

## Emergency Suspension

### 1204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the suspension of an officer's police powers when deemed to be in the best interest of the public and the Department.

### 1204.2 POLICY

For members covered by the LEOBR, when a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may suspend the accused member with pay. A member charged with a felony may be suspended without pay (Md. Code PS § 3-112.)

When an officer's police powers are suspended for disciplinary reasons or when a suspension is lifted, the commander initiating the change in status will immediately notify the Deputy Chief of Police. The notification should include any officer safety or facility security issues.

A suspended member will not exercise police authority until those powers have been restored by the authority of the Chief of Police.

Probationary members are not entitled to a suspension review hearing except in the case of brutality.

### 1204.3 FORMS

- Form 24 Complaint Against Personnel
- Form 35 Order of Emergency Suspension of Police Powers
- Form 35A Emergency Suspension – Waiver of Hearing
- Form 47 Confidential Memorandum

### 1204.4 GENERAL PROVISIONS

A suspension may be imposed against a member by a supervisor or Commander, however whenever possible a supervisor should first consult with their Commander.

Whenever a member is suspended for physical or psychological reasons concerning the member's ability to perform the essential job functions or other administrative reason, a Form 35 will not be completed and the member, by law, is not entitled to an Emergency Suspension Hearing.

Suspended members will not have access to any area of the police facility not normally open to the public. Access to restricted areas of the facility must be approved by the shift supervisor and will require a continuous escort.

Members are required to continue to comply with all policies and lawful orders of a supervisor.

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Members may be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation and are required to remain available for contact at all times during such shift, and will report as ordered.

#### 1204.4.1 COMMANDER RESPONSIBILITIES

The suspending Commander will immediately notify the Deputy Chief who will obtain the concurrence of the Chief of Police, as soon as possible.

The suspending Commander will complete and serve a Form 35, Order of Emergency Suspension of Police Powers, to the suspended member and will advise the member:

- (a) Whether the suspension is with or without pay. Emergency suspension without pay may be imposed when the member has been charged with a felony.
- (b) When and where to appear for a suspension review hearing, unless waived.

The Commander will take and retain custody of the member's issued:

- (a) Firearm, magazines and ammunition.
- (b) Badges.
- (c) EPD Identification card.
- (d) Maryland Police Training Commission Certification Card, and
- (e) Department vehicle, if applicable.

The suspending Commander shall prepare a Form 24, documenting the circumstances of the suspension, including statements of witnesses, immediately following the order of suspension. Assistance may be requested from the Town Attorney. The Form 24, along with all related reports, will be forwarded to the Deputy Chief.

#### 1204.5 CONDUCT OF SUSPENSION REVIEW HEARING

The Deputy Chief, or in his absence, a commander designated by the Chief of Police, shall conduct the emergency suspension review hearing. The suspension review will be held at the EPD Administration building at 1300 hours on the first working day following the relief from duty, exclusive of weekends and holidays, unless otherwise directed by the Chief of Police. The date and time may be extended by mutual agreement of the Department and the suspended member.

Suspended members may waive the review hearing by completing and submitting a Form 35A, Emergency Suspension – Waiver of Hearing to his commander or the Deputy Chief.

Suspension hearings are not public in nature. Neither the general public nor the news media will be admitted to such hearings, unless called upon to testify in matters relating to the purpose of the hearing. Further, evidence presented at such suspension hearings will be confidential in nature.

The suspension review hearing is not a judicial proceeding, nor is it directed to findings of fact or law. The review will be limited in the scope necessary to determine if the continuation of the suspension is necessary to protect the public interest or the Department.

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The hearing will be recorded and the recording will be forwarded to the Internal Affairs Unit for retention and inclusion in the investigative reports of the case as warranted.

The hearing will be attended by:

- (a) Accused member.
- (b) Supervisor requesting the suspension.
- (c) Suspending Commander.
- (d) Suspension review officer.
- (e) Town Attorney (if desired).

A Department representative will:

- (a) Present reason(s) for the initial suspension.
- (b) Make recommendations concerning the member's leave status and temporary assignment during the period of suspension.
- (c) Recommend a final disposition on the suspension.

During a review hearing a suspended member may:

- (a) Be accompanied by counsel; only matters dealing with the determination of suspension will be heard.
- (b) Rebut the reason(s) for the initial suspension.
- (c) Present mitigating testimony.
- (d) Suggest alternatives to suspension.

#### 1204.5.1 SUSPENSION REVIEW HEARING OFFICER

Will be the final authority as to what testimony will be heard, relative to the purpose of the hearing. May at his discretion, request the assistance of the Legal Advisor of this Department at any hearing. When the acts alleged to have been committed by a suspended member are of such a serious nature that, in the judgment of the suspension review officer, the interests and welfare of the public, the Department, or the individual is best served by continued suspension, then the suspension review officer will so order.

Shall make one of the following recommendations, in writing, to the Chief of Police:

- (a) Suspension was not justified and the member should be returned to duty.
- (b) Suspension was justified, but the member should be returned to duty.
- (c) Suspension was justified and the member's suspension should continue.

Will advise the suspended member the suspension will continue pending the Chief of Police's decision and the member will be notified of the decision in writing.

Will instruct a member suspended with pay, and not assigned to administrative duties to notify the Deputy Chief or his designee, Monday through Friday, excluding holidays, between 0900 and

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1000 hours and provide a telephone number or location where the suspended member can be contacted.

#### **1204.6 CHIEF OF POLICE**

Reviews, accepts, rejects or modifies the suspension review officer's recommendation.

Determines if the suspension is with or without pay.

Issues a personnel order containing the details of his decision.

Ensures the decision is promptly delivered to:

- (a) The suspending commander.
- (b) The member's commander.
- (c) The Deputy Chief of Police.
- (d) The suspended member.

#### **1204.7 REINSTATEMENT OF POLICE POWERS**

When a member's police powers have been suspended with or without pay and the allegations which led to the suspension are or appear to be moot, the Deputy Chief will consult with the Internal Affairs Unit for input on all relevant case information. If the Deputy Chief determines the member's police powers should be reinstated, the Deputy Chief will initiate a Form 47, Confidential Memorandum, to the Chief of Police making the recommendation. The Deputy Chief will further delineate the reasons that support the reinstatement. The Chief of Police will evaluate the request and make the decision accordingly.

The reinstatement procedure may be implemented either prior to or subsequent to the emergency suspension review hearing.

If the Chief of Police reinstates the member's police powers, the Deputy Chief will make the appropriate notifications.

#### **1204.8 SUSPENSION OF SECONDARY EMPLOYMENT**

Members who are suspended are not permitted to perform uniformed secondary employment during the suspension.

Members who are accused of committing violations of rules and regulations related to the secondary employment may have their secondary employment approval suspended by their Commander. Final disposition of the suspension will be decided through the disciplinary process.

Members who have their secondary employment suspended may request a suspension hearing. Those permitted at the hearing are:

- (a) Member having their secondary employment suspended and counsel (if desired).
- (b) Suspension Review Officer.

Suspension Review Officer:

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- (a) Shall be the Deputy Chief of Police or a commander designated by the Chief of Police.
- (b) May recommend the suspension of non-uniformed secondary employment be lifted.
- (c) Shall order continued suspension of uniformed secondary employment, when the acts alleged to have been committed are of such a serious nature that, in the judgment of the Suspension Review Officer, the interests of the Department would be best served.

The Chief of Police Chief may accept, reject, or modify the recommendations of the suspension review officer.

#### **1204.9 ADMINISTRATIVE LEAVE**

For employees not covered by the LEOBR, when a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave/emergency suspension. Any employee placed on administrative leave:

- 1. May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- 2. Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- 3. May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift and will report as ordered.