



MARYLAND STATE POLICE

PERSONNEL DIRECTIVE



Trial Boards

Distribution: All Troopers

Index: **PER 19.06**

DLI Reference: N/A

Rescinds: CHAPTER 5, SEC. XII

Issued: 01/01/2013

Revised: 03/14/2024

.01 Purpose

To provide an overview of the procedures for trial boards.

.02 Policy

The MSP will conduct trial boards in accordance with the law. This policy applies to all misconduct alleged to have occurred on or after July 1, 2022. Trial boards for complaints received for misconduct that occurred prior to July 1, 2022 will be handled in accordance with the law and MSP policy in effect on June 30, 2022.

.03 Definitions

REPRESENTATIVE: the term includes an attorney or any other person the accused trooper chooses.

TRIAL BOARD: a three-member group selected to determine the final outcome of a disciplinary case. A trial board will be composed of an actively serving or retired administrative law judge appointed by the Chief Administrative Law Judge of the Maryland Office of Administrative Hearings; a civilian who is not a member of an Administrative Charging Committee or the Maryland Police Training and Standards Commission (MPTSC), appointed by the Police Accountability Board for the county where the alleged misconduct occurred; and a trooper of equal rank to the trooper who is accused of misconduct appointed by the MSP Administrative Hearing Section Commander. Before serving as a member of a trial board, an individual will receive training on matters related to police procedures from the MPTSC.

.04 References

[MD. CODE ANN., PUB. SAFETY §3-101 ET SEQ.](#)

[MEMORANDUM OF AGREEMENT BETWEEN THE OFFICE OF ADMINISTRATIVE HEARINGS AND MARYLAND STATE POLICE](#)

.05 CALEA Standards

LE: 26.1.6

TA: N/A

CM: N/A

.06 Procedures

A. Cases Referred to a Trial Board

1. Cases are referred to a trial board when a trooper refuses to accept the discipline offered by the MSP as a result of:
 - a. an internal complaint (generally offered by the employee's commander); or
 - b. an external complaint involving a member of the public (recommended by the Administrative Charging Committee and offered by the Department Prosecutor).

B. Criminal Investigations

1. Generally, a trial board should not be convened for charges that relate to conduct which is also the subject of a criminal proceeding, until all criminal charges are disposed of.
2. The MSP retains discretion to make an exception to this general rule if it determines the best interests of the MSP would be adversely affected by the failure to hold a trial board.
3. The decision of the MSP to hold a trial board may not be the subject of a grievance.

C. Administrative Hearing Section Commander's Responsibilities

1. The Administrative Hearing Section Commander will:
 - a. coordinate and schedule all trial boards with the trooper's representative, the prosecutor and the trial board members;
 - b. at least 60 days, or in the case of unforeseen circumstances, as soon as possible, prior to the commencement of a trial board, contact the Maryland Office of Administrative Hearings to request an actively serving or retired administrative law judge to serve as the chairperson for the trial board. Included in this request will be the location of the trial board. In most situations this will be in the county where the alleged misconduct occurred;
 - c. request a civilian to serve on the trial board who is not a member of an Administrative Charging Committee or the MPTSC and who is appointed by the Police Accountability Board for the county where the alleged misconduct occurred;
 - d. appoint a trooper to serve on the trial board who is of equal rank to the accused trooper;
 - e. provide a copy of the Department's procedures for conducting a trial board ([PER 19.06](#)) to the Maryland Office of Administrative Hearings;
 - f. ensure the chairperson issues a Notification of Trial Board/Hearing to the prosecutor, trooper's representative, accused trooper, and board members;
 - g. ensure the chairperson issues subpoenas to witnesses listed on the prosecutor's and defense's MSP Form 184, Notification of Evidence/Document Receipt;
 - h. provide the chairperson with the first page of the MSP Form 181(s), Administrative Charging Document, for the trial board; and
 - i. ensure all trial board members have received training on matters related to police procedures from the MPTSC and are presented with Form 14-02, Trial Board Confidentiality Agreement, prior to the commencement of the trial board.

D. Pre-Trial Board Procedures

1. At least 30 days before a trial board proceeding begins, the Department Prosecutor will ensure the trooper is:
 - a. provided a copy of the investigatory record at no cost;
 - b. notified of the charges against them; and
 - c. notified of the disciplinary action being recommended.
2. The identity of confidential sources and non-exculpatory information may be excluded from the case file.
3. The trooper will complete a MSP Form 183B, Confidentiality Agreement, regarding the use and disclosure of information from the case file and forward it to the prosecutor.
4. No less than 15 days prior to a hearing the prosecutor and defense:
 - a. must exchange the names of all witnesses and a copy of all documents and any other evidence that will be presented in the trial board; and
 - b. will complete the MSP Form 184 and send a signed copy of the form to the Administrative Hearing Section Commander who will then forward it to the chairperson.
5. Failure of the prosecutor and/or defense to comply with section D-4, above, without good and substantial reason as determined by the chairperson, may result in postponement of the trial board.
6. The chairperson for the trial board will issue a Notification of Trial Board/Hearing to the appropriate recipients. The chairperson will also issue the subpoenas requested by the prosecution and defense.
7. Requests for postponements will be directed to the chairperson of the trial board and granted only for good cause as determined by the chairperson.
8. The deliberations of a trial board will be confidential. The chairperson will remind the other two board members of the requirement that deliberations remain confidential and that such confidentiality will not expire or be waived.
9. The Department's Victims' Right Advocate assigned to the Internal Affairs Division (IAD) will ensure that the complainant is notified in advance of a trial board and of their right to attend, except as provided in section E-3.

E. Conducting the Trial Board

1. Board members WILL NOT review the investigative case file, but may only review the information contained on the MSP Form 181(s) as provided by the Administrative Hearing Section Commander.
2. The actively serving or retired administrative law judge will:
 - a. be the chair of the trial board;
 - b. be responsible for ruling on all motions before the trial board; and
 - c. prepare the written decision of the trial board, including the findings, conclusions and recommendations of the trial board.
3. With the exception of Board deliberations, proceedings will be open to the public, except to protect a victim's identity; the personal privacy of an individual; a child witness; medical records; the identity of a confidential source; an investigative technique or procedure; or the life or physical safety of an individual.

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4. All weapons will be secured outside the hearing room.
5. Hearings will be recorded and a record kept any time the recording is stopped and restarted.
6. Items accepted into evidence will be marked for identification and retained as part of the record.
7. A trial board will administer oaths and may issue subpoenas as necessary to complete its work.
8. Brief opening statements by the prosecutor and the defense representative may be made.
9. The prosecutor will present its case-in-chief and bears the burden of proof by a preponderance of the evidence.
10. The defense may, but is not required to, present its case.
11. Each party has a right to cross-examine each witness who testifies for the other party.
12. Redirect and re-cross examination is limited to matters covered in a preceding examination.
13. The Board may question each witness.
14. Rebuttal evidence by both parties may be presented.
15. Closing arguments include a:
 - a. summation presented by the prosecutor;
 - b. summation presented by the defense; and
 - c. rebuttal if the prosecutor chooses to present one.
16. Following closing arguments, the trial board will deliberate to determine whether the trooper is guilty or not guilty to each charge. This determination will be made by a majority of the trial board members. Following deliberations, the chairperson will announce before the prosecutor and defense the decision of the Board.
17. The trial board will conclude if the Board finds the trooper not guilty on all charges placed against them.
18. If the chairperson announces a guilty finding for any charge placed against the trooper, the prosecutor will introduce to the Board the trooper's Concise Officer History and Personnel File. The prosecutor may also present any recommendation as to penalty, witnesses, or evidence for the Board's consideration prior to determining discipline.
19. The defense may then present to the Board any mitigating factors, witnesses, or evidence for the Board's consideration prior to determining discipline. Thereafter, the prosecutor may present rebuttal evidence.
20. The Board will again deliberate to determine the appropriate discipline using the Statewide Police Disciplinary Matrix at the conclusion of the trial board.

F. Post-Trial Board Procedures

1. Within 45 days after the final hearing by a trial board, the chairperson will issue a written decision reflecting the findings, conclusions and recommendations of a majority of the trial board. The Office of Administrative Hearings will provide a copy of the written decision to the prosecutor, trooper's representative, accused trooper, and the Administrative Hearing Section Commander who will provide it to the Superintendent's Chief of Staff.
2. At the time the chairperson issues the written decision, the Office of Administrative Hearings will provide the record of the trial board, including any evidence, to the Commander of the Administrative Hearing Section.
3. A trial board decision is final unless appealed by the trooper.

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4. Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the trooper to the Circuit Court for Anne Arundel County.
5. Document Distribution and Retention
 - a. The MSP Form 181, case file and all exhibits will be returned to the Administrative Hearing Section Commander and retained by the Administrative Hearing Section in accordance with [ADM 18.05](#).
 - b. Following the Department's receipt of the chairperson's written decision reflecting a guilty finding, the Administrative Hearing Section Commander will notify the Superintendent's Chief of Staff, the trooper's Bureau Chief, the IAD Commander; and the Human Resources Division to request a Personnel Order be issued.
 - c. For not guilty findings, the Administrative Hearing Section Commander will notify the Superintendent's Chief of Staff, the trooper's Bureau Chief, and the IAD Commander of the Board's decision.

G. Reimbursements

1. The MSP will reimburse the civilian who is appointed by the local Police Accountability Board. The reimbursement will be the same amount agreed upon for the civilian if they were serving as a civilian member for a trial board in their county of residence.
2. The MSP will reimburse the chairperson in accordance with the "Memorandum of Agreement between Office of Administrative Hearings and the Maryland State Police."
3. The Commander of the Administrative Hearings Section will coordinate and ensure payments are made to the chairperson and civilian board member as appropriate.

Approved:

Colonel Roland L. Butler, Jr.
Superintendent 03/14/2024