

BERLIN POLICE DEPARTMENT  
Berlin, Maryland

SUBJECT: DISCIPLINARY PROCESS - ADMINISTRATIVE HEARING BOARD		NO: 500 D-5
APPROVED/EFFECTIVE DATE January 9, 1995	AMENDS	RESCINDS G.O. 47-86
DISTRIBUTION/DATE A	REFERENCES Maryland Public Safety Article Title 3, Section 3-101 through 3-111	

.10 Administrative Hearing Board

Administrative hearings will be conducted in accordance with Title 3, Sections 3-101 through 3-111 of the Public Safety Article of Maryland -"Law Enforcement Officer's Bill of Rights."

.20 Administrative hearings are not to be confused with judicial proceedings. An administrative hearing requires merely a preponderance of evidence to obtain a guilty verdict. Any evidence pertinent to the accused may be heard. A person designated by the Chief of Police will present the circumstances of the alleged offense to the Board. The member has a right to be represented by council of his/her choice, may plead his/her case, plead for a reduction in administrative action, or otherwise address himself/herself to the Board. It is the policy of this department that the accused shall not be tried without defense council. In those instances where the accused does not have defense council, the Chief of Police will be notified immediately.

.30 Hearing board members will be informed of administrative hearings by memorandum from the Chief of Police.

.40 The hearing will be conducted under the auspices of the senior member.

A. The senior member will call the hearing to order and state, "The proceedings of this hearing will be recorded, but not transcribed unless deemed necessary at a later date."

B. The senior member will ask the accused member if he/she has received a copy of the charges and specifications brought against him/her that are to be heard by the board. If the prosecution and the defense are ready to proceed, each of charge and specification brought against the accused shall be read, and the accused shall enter a plea to each charge and specification.

- C. The senior member will direct the prosecution to begin.
- D. The senior member will resolve issues such as the admissibility of any evidence after consultation with the department's legal counsel and defense counsel.
- E. After completion of the prosecution's case, the senior member will direct the defense to proceed, advising counsel as to the appropriate time for presenting matters in mitigation or extenuation and that such matters need not be brought forward prior to the reaching of a verdict.
- F. Upon completion of arguments, the hearing room will be cleared of recording equipment and all persons except the hearing board members. The senior member will then make an objective review of all evidence brought before the members, being careful not to prejudice the case as to guilt or innocence of the accused.
- G. The senior member will cause a written secret ballot of all members as to a finding of each charge and specification. All interested parties will re-enter the hearing room where the finding of each charge and specification will be announced. The exact time of the clearing and recalling of all parties will be noted in the record.
  - 1. If the accused is found not guilty of all charges, the senior member will announce, "This case has been concluded, and the hearing will stand adjourned subject to the call of the senior member."
  - 2. In the event of a guilty verdict on any charge, the senior member will record the findings on the original statement of charges.
- H. At the completion of any matters in mitigation or extenuation, the hearing room will again be cleared of recording equipment and all persons other than hearing members. The senior member will then cause another secret ballot to be taken as to the recommended punishment. Once a consensus is developed, a majority will rule. The exact time of the clearing and recalling of all parties will be noted in the records.
- I. Upon hearing all interested parties, the senior member will inform them of the judgment reached by secret ballot and that it will be forwarded to the Chief of Police for action, who, as a matter of policy, will reach a decision

within five working days. An appropriate written report containing the finding of each specification, the finding of the fact of each specification and the hearing board's recommended action, will be prepared by the senior member for the Chief of Police within 24 hours. A copy of the report will be provided to the accused and his/her counsel.

- J. Should termination be the recommendation of the hearing board, the senior member will direct the accused's commanding officer or designated representative to suspend the accused from duty with pay until the final determination is made by the Chief of Police.
- .50 The Chief of Police's final order and decision is binding and may be appealed in accordance with this subtitle. Before the Chief of Police may increase the recommended penalty of the hearing board, he will review the entire record of the hearing board proceedings and will permit the law enforcement officer to be heard, and will state the reason for increasing the recommended penalty.