

# CITY OF SHEBOYGAN BOARD OF POLICE AND FIRE COMMISSIONERS

## POLICIES AND PROCEDURES

### Disciplinary Actions

**The rules set forth are adopted pursuant to the authority granted the Board by Section 62.13 (5)(g), Wis. Stats.**

**SECTION 1.** The Board may suspend or remove a Chief for cause based upon written charges filed with the President of the Board. Written charges may be filed by the Mayor, a member of the Board, by the Board as a body, or by any other aggrieved person as defined below. The Board may suspend a Chief, with pay, pending disposition of such charges.

*Aggrieved Person.* An aggrieved Person is a person who has been injured by, or witnesses Misconduct of an Employee.

**SECTION 2.** Charges may be filed against a subordinate by the Chief, by any member of the Board, by the Board as a body, or by any aggrieved person. Pending disposition of such charges, the Board or Chief may suspend such subordinate, with pay.

**SECTION 3.** The Board or a Chief may suspend a subordinate for cause as a penalty. If a Chief suspends a subordinate, the Chief shall immediately file a report with the Board. No hearing on such suspension shall be held unless requested by the suspended subordinate within thirty (30) days from the date of suspension. If the subordinate suspended by the Chief requests a hearing before the Board, the Chief shall be required to file charges with the Board upon which such suspension was based and may recommend termination.

**SECTION 4.** Prior to the filing of a charge against a police officer or a firefighter by an aggrieved person (other than the Mayor, a Chief, a member of the Board, or the Board as a body), the person shall file a complaint with the Police or Fire Department under the Citizen Complaint procedure. A charge may be filed with the Board if the person is not satisfied with the disposition under the Citizen Complaint procedure. The charge shall be filed with the Board no later than ten (10) days following receipt of the written disposition.

**SECTION 5.** Requirements of charges. Charges shall:

- a. be in writing on a form provided by or approved by the Board;
- b. be addressed to the City of Sheboygan Board of Police and Fire Commissioners;
- c. identify the person against whom the charges are brought;
- d. state sufficient facts to allow the accused to know and understand the factual allegations and to be able to prepare his or her defense. If any portion of the charge is made upon information or belief, the source of such information and belief shall be stated, including the names and addresses of witnesses having such knowledge. The charge shall specifically indicate the date and place of the alleged offense. State the specific Department Policies, Rules and Regulations, City Policies, and/or any state or federal law which the accused is charged with violating;
- e. be sworn to under penalty of perjury;
- f. be filed with the President and Secretary of the Board.

**SECTION 6.** The Police Department Code of Conduct, Fire Department Rules and Regulations, and City Policies shall be available for review by the public, and copies shall be available upon request from the individual department or the Secretary of the Board.

**SECTION 7.** If there is more than one charge against an accused which emanates from a specific event, all such charges may be consolidated and be heard in one hearing. The President is authorized to take reasonable steps to effectuate a consolidation.

**SECTION 8.** Following the filing of charges in any case, a copy of the charges shall be served within a reasonable amount of time by the Board or its representative upon the person charged. The President shall set a scheduling order not less than ten (10) nor more than thirty (30) days following service of charges. The parties may agree to waive the statutory time frame and schedule at mutually agreeable time. The commission must be informed of this agreement.

**SECTION 9.** The person filing the charge and the accused shall file with the Board, and provide to the opposing party, at least seven (7) days before the evidentiary hearing date, a list of all intended witnesses, including names and addresses. The Board may refuse to allow a party to call a witness not named on the intended witness list, unless the failure to include the name occurred for good reason, in the determination of the Board. Neither party will be required to call all of the witnesses included on his or her witness list.

**SECTION 10.** The accused and the person filing the charge may be represented by attorneys at no expense to the Board.

**SECTION 11.** The accused and the person filing the charge may compel the attendance of witnesses by subpoenas which shall be issued by the President of the Board on request. The service of the subpoena, and the cost of service fees, witness fees and other related expenses shall be borne by the party requesting the subpoena.

**SECTION 12.** The responsibility for prosecuting a case shall be with the person filing the charge. The burden of proof for proving the charges shall be by preponderance of the evidence pursuant to WI-JI 200 Burden of Proof: Ordinary.

**SECTION 13.** At least one (1) day prior to the scheduled hearing, parties shall provide each other with copies of or access to documents and other exhibits they intend to use at any hearing. At the hearing, parties shall provide each member of the Board with copies of any documents and/or exhibits they intend to use.

**SECTION 14.** As the first order of business at any scheduled hearing, the Board may hear and decide procedural motions, determine order of testimony, attempt to determine uncontested issues, attempt to simplify issues, attempt to obtain a stipulation of facts, determine what exhibits, if any, will be offered into evidence, and to conduct any such other procedural matters as may be deemed necessary.

**SECTION 15.** The hearing on charges shall be public. The Board may make reasonable rules for the orderly conduct of the hearing. The Board reserves the right to go into closed session as allowed by law.

**SECTION 16.** The Board may divide the hearing into two phases. In the first phase the Board shall determine whether or not the charges have been sustained. If any of the charges are sustained, the hearing shall continue to the second phase, in which the Board shall determine the disposition as provided in SECTION 20.

**SECTION 17.** At the hearing, the complainant shall present his or her testimony and evidence first. After the testimony of the complainant and each of the complainant's witnesses, the respondent or respondent's attorney may cross-examine the witness. After completion of the complainant's testimony and evidence, the accused may testify and call witnesses to testify. After each of the accused's witnesses testifies, the complainant or complainant's attorney may cross-examine the witness. Parties may thereafter present rebuttal and sur-rebuttal evidence, all subject to cross-examination. Members of the Board may question any witness at any time, and may call its own witnesses.

**SECTION 18.** The Rules of Evidence, contained in Wisconsin Statutes Chapters 901-911, will apply at any hearing. The Board may relax the Rules of Evidence if it deems the best interests of justice to be served thereby.

**SECTION 19.** All public portions of the hearing shall be recorded electronically or by court reporter or both. The decision shall be at the discretion of the Board.

**SECTION 20.** If the Board determines that the charges are not sustained, the accused, if he/she has been suspended, shall be immediately reinstated and all lost pay restored. If the Board determines that the charges are sustained, the accused, by order of the Board, may be suspended, reduced in rank, suspended and reduced in rank, or removed, as the good of the service may require.

**SECTION 21.** Findings, determinations, and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and, if they follow a hearing, shall be filed within three (3) days with the Secretary of the Board. The Board may, if it deems it appropriate, provide an oral decision with regards to its determinations and findings following the hearing.

**SECTION 22.** Any person suspended, reduced, suspended and reduced, or removed by the Board may appeal the order of the Board to the Circuit Court pursuant to the applicable provision of the Wisconsin Statutes.

**SECTION 23.** The City Attorney or his or her representative shall represent the Board.

**SECTION 24.** The term “President” shall include the President and/or his or her designee. In the event of the incapacity, unavailability or unwillingness of the President to act, his powers may be exercised by the Commissioner with the greatest seniority, in descending order, based on their availability.

Revised June 26, 2024