

**POLICE BOARD
CITY OF CHICAGO**

RULES OF PROCEDURE

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I. PRE-HEARING PROCEDURE

- A. Proceedings against an officer or employee (hereinafter referred to as “respondent”) shall be commenced by the filing of written charges with the Police Board by the Superintendent of Police.
- B. The charges shall set forth the Rule or Rules of Conduct which the respondent is alleged to have violated and shall include specifications for each such alleged violation.
- C. The charges and specifications shall be set forth in simple, non-technical language.
- D. Prior to the time of the initial status hearing each case shall be assigned for hearing to a member of the Board or to a Hearing Officer designated by the Board for that purpose.
- E. At the time the case is assigned for hearing to a member of the Board or to a Hearing Officer, the date, time and place of the initial status hearing shall also be set.
- F. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing will be held, shall be personally served on the respondent not fewer than five (5) days before the date of the initial status hearing. Return of service will be made by a receipt from the respondent on the retained copy of the charges, or by an affidavit of the officer serving same. It is the duty of the officer serving the charges to secure service and make a return thereof without delay.

If personal service of the charges has not been made on the respondent after good faith and diligent attempts at such service, the Superintendent may file a motion for alternative service of the charges (such as abode service or service by certified U.S. mail). It shall be within the discretion of the Hearing Officer assigned to the case to grant or deny such motion.

- G. The initial status hearing for each case shall occur no fewer than five (5) days nor more than thirty (30) days after the respondent is served with the charges.
- H. At the initial status hearing of each case, the respondent shall appear in person or through an attorney of the respondent’s own choosing. Every respondent shall be entitled to one continuance, which continuance shall be granted at the time of the initial status hearing of each case.

- I. If the respondent chooses to be represented by an attorney of the respondent's own choosing, the attorney shall file a written appearance with the Police Board on an appearance form to be provided by the Board. Once an appearance is on file with the Board all future notices sent by the Board to the attorney of record shall be deemed to be notice to the respondent. No attorney may appear before the Board on behalf of any respondent until a written appearance is on file.
- J. After an initial continuance is granted, no further continuance shall be granted, except upon written request filed with the Secretary of the Board setting forth the reason for such request at least five (5) days prior to the date set for hearing. However, the filing of a written request for continuance shall not excuse the respondent and the respondent's attorney, if one has been retained, from appearing in person at the designated time and place for the hearing of the charges and the request for such continuance shall be within the discretion of the member of the Board or the Hearing Officer so designated by the Board to grant or deny.

II. DISCOVERY AND OTHER PRE-HEARING MATTERS

- A. Prior to the hearing on charges filed with the Board, the respondent upon written request made prior to the hearing and filed with the Secretary of the Board and the Office of the Corporation Counsel, shall be entitled to:
 1. Any and all written statements made by the respondent concerning the charges filed, which are within the custody and control of the Department of Police and/or the Independent Police Review Authority;
 2. Any and all oral statements made by the respondent concerning the charges filed which have been reduced to writing or summaries of which have been reduced to writing which are within the custody and control of the Department of Police and/or the Independent Police Review Authority;
 3. Any and all oral statements of the respondent concerning the charges filed which have been in any way mechanically recorded and which are within the custody and control of the Department of Police and/or the Independent Police Review Authority;
 4. Any and all written statements or written summaries of oral statements of any witness to be produced by the Superintendent in the Department's case-in-chief at the hearing of said charges;
 5. Results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case which are within the custody and control of the Department of Police and/or the Independent Police Review Authority; and

6. Any evidence within the custody or control of the Department of Police and/or the Independent Police Review Authority which is favorable to the respondent in terms of guilt or innocence to the charges filed against the respondent.
- B. Any and all other motions which the parties desire to make shall be filed in writing with the Secretary of the Board prior to the hearing on said charges. The member of the Board or Hearing Officer designated by the Board to conduct the hearing shall rule on all motions filed prior to the hearing, which ruling shall be subject to review by the Board at the time the case is taken under advisement by the Board. However, it is within the discretion of the member of the Board or Hearing Officer designated by the Board to conduct the hearing to defer ruling on any motion filed prior to the hearing, and to refer said motion to the Board for determination.
 - C. Any motion filed fewer than five (5) days prior to the date set for hearing on the charges or the receipt of any documents or information in response to any motion filed fewer than five (5) days prior to the date set for hearing shall not constitute grounds for a requested continuance of the hearing on said charges, unless specific justification for such late filing is presented. The member of the Board or Hearing Officer designated by the Board to conduct the hearing shall then consider such justification in ruling on such requested continuance. It shall otherwise be the duty of the parties to file any and all motions under subsections (A) and (B) hereof at least five (5) days in advance of the date set for hearing.
 - D. Within the time prescribed by order of the Hearing Officer prior to the hearing or, in the absence of such an order, not fewer than five (5) days prior to the date set for hearing, any party intending to call a witness giving expert testimony at the hearing shall provide to the other party the following information in writing as to each such witness:
 1. The subject matter on which the witness will testify;
 2. The conclusions and opinions of the witness; and
 3. The qualifications of the witness.

The Hearing Officer may require such additional disclosures as to expert witnesses as he or she deems appropriate.

For purposes of this rule, a witness giving expert testimony shall be the same as a "Controlled Expert Witness" as that term is used in Illinois Supreme Court Rule 213(f)(3).

- E. A pre-hearing conference may be held at any time by the Hearing Officer assigned to the case whenever he/she deems that such a conference may aid in the disposition of the case or preparation for the evidentiary hearing. The parties will be notified of the date and time of a pre-hearing conference at a regularly scheduled status hearing or by written notice. All pre-hearing conferences shall be held at the office of the Police Board. Counsel (or any other representative of the parties) who will actually try the case and

parties who are unrepresented must be present, but parties represented by counsel need not appear (unless ordered to do so by the Hearing Officer). At the pre-hearing conference, counsel must be prepared to discuss the issues that will be tried, the witnesses who will be called and the testimony of each witness at the hearing, and the exhibits that will be offered into evidence.

At the pre-hearing conference, the Hearing Officer shall have the discretion to require counsel to consider and discuss the following:

1. Formulation and simplification of the issues for the hearing;
2. Stipulations as to issues, evidence, or exhibits that will avoid unnecessary proof;
3. Evidentiary issues that may arise at the hearing;
4. The identity of the witnesses to be called, and the subject matter and the facts relating to the subject matter on which they will testify (counsel shall bring to the pre-hearing conference a written list of the witnesses to be called in the case in chief);
5. Limitations on the number or type of witnesses to be called in order to avoid unnecessary proof or cumulative evidence;
6. The identity of any expert witnesses to be called and the subject matter on which they will testify, as well as any other information disclosed pursuant to Section II-D above;
7. The availability of the witnesses to be called (counsel shall bring to the pre-hearing conference information as to the dates on which each witness is available to testify);
8. The exhibits each party intends to offer or use at the hearing and possible objections to such exhibits (counsel shall exchange copies of such exhibits prior to or at the pre-hearing conference, and shall bring to the pre-hearing conference a written list of the exhibits to be offered into evidence in the case in chief);
9. Any demonstrative aids to be used at the hearing;
10. The respondent's complimentary and disciplinary record to be considered by the Police Board, and any issues pertaining to such record; and
11. Such other matters that may facilitate the just, speedy, and efficient disposition of the case.

The results of the pre-hearing conference shall be set forth in the record of the proceedings made. There shall be no requirement of a written pre-hearing order.

All counsel are required to fully participate in the pre-hearing conference and to provide all information requested by the Hearing Officer in connection with sub-paragraphs (1)-

(11) set forth above. If any counsel fails to fully participate in such a pre-hearing conference or provide the information requested by the Hearing Officer, the Hearing Officer or the Police Board may issue sanctions against such party and/or its counsel, including but not limited to dismissal of the case, entry of an adverse judgment in the case, limitation of the scope of a witness's testimony at the hearing, or exclusion of the testimony of a witness or evidence.

III. HEARING PROCEDURE

- A. Any party shall obtain the presence of witnesses and the production of books and records for any hearing by the service of a subpoena for same issued by the Board. Subpoenas may be obtained by request made to the Secretary of the Board. No continuance shall be granted to any party for the failure to a witness to appear at any hearing unless such witness shall have been previously served with a subpoena, or unless such party demonstrates a good faith attempt to have served a subpoena on any such witness.
- B. The Board shall designate any member or Hearing Officer to administer oaths for the purpose of receiving sworn testimony at any hearing or proceeding conducted by the Board. In any event any officer authorized by law to administer oaths shall be authorized to administer oaths for the purpose of receiving sworn testimony at any hearing of charges before the Board.
- C. The Superintendent shall be represented at all proceedings before the Board by the Corporation Counsel of the City of Chicago.
- D. The Superintendent shall present evidence in support of the charges filed, and the respondent may then offer evidence in defense or mitigation. If the respondent offers evidence in defense or mitigation, the Superintendent may then follow with evidence in rebuttal.
- E. The testimony of all witnesses, whether offered by the Superintendent or respondent, shall be subject to cross-examination. The member of the Board or Hearing Officer designated to conduct the hearing shall not be bound by the formal or technical rules of evidence; however, hearsay evidence shall not be admissible during the hearing.
- F. The member of the Board or Hearing Officer designated to conduct the hearing shall allow time at the close of the evidence for closing arguments. Counsel for the Superintendent will give the opening argument, which will be followed by the respondent. Following the respondent's closing argument, the Counsel for the Superintendent shall be given time for rebuttal argument. If Counsel for the Superintendent waives argument but the respondent does not, Counsel for the Superintendent will be given opportunity for a rebuttal argument. If, however, the respondent waives closing argument, the Counsel for the Superintendent shall not be given opportunity to make a rebuttal argument.

- G. If the respondent does not appear or absents her/himself from any proceedings conducted by the Board, the member of the Board or Hearing Officer designated to conduct the hearing may proceed with the hearing in the absence of the respondent.
- H. At the close of all the evidence and arguments, the case will be taken under advisement by the Police Board, which in due course will render its findings and decision as provided by law. The Board may, in its discretion, after finding a respondent guilty of one or more rule violations, set the matter for additional proceedings for the purpose of determining administrative action. The Superintendent and the respondent, or through counsel, may submit any information concerning the respondent's past work performance or other relevant information in mitigation or aggravation which would assist the Police Board in determining administrative action required. Witnesses may appear on behalf of the Superintendent or the respondent to give sworn testimony.
- Pursuant thereto, the Police Board shall issue its written findings including penalty, if any.
- I. The findings and decision of the Police Board shall be preserved by the Secretary of the Board, who shall notify the Superintendent and the respondent of the Board's action.
- J. The Secretary of the Board shall forward the findings and decision of the Board to the Superintendent for enforcement of the Board's action. If the findings and decision is such that the respondent is guilty of the charges filed and removal, discharge or suspension is ordered, such order shall become effective forthwith.

IV. SUSPENSION REVIEW PROCEDURES

A. NOTICE

In all cases in which the Superintendent of Police has ordered a member to be suspended for a period of time, no fewer than six (6) days nor more than thirty (30) days, the member of the Department to be suspended will be served with a notice stating the length of suspension and the reason therefor. The notice will also set forth the various options available to the Department member to have the suspension reviewed.

B. PROCEDURES

1. To have the proposed suspension reviewed by the Police Board, the member must file a request within three business days of being properly notified of the suspension and the right to request Police Board review. Failure to file within the period allotted constitutes a waiver of the member's right to review. Requests for review must be filed in person at the Office of the Police Board during business hours, or by certified mail (the date of the postmark of the certified mailing will be considered the date of filing).

2. Upon the filing of the request for review the member will receive a time-stamped copy of the request indicating that the request was filed within the period allotted. A time-stamped copy will also be forwarded to the Superintendent of Police; a copy will also be sent to the Chief Administrator of the Independent Police Review Authority (“IPRA”) if IPRA conducted the complaint register investigation.
3. At the time of the filing or within five business days thereafter the member may also submit a written memorandum delineating specific reasons for which the review was requested and documentary evidence, if any. If the member submits a written memorandum and/or documentary evidence, the Superintendent and the IPRA Chief Administrator shall each have an opportunity to provide a written response and/or documentary evidence. Upon receiving the copy of the request for review, the Superintendent and/or the IPRA Chief Administrator may also file a written memorandum concerning the matter.
4. Upon receipt of the investigation file and the material noted in item 3 above, the Secretary of the Police Board will assign the review of the file and above material to a Hearing Officer of the Police Board or a member of the Police Board within one calendar week.
5. The Hearing Officer or member of the Police Board must complete the review within one calendar week of being assigned the review, and upon completion of the review will submit a written report to each member of the Police Board indicating the specific allegations against the member, the evidence contained in the file and above material supporting the allegations as well as information in the file and above material indicating evidence not supporting the allegations.
6. The Police Board in executive session will consider the report of the Hearing Officer or member of the Police Board who has reviewed the file and will vote either to sustain, reduce the length of, or reverse the suspension ordered by the Superintendent. A majority vote by the Police Board will be required to render its findings and decision. However, the Police Board may in its discretion order a hearing before a member of the Board or a Hearing Officer prior to making a determination to sustain, reduce the length of, or reverse the suspension ordered by the Superintendent.
7. Any member of the Police Board may personally examine the investigative file and the material noted in item 3 above on her/his own initiative before the findings and decision are rendered by the Police Board.
8. Upon completion of deliberation, the Police Board will cause the Secretary of the Police Board to prepare the written findings and decision and forward copies to the Superintendent of Police and to the member who has requested the review.
9. Upon receipt of the findings and decision of the Police Board affirming the Superintendent’s order, the Superintendent of Police may then immediately implement the suspension.

C. EMERGENCY PROCEDURES

1. The member shall be served with a notice of suspension including an express finding by the Superintendent of Police that the public safety, or the good of the Department or both require the immediate suspension of the member.
2. No later than seven (7) days after service of the notice of emergency suspension a member of the Police Board or its Hearing Officer shall review the order of the Superintendent together with the reasons therefor and shall at that time preliminarily affirm or reverse such order. If the order is reversed, the member shall be reinstated and paid for any period under suspension as a result of the order. If the order is preliminarily affirmed, the Police Board shall within thirty (30) days of such affirmance review such order and may in its discretion, afford the member an opportunity to receive a hearing pursuant to the Rules of Procedure of the Police Board.
3. If the Police Board, upon hearing, determines that the emergency suspension was unwarranted, the Police Board shall order the member reinstated and paid for any period under suspension as a result of the order.

D. SUSPENSION ACCOMPANIED BY FILING OF CHARGES

The procedures contained in Article IV do not apply to any suspension implemented by the Superintendent of Police which is accompanied by the filing of charges with the Police Board seeking a member's separation or suspension in excess of thirty (30) days except that no later than seven (7) days after service of the notice of suspension a member of the Police Board or its Hearing Officer shall review the order of the Superintendent together with the reasons therefor and shall at that time determine whether suspension pending the disposition of charges is warranted. Review of the suspension implemented by the Superintendent of Police in such instances will be considered in connection with the hearing before the Police Board.

V. APPLICATION OF RULES OF PROCEDURE

- A. At the time the respondent is served with charges filed against her/him by the Superintendent as provided herein, the respondent shall also be given a copy of these Rules of Procedure.
- B. All time limitation contained in these Rules regarding continuances and motions shall be subject to exception in cases of extreme hardship, unusual circumstances or other justification. Any deviation therefrom shall be within the discretion of the Board Member or Hearing Officer designated to conduct the hearing, and whose ruling shall be subject to review by the Board at the time the case is taken under advisement.

VI. THREE-MEMBER PANELS UNDER THE INDEPENDENT POLICE REVIEW AUTHORITY ORDINANCE

Chapter 2-57 of the Municipal Code of Chicago relating to the Independent Police Review Authority (“IPRA”) imposes on the Police Board certain duties when a conflict arises between the IPRA Chief Administrator (“Chief Administrator”) and the Superintendent of Police (“Superintendent”) over the recommended discipline for Police Department (“Department”) members under investigation for violating Department rules. In particular, §2-57-060 of the IPRA Ordinance assigns the Police Board a role in resolving any such conflict. The following Rules of Procedure set forth the method by which the Police Board will perform such duties under §2-57-060 of the IPRA Ordinance.

- A. To perform its duties under the IPRA Ordinance, the Police Board shall designate from its membership a three-member panel to review disciplinary recommendations (“Review Panel”). Members of the Review Panel shall be selected on a random basis and designated at a regularly scheduled meeting of the Police Board. Each Review Panel so selected shall consider requests for review filed until a new Review Panel is selected at the next regularly scheduled meeting. Substitution of the Review Panel’s members may be made from time to time, as authorized by the Police Board, in the event that a member becomes unavailable to perform the functions required of a Review Panel member.
- B. A request for review of disciplinary recommendations (“Request for Review”) by the Chief Administrator shall be sent to the Review Panel at the Office of the Police Board and to the attention of the Executive Director of the Police Board. The Request for Review shall include the Superintendent’s written response to the Chief Administrator’s disciplinary recommendation, and the Chief Administrator’s written objections thereto. The Request for Review shall be accompanied by a certificate from the Chief Administrator stating the date on which the Chief Administrator and Superintendent met to discuss the disciplinary recommendations, as required under the IPRA Ordinance, and the date and method by which the Chief Administrator sent the Request for Review to the Review Panel.
- C. Upon receipt, the Executive Director of the Police Board will prepare for the Review Panel a Request for Review file consisting of the materials sent to the Review Panel. The file shall indicate the date of receipt of the Request for Review.
- D. Within 10 business days of receipt, the Review Panel shall review, in closed session, the Request for Review file. Upon completion of its review, the Review Panel may, in its discretion, request that the Chief Administrator and the Superintendent present additional documentation or present oral arguments in support of their respective positions. Any such request by the Review Panel shall be in writing, shall be served upon the Chief Administrator and the Superintendent, and shall identify the additional information or actions requested. The additional information or documentation requested shall be provided, and any argument scheduled, within a reasonably prompt period of time, as determined by the Review Panel. The Review Panel may impose reasonable limitations on the presentation of additional documentation or argument. The Chief Administrator

and Superintendent shall serve each other with copies of any additional documentation submitted to the Review Panel.

- E. The Review Panel, in closed session, shall consider the Request for Review file, and the requested additional documentation and oral argument, if any. A majority vote of the Review Panel is required to render a finding as to whether the Superintendent's response met the Superintendent's burden to overcome the Chief Administrator's recommendation for discipline. If, in the majority opinion of the Review Panel, the Superintendent's response did not meet the Superintendent's burden to overcome the Chief Administrator's recommendation, the Chief Administrator's recommendation will be deemed to be accepted by the Superintendent, as provided by the IPRA Ordinance. The Review Panel shall notify in writing the Chief Administrator and Superintendent of its determination.
- F. Members of the Review Panel shall recuse themselves from any future involvement by the full Police Board with respect to the disciplinary matter before the Review Panel.

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