



COBA
DELEGATE
SEMINAR

AUGUST
24th - 27th



DELEGATES CD HEARING QUICK REFERENCE CHECK LIST

Presentation by
Glenn Morgan | 1st Vice President

III 72 HOUR NOTICE OF HEARING

- The Officer and the union representative shall be given seventy two (72) hours notice prior to the Command Discipline interview as to the time and place of said interview
- The officer shall have the right to have one union representative present at the interview (hearing) unless the officer waves that right.

III 7/10/30 DAY

- 7 Day Rule: The Command Discipline must be filed in the CMS as soon as possible but no later than (7) days following the incident absent exigent circumstances. Such circumstances include instances in which the violation is NOT discovered within 7 days.
- Check the date of the incident and the date it was filed. Make sure the filing date is within the time frame, seven (7) days. The scheduled command discipline interview hearing must be within thirty (30) days of the filing date. The thirty (30) day period may be extended if a delay is caused by the member or the union representative.
- 10 Day Rule: The ICDU Hearing Officer has ten (10) days to accept the Supervisors complaint report (from the time it is filed) or, if unclear, reject, and send the Supervisors complaint report back to the command for clarification, the command must return the updated Report to ICDU within seven (7) days.
- The supervisor SHALL promptly notify the member of the filling of a charge. The Officer shall submit any information in their defense of in mitigation to the ICDU no later than 72 hours from notification of the charges.



III VIEW THE CD LOGBOOK

- Make sure the CD log number (located on the top right corner of the CD form #454) matches the number in the CD Logbook. The CD logbook must be in chronological order and make sure there are no blank spaces in the book.



III KNOW YOUR RULES & REGS AND KNOW THE PENALTY GRID

- Look up the charges in your Rules & Regs and make sure the charges apply.
- **Know the Penalty Grid:** Remember the max penalty at a CD hearing can NOT exceed ten (10) days comp / vacation.

III INVESTIGATE THE INCIDENT

Talk to the Officer in question to get their version of the incident prior to the hearing

1. Find out if there were other people present.
2. Were reports gathered?
3. Were logbooks entries made?



III HAVE A DISCUSSION WITH HEARING OFFICER PRIOR TO HEARING

- Speak with the ICDU hearing Officer to get a feel for what he / she is looking for in terms of penalty. Try to have a good rapport with Admin. whenever possible, it will help your members in the long run.



III VIEW THE OFFICERS UPDATED #22R (EMPLOYEE SERVICE RECORD)

- Verify the officers record for yourself. This way you can see if there are any prior CDs or MOCs with guilty findings in the last 12 months.
- View their Date of Appointment for tenure
- Attendance Record/Lateness
- Departmental Recognition (Awards)

III ALWAYS PUSH FOR PROGRESSIVE DISCIPLINE

- Counseling before a Corrective Interview
- Corrective interview before a command discipline
- Compensatory Time before Vacation Days

III LET THE OFFICER DECIDE HOW HE/SHE WANTS TO PROCEED

- You are there to defend the officer the best you can and to advise them on their options so that they and they alone can decide how they want to proceed.
- Do they want to accept the findings and proposed penalty?
- Do they want to accept the findings and appeal the penalty?
- Do they want to decline to accept the CD and, instead, have a formal hearing at the Office of Administrative Trials and Hearings (OATH)

III EXPLAIN THE RISK OF GOING TO OATH

- Explain that a guilty finding of a Command Discipline will be removed from their record (22R) after one (1) year.
- You MUST make the Officer aware that if they are found guilty at their hearing at The Office of Administrative Trials and Hearings (OATH), it will be a permanent mark on their record (22R)
- If they lose at trial the penalty will be Suspension days.

III EXPLAIN THE ICDU REVIEW PROCESS

- If the member accepts the findings but feels the penalty is excessive, he/she may request a review of the propose penalty to the CD Supervisor.
- The only basis for said review shall be mitigating factors which warrant a reduction in the penalty.
- The facts and circumstances that the member asserts in support of his or her request **MUST** have been presented at the Command Discipline interview.
- The Hearing Officer shall refer the matter to the Command Discipline Supervisor. If a penalty is imposed it must fall within the applicable range of the highest scheduled violation.



III LEGAL DIVISION REVIEW

- If the member rejects the Command Discipline penalty, the officer may elect to have the case reviewed by the Legal Division. Such review may result in a dismissal of the charges, reduction or increase of the propose penalty Prior to the legal Division issuing any decision, the officer shall be entitled to representation by the union counsel at a conference to discuss the matter.
- Union Counsel must be available for such conference within 30 days of the members request for Legal Review. The Officer may NOT attend the conference.
- After the conference, if one is held, an attorney from the Legal Division shall review all available evidence and make one of the following determinations:



III LEGAL DIVISION REVIEW CONT.

- Sustain both the findings and penalty from the hearing officer Sustain the findings, in whole or in part, and increase or decrease the penalty imposed by the Command Discipline supervisor.
- Reject the findings and dismiss the Command Discipline or recommend formal Charges.
- If a penalty is imposed it must fall within the applicable range of the highest violation found to have occurred.

After conducting a review and making a determination, the Legal Division will document the determination and return for #454 (command discipline) to the Command Discipline Supervisor who will provide a copy to the officer. The Legal Division Attorney will notify the Union counsel or other representatives of the results of the review.



III LEGAL DIVISION REVIEW CONT.

If a penalty is imposed by the Legal Division, the Command Discipline Supervisor shall notify Human Resources of the Legal Divisions final determination. HR shall have 30 days to remove the corresponding penalty from the Officers accrued vacation or compensation leave balances.

A member of the Legal Division at the rank of the Deputy General Counsel or above shall conduct a quarterly assessment of the Appeals process to ensure that it is working as designed.

III FORM #454 PAGE 1

		CORRECTION DEPARTMENT CITY OF NEW YORK		FORM #454 Revised: 01/13/25 Ref. Dir.: 4257R-C			
CHARGES, SPECIFICATIONS AND DISPOSITION							
INSTRUCTIONS: FILL OUT ALL APPLICABLE SECTIONS. IF ADDITIONAL SPACE IS REQUIRED, ATTACH 600AR						C.D. LOG #	
SECTION #1 - SUPERVISOR'S COMPLAINT REPORT							
I HEREBY CHARGE THE FOLLOWING NAMED RESPONDENT WITH VIOLATING DEPARTMENT RULES & REGULATIONS, AS INDICATED BELOW:							
RESPONDENT'S LAST NAME:		RESPONDENT'S FIRST NAME:		MIDDLE		COMMAND:	
RANK/TITLE:			SHIELD/I.D. NUMBER:		DATE OF VIOLATION(S):		
CHARGE	RULE NUMBER	RULE & REGULATION					
SPECIFICATIONS:							
SUPERVISOR'S NAME: (Print)				RANK/TITLE:		SHIELD/I.D. #:	
SIGNATURE OF SUPERVISOR:						DATE SUBMITTED:	
SECTION #2 - DISPOSITION BY HEARING OFFICER							
COMMAND DISCIPLINE INTERVIEW DATE (IF APPLICABLE):						FILING DATE:	
CHARGE	APPROPRIATE FOR C.D. ?	HEARING WARRANTED	SCHEDULE VIOLATION	CHARGES SUBSTANTIATED?	SCHEDULED GRID PENALTY RANGE (CHOOSE HIGHEST CHARGE):	NUMBER OF GUILT FINDINGS WITHIN 12 MONTHS PRIOR TO INCIDENT	
RECOMMENDED PENALTY:							
REASONS FOR RECOMMENDED PENALTY:							
THE RESPONDENT WAS ASSISTED BY AN OFFICIAL OF THEIR UNION?		THE RESPONDENT WAIVED THE RIGHT TO ASSISTANCE BY AN OFFICIAL OF THEIR UNION				RESPONDENT'S INITIALS	
		Yes					
HEARING OFFICER'S NAME AND SIGNATURE:						DATE:	



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SECTION #3 - RESPONDENT'S DECISION	
☐ I ACCEPT THE RECOMMENDED PENALTY OF THE HEARING OFFICER. ☐ I APPEAL TO THE ICDU SUPERVISOR	
RESPONDENT'S NAME AND SIGNATURE:	DATE:
SECTION #4 - ICDU SUPERVISOR'S DETERMINATION	
If the ICDU Supervisor is conducting the hearing, this section need not be completed)	
☐ FINDINGS AND PENALTY SUSTAINED ☐ FINDINGS SUSTAINED, IN WHOLE OR PART, WITH PENALTY MODIFIED TO: _____ ☐ FINDINGS REJECTED AND COMMAND DISCIPLINE DISMISSED ☐ FORMAL CHARGES RECOMMENDED COMMENTS: _____	
ICDU SUPERVISOR'S NAME AND SIGNATURE:	DATE:
SECTION #5 - RESPONDENT'S DECISION	
I HAVE BEEN ADVISED OF THE FINDINGS AND PENALTY DETERMINED BY THE ICDU SUPERVISOR AND CHOOSE THE FOLLOWING:	
☐ I ACCEPT THE FINDINGS AND PENALTY ☐ I DECLINE TO ACCEPT THE FINDINGS AND/OR PROPOSED PENALTY AND APPEAL TO THE LEGAL DIVISION. (Note that the Legal Division may do one of the following: (1) dismiss the command discipline; (2) Sustain the findings and penalty; (3) Sustain the findings in whole or in part, and increase, decrease, or sustain the penalty; or (4) Recommend formal charges.) ☐ I DECLINE TO ACCEPT THE COMMAND DISCIPLINE AND REQUEST THAT THE MATTER BE REFERRED FOR FORMAL DISCIPLINARY CHARGES AND AN ADMINISTRATIVE HEARING PURSUANT TO SECTION 75 OF THE CIVIL SERVICE LAW. (Note that at Section 75 Disciplinary Hearing, the respondent officer shall be afforded the following trial rights, among others: (1) written notice of the charges; (2) representation by counsel; (3) to summon witnesses on their behalf; (4) cross-examine witnesses; (5) a transcript of the hearing; and (6) appeal the findings and proposed penalty imposed.)	
SIGNATURE OF RESPONDENT:	DATE:
SECTION #6 - LEGAL DIVISION REVIEW	
☐ FINDINGS AND PENALTY SUSTAINED ☐ FINDINGS SUSTAINED, IN WHOLE OR PART, WITH PENALTY MODIFIED TO: _____ ☐ FINDINGS REJECTED AND COMMAND DISCIPLINE DISMISSED ☐ FORMAL CHARGES RECOMMENDED COMMENTS: _____	
NAME AND SIGNATURE OF LEGAL DIVISION ATTORNEY:	DATE:



III FORM #454

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SECTION #6 - COMMANDING OFFICER'S DETERMINATION (If the Commanding Officer is conducting hearing this section need not be completed)	
INAPPROPRIATE FOR COMMAND DISCIPLINE, INITIATE FORMAL CHARGES?	PROPOSED PENALTY AFFIRMED?
PROPOSED PENALTY REDUCED TO:	
COMMENTS: _____	
SIGNATURE OF THE COMMANDING OFFICER:	
DATE:	
SECTION #7 - ASSISTANT CHIEF/CHIEF OF DEPARTMENT'S REVIEW	
INAPPROPRIATE FOR COMMAND DISCIPLINE, INITIATE FORMAL CHARGES?	PROPOSED PENALTY AFFIRMED?
PROPOSED PENALTY REDUCED TO:	
COMMENTS: _____	
SIGNATURE OF THE ASSISTANT CHIEF OR CHIEF OF DEPARTMENT:	
DATE:	
SECTION #8 - RESPONDENT'S REQUEST FOR LEGAL DIVISION REVIEW	
I HEREBY REQUEST A REVIEW BY THE LEGAL DIVISION	
SIGNATURE OF RESPONDENT:	DATE:
SECTION #9 - LEGAL DIVISION REVIEW	
☐ PROPOSED PENALTY AFFIRMED	
☐ PROPOSED PENALTY REDUCED TO:	
COMMENTS: _____	
SIGNATURE OF ATTORNEY:	
DATE:	

