



COBA
DELEGATE
SEMINAR

AUGUST
24th - 27th

THE CITY OF
DEPARTMENT OF CORRECTION

DIRECTIVE

[] INTERIM		[X] REVISED	SUBJECT	
*TERMINATION DATE / /		APPROVED FOR WEB POSTING ☐ YES ☒ NO		
CLASSIFICATION # 4257R-C	SUPERSEDES 4257R-B	DATED 10/27/22	DISTRIBUTION A	
AUTHORIZED BY THE COMMISSIONER		SIGNATURE <i>[Signature]</i>		

PAGE 1 OF 16 PAGES

outline Department of Correction (Department) to p
to adjudicate violations of departmental policy

DELEGATES COMMAND DISCIPLINE HEARING DIRECTIVE 4257R-C

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

- Look up the charges in your Rules and Regulations and make sure the charges apply.



III KNOW THE PENALTY GRID

Remember the max penlty 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 HEARING OFFICER

Speak with the Admin. Dep 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 log run.

III VIEW THE OFFICERS UPDATED #22R

- 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 on their options so that they and they alone can decide how they want to proceed.

- Do they want to accept the finds 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 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 OATH, it will be a permanent mark on their record (22R).
- If they lose at trial the penalty will be suspension days and/or termination.

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 proposed 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.