nature of the charges against them and provide an opportunity for members to respond to the charges. It shall be the final department review of disciplinary action before the imposition of discipline.

Section 6.1b Any member whose case is being reviewed at a disciplinary conference shall appear, and may have representation of their choosing in accordance with Articles 6.1d - 6.1f and Civil Service Rules and Regulations. The member shall be notified in writing of the alleged charges at least three days in advance and be given a reasonable time to report to the disciplinary conference.

Section 6.1c The written notice of the disciplinary conference shall contain the specifications of the charges, date, time, and location of the conference, and any other information as specified by the Civil Service manual. Any proposed disciplinary penalty may be included in the notice of the disciplinary conference, or the Director or the Director's designee may withhold the penalty determination until after the disciplinary conference.

Section 6.1d Members are entitled to representation of their choosing at a disciplinary conference scheduled in accordance with Article 6 of this Order, except as otherwise limited by Civil Service rules, policy, or procedure. A member from the same work site or, if no other member is located at the work site, a member from the same district or division, shall be entitled to administrative leave to attend the disciplinary conference. It is the responsibility of the member to notify their representative of the conference. The representative shall notify his/her supervisor of the need to attend the conference. The conference shall not be unreasonably delayed due to the representative's unavailability.

Section 6.1e During a disciplinary conference, members have the right to represent themselves, be represented by a limited recognition organization, a fellow member, or others of their choosing, including an attorney. A "fellow member" representative means another non-represented member within this department. Non-represented members may not be represented by members covered by a collective bargaining agreement, or by a member of an organization certified as an exclusive representative.

Section 6.1f The representative's role during a disciplinary conference is as a source of support for the member and to make certain the member understands the charges. The representative shall not interfere with, interrupt, or otherwise obstruct the proceedings. Member representatives shall not be allowed to answer questions on behalf of a member during a disciplinary conference. Members are required to give prompt, full, and accurate answers to questions put to them by the employer. Should the representative violate any of the above parameters, the representative may be ejected and the disciplinary conference shall continue without the presence of a representative.

Section 6.1g A disciplinary conference is an informal hearing. The disciplinary conference, or portions thereof, may be tape-recorded at the sole discretion of the bureau commander or designee.

Section 6.1h Following a review of the facts at a disciplinary conference, the bureau commander shall report their findings, recommendations, and any action taken in writing to the Director. The findings and recommendations shall be that:

- A. The charges are unfounded, and all relevant documents shall be purged from the member's personnel file.
- B. The charges are not sustained.
- C. The matter be remanded to a lower supervisory level for resolution.
- D. The charges are sustained, in whole or in part, and with prior approval by the Director, a settlement of the case was made.
- E. The charges are sustained, in whole or in part, but no settlement of the case was made. A disciplinary penalty shall be imposed where appropriate.

Section 6.1i As a result of the disciplinary conference, the bureau commander or designee may settle upon or recommend any or all of the following actions, depending on the severity of the misconduct, operational necessity, or other articulated considerations:

- A. Written Reprimand
- B. Reduction in Pay
- C. Unsatisfactory performance rating
- D. Termination of employment
- E. Suspension without pay
- F. Demotion in rank
- G. Transfer or reassignment
- H. Fitness for duty evaluation
- I. Restitution
- J. Any other corrective penalty or action deemed appropriate

Section 6.1j Following receipt of the charges, a member may request in writing to resign in lieu of participating in a disciplinary conference. The granting of such a resignation shall be at the sole discretion of the Director. The resignation and the circumstances surrounding the resignation are not grievable.

Section 6.1k Failure of the member to attend the disciplinary conference waives the member's right to such conference. Where a member is not immediately available or is convicted in a court of law for the act(s) that precipitated department disciplinary action, the disciplinary conference may be held in absentia after proper notification to the member. Acquittal in a court of law shall not bar the department from holding a disciplinary conference and taking administrative action. When the member fails to attend the disciplinary conference, the Director or the Director's designee may immediately impose any recommended penalty.

Section 6.1l Nothing in this policy shall be construed to restrict the department's authority to suspend a member without pay under the provisions of Civil Service Rules before conducting a disciplinary conference. The department shall not be prohibited from imposing an emergency disciplinary

suspension and/or removal of a member from the premises in cases where, in the judgment of the employer, such action is warranted.

Section 6.1m Within five weekdays (excluding holidays) following the disciplinary conference, the member shall be provided with a copy of the final determination of the bureau or office commander. Where appropriate, the Human Resources Division may prepare an official bulletin for issuance by the Director reporting the action taken.

RESIGNATION UNDER CHARGES

Section 6.2 Any member who resigns after charges have been proffered against him or her, and before their case is heard, shall not be considered for reemployment.

PROBATIONARY TROOPERS

Section 6.3 Probationary troopers may be dismissed from the department by the Director for failure to render satisfactory service, or for any infraction of these rules and regulations or Official Orders, during their probation period, in accordance with the MSP/MSPTA collective bargaining agreement. Such dismissal shall take place only after review of the documentation by the Human Resources Division.

Section 6.3a Where probationary troopers are alleged to have committed misconduct, or where their work performance is unsatisfactory, or where necessary for other reasons, probation may be extended by the Appointing Authority in accordance with the MSP/MSPTA agreement and applicable rules and regulations.

EMPLOYMENT RELATIONS SPECIALIST'S RESPONSIBILITY

Section 6.4 The Employment Relations Specialist is responsible for ensuring that formal disciplinary proceedings are processed in a proper and uniform manner. This specialist shall become involved at the time corrective action or discipline is contemplated and/or the Complaint Against Member is submitted to Headquarters. The Employment Relations Specialist, with concurrence of the Human Resources Division commander, shall determine to what extent Labor Relations will become involved in incidents of a minor nature.

Section 6.4a The Employment Relations Specialist shall attend disciplinary conferences and shall be responsible for ensuring that the proceedings are conducted and documented in accordance with Civil Service rules and procedures.

Section 6.4b The Employment Relations Specialist shall prepare and present:

- A. Cases to disciplinary hearing bodies and shall handle any other related disciplinary issues as deemed appropriate
- B. Discipline/affirmative assistance matters and other related grievances pursued to hearings under the MSP/MSPTA collective bargaining agreement
- C. Department cases that are being appealed to the Department of Civil Service

Section 6.4c All cases of appeal beyond Civil Service to the courts shall be handled by the Attorney General. If requested by the Attorney General, the Employment Relations Specialist may assist in the preparation of department cases.

INTERNAL AFFAIRS (INVESTIGATIVE RESPONSIBILITIES)

Section 6.5 Internal Affairs is responsible for investigation of complaints made by or against department members. Internal Affairs shall receive assignments from the Director or the Director's designee.

Section 6.5a Investigations may be made regarding any allegations of misconduct, shootings, or civil rights violations/complaints. During the course of such investigations, all department members shall fully cooperate with Internal Affairs. Specific questions directed to department members, regardless of position, shall be answered truthfully and completely in accordance with Sections 4.35 and 4.35a, of this Order. Failure to do so shall constitute insubordination and be grounds for discipline.

Section 6.5b All investigations conducted by Internal Affairs shall be done for the purpose of determining the truth in all matters. Rank or position shall not have a bearing on investigations as Internal Affairs is investigating under authority of the Director. When an internal complaint is sustained, the investigative reports prepared by Internal Affairs shall be directed to the affected region or bureau commander.

Section 6.5c Investigations shall be conducted from the viewpoint that all accused persons are considered innocent, and they shall be treated accordingly unless evidence to the contrary overcomes this presumption. In situations where the evidence indicates that a supervisor is involved in a rule violation by a lower-level member, the matter shall be pursued to its highest level and an appropriate investigation conducted to determine its validity. Internal Affairs shall diligently investigate all accusations made by or against any level department member in an equally fair and impartial manner, and reports to the affected region or bureau commander shall show all facts revealed by the investigation. When conducting an investigation, Internal Affairs may use any department member to assist, except as limited by collective bargaining agreements. Final reports from this section shall be complete. If the charges are found to be valid, the investigation shall show sufficient cause and proofs to enable the matter to be adjudicated by a department discipline body.