

**Chapter 12, CONCEALED PISTOL LICENSING REVIEW BOARD,
of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES**

CHAPTER 12 CONCEALED PISTOL LICENSING REVIEW BOARD

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1200 GENERAL PROVISIONS

- 1200.1 The purpose of this chapter is to implement Section 908 of the Firearms Regulations Control Act of 1975, effective January 6, 2015 (D.C. Act 20-564; 62 DCR 866 (January 23, 2015)), to establish review and hearing procedures for the Concealed Pistol Licensing Review Board (Board) created by the Act.
- 1200.2 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 1200.3 In any conflict between this chapter and any provision of the Act, the Act shall govern.
- 1200.4 [Reserved]
- 1200.5 The Board may, for good cause shown, waive any of the provisions of this chapter, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

1201 COMPUTATION OF TIME

- 1201.1 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included.
- 1201.2 The last day of the computed period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until 11:59 p.m. the end of the next day which is not a Saturday, Sunday, or legal holiday.
- 1201.3 When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation unless an applicable statute expressly provides otherwise.
- 1201.4 [Reserved]
- 1201.5 When an act is required or allowed to be done at or within a specified time, the Board may at any time, in its discretion and for good cause shown, do either of the following:
 - (a) With or without motion or notice, order the period enlarged, if a request for enlargement of time is made before the expiration of the period originally prescribed or as extended by a previous order; or
 - (b) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.
- 1201.7 When an act is required to be taken within a specified period of time after service on or the receipt of a notice, pleading, filing, and the notice, pleading or filing is

sent by United States Mail, commercial carrier, or District of Columbia interagency mail, the period of time within which the required act must be taken shall begin five (5) calendar days after the date such mailing is shown to have been sent. A party may provide proof that a document has been sent by postmark, proof of service or other evidence.

1202 REQUEST FOR APPEALS

1202.1 Within the time periods established by the Act, a person may file an appeal with the Board if the Chief of the Metropolitan Police Department (Chief) has:

- (a) Denied the person's application or renewal application for a license to carry a concealed pistol in the District pursuant to the Act; or
- (b) Issued a limitation or revocation of a license to carry a concealed pistol pursuant to the Act.

1202.2 (a) A request for appeal shall be submitted in writing to the Board within fifteen (15) days after the date on which the Chief served the notice of the final action from which the appeal is being requested.

- (b) A request for appeal may be filed by electronic mail to cplrb@dc.gov, or by hand delivery, U.S. Mail, or other delivery service to the address contained in the Chief's final action from which the appeal is being requested, provided that the request for appeal must be actually received by the Board within the fifteen (15) day time period in order to be considered timely filed.

- (c) Appellants are required to email appeal requests to cplrb@dc.gov during public emergencies and are strongly encouraged at all times to email such requests, even in the absence of a public emergency, to expedite processing of their appeals.

1202.3 The request for appeal need not follow any specific format, although blank forms may be created and made available by the Board. A completed appeal request, which should be emailed as a single .PDF document, must contain the following information:

- (a) A copy of the notice of the Chief's final action being appealed;
- (b) A copy of the firearms registration certificate for the pistol the appellant seeks to carry concealed;
- (c) A description of why the Chief's final action was in error;
- (d) A statement of the relief sought;
- (e) The appellant's full name, address, email address, and telephone numbers, as well as the same information for any attorney representing the appellant in the appeal; and,
- (f) All written materials that the appellant wishes the Board to consider at any

hearing.

- 1202.4 (a) Not later than fifteen (15) days after receiving a completed appeal request, the Board shall assign an appropriate number to the appeal request and shall forward the appeal request to the Chief with a notice requesting that the Chief provide to the Board the Chief's information concerning the final action that is the subject of the appeal ("Chief's information").
- (b) The Chief's information shall be provided to the Board within fifteen (15) days after service of the Board's notice and shall include an individualized assessment detailing the basis of, the reasons for, and the evidence supporting the Chief's adverse action, for example, detailing the appellant's criminal history records and their nexus to a determination of propensity for violence or instability, as applicable.
- 1202.4a After the Chief's information is received by the Board, the Chairperson of the Board shall:
- (a) Determine whether the appeal should be dismissed without a hearing pursuant to section 1227; or,
- (b) Assign a panel consisting of three (3) members of the Board ("Panel") to review the appeal and appoint from those three (3) members a presiding member ("Presiding Member") of the Panel or assign the appeal to a panel consisting of the full Board ("Panel"). Any decision by the Panel established by this subsection shall have the same force and effect as a decision of the full Board.
- 1202.5 Not later than thirty (30) days after receipt of the Chief's information, the Board shall meet for an initial hearing to determine the appropriate resolution, or method of resolution of the appeal.
- 1202.6 If the Board determines that, based upon the materials submitted by the appellant and the Chief, the matters in dispute are appropriate for summary disposition, the Board shall issue a notice of summary disposition and follow the procedures in § 1210.
- 1202.7 If the Board determines that, based upon the materials submitted by the appellant and the Chief, an evidentiary hearing is appropriate for the resolution of the appeal, then it shall issue a notice of hearing to the appellant and Chief as set forth in § 1203. The hearing shall be scheduled to take place on a date not less than thirty (30) or more than ninety (90) days from the date of the notice or on such date the parties mutually shall agree with consent of the Board.
- 1202.7a If the Board determines that, based upon the materials submitted by the appellant and the Chief, a stay order is appropriate for resolution of the appeal, then the Board shall follow the procedures in § 1211.
- 1202.8 (a) Notwithstanding Subsection 1202.2 and Sections 902(g) and 903(c) of the

Act (D.C. Official Code §§ 7-2509.02(g) and 7-2509.03(c)) (as authorized by the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor’s Order 2020-079, dated July 22, 2020, and any subsequent emergency, temporary, or permanent legislation or Mayor’s Order providing similar authority), the deadline for filing an appeal of the denial of an initial application shall be tolled during the public emergency and public health emergency declared pursuant to Mayor’s Orders 2020-45, dated March 11, 2020, and Mayor’s Order 2020-46, dated March 11, 2020, and any extensions thereof (collectively, the “emergency”), and during the ninety (90) days after the end of the emergency. The deadline for filing an appeal of the denial of a renewal application or an appeal of a limitation or revocation of a license shall not be tolled during the emergency.

- (b) The Board may, as practicable, proceed with appeals during the emergency.
- (c) During the emergency:
 - (1) No documents may be filed or submitted in person at the physical offices of the Board;
 - (2) Appellants of adverse actions, including the denial of an initial application, the denial of a renewal application, and a limitation or revocation of a license, must submit their filings to the Board via email at cplrb@dc.gov in order for the filings to be eligible for review during the emergency; and
 - (3) An appeal that is submitted by postal mail during the emergency shall not be considered filed with the Board until the day after the end of the emergency and will not be reviewed by the Board until after the end of the emergency; provided, that the Board may, in its sole discretion, review the filing before the day after the end of the emergency if the Board is in actual receipt of the filing (and such a filing may, in the Board’s sole discretion, be considered filed on the date the Board is in actual receipt).
- (d) As provided in § 1202.3, each appeal filed with the Board must include the information described in § 1202.3(a)-(f).

1203 NOTICE OF EVIDENTIARY HEARING

1203.1 A notice of hearing issued by the Board shall:

- (a) Provide the time, date, and location of the hearing;
- (a-1) Provide the names of the members of the Panel and identify the Presiding Member;
- (a-2) Include a copy of the Chief’s information, if applicable;

- (b)** Reference applicable statutes, rules, or regulations;
- (c)** State the matters in dispute;
- (d)** Advise the parties that they may be represented by counsel or other representative of their choosing;
- (e)** Advise the parties that they may present oral testimony through themselves, or witnesses and they may seek to have the attendance of a witness compelled by subpoena; provided, that the name of any witness to be presented by a party is submitted to the opposing party not less than ten (10) days prior to the date of the hearing;
- (f)** Advise the parties that they may present any relevant written or recorded statements made by the parties and any books, papers, documents, photographs, tangible objects, or other evidence which is in their possession for consideration by the Board; provided, that copies of such evidence is delivered to the opposing party not less than ten (10) days prior to the date of the hearing;
- (f-1)** Advise the parties that the Presiding Member may exclude witness testimony and/or any other evidentiary material that was not timely produced by the party who seeks to introduce it at the hearing.
- (g)** Advise the parties that any witness may be cross-examined by the opposing party or questioned by any member of the Board;
- (h)** Advise the parties that, pursuant to the Act, the burden of proof, the burden of production of evidence, and the burden of persuasion is on the appellant;
- (i)** Advise the parties that they may present rebuttal evidence within any limits established by the Presiding Member;
- (j)** Advise the parties that they may apply for the services of a qualified interpreter if they or a witness is deaf, hearing impaired, or cannot readily understand or communicate the spoken English language;
- (k)** Advise the appellant that failure to appear for the hearing may, absent good cause, result in the Board entering a dismissal of the appeal and sustaining the final action of the Chief;
- (l)** Advise the parties of the date, time, and location or manner of any pre-hearing conference; and,
- (m)** Advise the parties that, prior to the prehearing conference, if any, they may be ordered to submit joint stipulations of undisputed and/or disputed material facts, so as to narrow the issues to be addressed at the pre-hearing conference and evidentiary hearing, as well as to submit joint witness lists

and joint exhibits.

1204 APPEARANCES AND REPRESENTATION

1204.1 In a proceeding before the Board, any person or party may:

- (a) Appear on his or her own behalf; or
- (b) Be represented by any other person duly authorized in writing to do so.

1204.2 An authorization provided pursuant to § 1204.1(b) shall be in a manner prescribed by the Board, and shall state either that the individual is an attorney duly licensed to practice law in the District or, if not an attorney duly licensed to practice law in the District of Columbia, that the authorization includes the power of the agent or representative to bind the person in the matter before the Board. An attorney licensed to practice law by a jurisdiction within the United States may represent a person before the Board.

1205. SERVICE OF PAPERS

1205.1 Any paper required to be served upon a party shall be served upon him or her or upon the representative designated by him or her, or on any person otherwise designated by law to receive service of papers.

1205.2 When a party has appeared through an attorney or representative, service shall be made upon the attorney or representative of record.

1205.3 Service may be made by personal delivery, by mail, by email, or as otherwise authorized by law, although email always is the preferred method of service and is the required method during emergencies as described in subsection 1202.8.

1205.4 Service upon a party shall be completed as follows:

- (a) By personal delivery: Service by personal delivery shall be made by handing the paper to the party or a representative, leaving it at the party's or representative's place of business with an employee of suitable discretion, or leaving it at the party's residence with an adult who lives there. Service by personal delivery shall be deemed effected when the paper is handed to the party or representative, when the paper is left at the representative's place of business with such employee, or when left at the party's residence with such adult.;
- (b) By email: Service by email shall be made by sending an email to the party's email address or to the email address of the party's attorney or representative as listed on the written appearance submitted pursuant to § 1204 and shall be deemed effected at the time of electronic transmission;
- (c) By mail: Service may be made by postal mail through the United States Postal Service ("USPS") and shall be deemed effected on depositing the paper in a USPS mailbox, with a USPS mail carrier, or with a USPS

employee at a post office, if the mail is properly enveloped, stamped, and properly addressed; or

- (d) By Board-authorized method: Service may be made by any other method authorized by an order of the Board made in any proceeding and such service shall be deemed effected as prescribed in the order, or, in the absence of such prescription, upon actual receipt by the party or the party's representative.

1205.5 Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown for each document served.

1205.6 Proof of service may be made by filing with the Board any of the following:

- (a) A written acknowledgment of the party served or his or her attorney of record;
- (b) A certificate of the attorney of record if he or she has made the service; or
- (c) A certificate of the person making the service.

1205.7 For the purposes of this chapter, the phrase "filing with the Board," means the actual or electronic delivery to, and physical or electronic receipt by, the Board.

1205.8 All documents filed with the Board relating to an existing appeal request shall bear a caption which identifies the appellant, the Board's case or reference number, and the title of the pleading or document.

1205.9 All documents filed with the Board shall be printed on letter-sized paper using a font no smaller than twelve (12) point.

1205.10 The Board strongly encourages appellants to file and serve appeals by email which will streamline and expedite the appeal process. If an appeal is filed with the Board by email, service upon the filing party may thereafter be made by email in all filings for that appeal, even if the email address of the filing party or his or her attorney was not listed on the written appearance submitted pursuant to § 1204. The party is responsible for ensuring that the Board has an accurate, up-to-date email address that is checked regularly. In the case of a public emergency declared pursuant to section 5 or 5a of the District of Columbia Public Emergency Act of 1980, effective October 7, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304 or 7-2304.01), that is in effect for over seven (7) days, the Board may serve orders and notices on a party by email, even if the party's email address was not listed on the written appearance submitted pursuant to § 1204, throughout the duration of the emergency and for a period equal to the duration of the emergency or ninety (90) calendar days, whichever is shorter, following the end of the public emergency. Each party is responsible for ensuring that the Board has an accurate, up-to-date email address that is checked regularly.

1206 RECORD OF MEETINGS AND HEARINGS

- 1206.1 All meetings of the Board, whether open or closed, shall be recorded by electronic means; provided, that if a recording is not feasible, detailed minutes of the meeting shall be kept.
- 1206.2 Changes in the official transcript may be made only when they involve errors affecting substance and upon the filing of a motion by a party to correct a transcript with the Board.
- 1206.3 Copies of any motion to correct a transcript shall be served simultaneously on all opposing parties or legal representatives.
- 1206.4 Objections to the motion to correct a transcript shall be filed with the Board within five (5) days and served upon the parties.
- 1206.5 The transcript may be changed by the Board at a public meeting to reflect any corrections.

1207 MEETING AND HEARINGS

- 1207.1 Hearings of the Board shall be scheduled as needed for the purpose of receiving evidence and testimony on specific matters.
- 1207.2 Meetings and hearings shall be held at the time and place the Presiding Member designates.
- 1207.3 The Presiding Member may conduct all or part of any prehearing conference or decision meeting by telephone, television, video conference, or other electronic means.
- 1207.4 An evidentiary hearing may be conducted by telephone, television, video conference, or other method only if:
- (a) All parties consent; or
 - (b) The Presiding Member finds that this method will not impair reliable determination of the credibility of testimony, and each party must be given an opportunity to attend, hear, and be heard at the proceeding as it occurs.
- 1207.5 A Board member attending a decision meeting may vote even if the member did not attend any or all of the prior meetings or hearings on a matter before the Board; provided that the Board member has read the transcript or listened to or viewed any available electronic recording of the prior meetings or hearings he or she did not attend and the Board member has reviewed the complete record.

1208 EVIDENCE

- 1208.1 Evidence shall be taken in conformity with Section 10(b) of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat.

1204; D.C. Official Code § 2-509(b) (2012 Repl.)).

- 1208.2 The Presiding Member may permit rebuttal evidence.
- 1208.3 Any party objecting to the admissibility of evidence shall state the grounds of the objection(s) relied upon.
- 1208.4 A party may place on the record a statement summarizing any evidence excluded by the Presiding Member.
- 1208.5 If excluded evidence consists of documentary evidence, a copy of the evidence shall be marked for identification and shall constitute the offer of proof.
- 1208.6 The Presiding Member, in his or her discretion, may receive into evidence certified copies of documents in place of the originals.
- 1208.7 If a party is offering materials contained in a book or larger document, that party shall plainly designate the relevant portions. The remaining material contained in that book or document shall be excluded.
- 1208.8 No document or other writing shall be accepted for the record after the close of the hearing, except with the consent of the Presiding Member after due notice to the opposing parties and only when the receipt of the document will not unfairly affect the interest of a party.
- 1208.9 Witnesses may be examined or cross-examined by each member of the Board, or any party or the party's representative.
- 1208.10 Reserved
- 1208.11 The Presiding Member may admit hearsay evidence during an evidentiary hearing if the Presiding Member determines it will be relevant and material to the resolution of any factual issue in dispute in the matter before the Board.

1209 PRE-HEARING CONFERENCES AND DISCOVERY

- 1209.1 Prior to any scheduled evidentiary hearing, the Presiding Member may require that the appellant and/or his or her attorney or representative appear for a pre-hearing conference with the Chief and/or the Chief's representative to consider the following:
- (a) Simplification of the issues;
 - (b) The necessity or desirability of amendments to the issues in dispute;
 - (c) The possibility of obtaining stipulations pursuant to section 1212, as applicable.
 - (d) Limitation of the number of witnesses;
 - (e) Other matters which may aid in the disposition of the appeal; and

- (f) Whether or not the use of any pre-hearing discovery is necessary to a fair adjudication of the appeal, what form the discovery may take, and any schedule for such discovery.

1209.2 The Presiding Member may issue a pre-hearing statement which recites the action taken at the conference, the amendments allowed to the issues in dispute, and the agreements made by the parties as to any of the matters considered which limit the issues for hearing to those issues not disposed of by admissions or agreements of counsel or parties.

1209.3 The Presiding Member may issue a pre-hearing order concerning the timing and manner of discovery and any pretrial motions or orders.

1210 SUMMARY DISPOSITION

1210.1 The Board may resolve an appeal through a summary disposition when the Board determines that the resolution of the appeal does not include a dispute concerning a material fact.

1210.2 If the Board determines that an appeal may be appropriate for summary disposition, the Board shall send a notice to the applicant that:

- (a) Provide the names Panel Members and identify the Presiding Member of the Panel;
- (a-1) Includes as an attachment a copy of the Chief's information, if applicable; and
- (b) Advises the appellant that he or she has fifteen (15) days from service t of the notice to submit any written response to the Board, and serve a copy on the Chief, concerning:
 - (1) The existence of any material facts in dispute that would require an evidentiary hearing; and why each such fact is material to the dispute; and/or,
 - (2) If there are no material facts in dispute, why the Chief's action is not rationally supportable and could not have been arrived at reasonably

1210.2a Within fifteen (15) days after receipt of appellant's written response, the Chief shall file with the Board, and serve a copy on the appellant, a written reply on the issue of the presence of a dispute of material fact, and any rebuttal argument concerning the Chief's exercise of discretion.

1210.3 After receipt of the Chief's reply, if any, the Board may in its discretion conduct an informal hearing at which the parties may appear and present oral argument on issues identified by the Board.

1210.4 After receipt of the Chief's reply and the conclusion of any, informal hearing, if

any, the Board shall meet and determine whether or not there is a dispute of material fact and, if they so find, issue a notice of an evidentiary hearing. If the Board determines there is not a dispute of material fact, then the Board shall issue a final decision to sustain the action of the Chief, reverse the action of the Chief, or modify the decision of the Chief, and also include in the decision the basis for its decision to proceed by summary disposition.

1210.5 [Reserved]

1210.6 Any final decision issued under this section shall apply the applicable burden of proof under Section 1218 and shall comply with the provisions governing final decisions under Section 1221.

1211 STAYS OF APPEALS

1211.1 (a) At any point in an appeal, if the Board determines that it is necessary or appropriate for resolution of the appeal, the Board may stay proceedings and submit any issue to the Chief or the appellant for the Chief or appellant's consideration, documentation, or explanation, or hold an informal hearing at which the parties may appear and present oral argument on the issues identified by the Board.

(b) If the Board issues an order to stay the proceedings based upon a determination described in § 1202.7 made at the initial hearing referred to in § 1202.5, the stay order shall advise appellant and the Chief of the names of the members of the Panel, identify the Presiding Member, and provide as an attachment the Chief's information, if applicable;

1211.2 The Chief or appellant ("responding party") shall have fifteen (15) days after receipt of any submission by the Board pursuant to § 1211.1 to file a response with the Board and serve a copy on the opposing party.

1211.3 Within fifteen (15) days after receipt of a response served by the responding party pursuant to § 1210.6 the opposing party shall file a reply with the Board and serve a copy on the responding party.

1211.4 After review of the filings by the Chief and the appellant the Board shall lift its stay and proceed with consideration of the appeal.

1212 STIPULATIONS

1212.1 The parties may stipulate in writing at any stage in the proceeding, or orally during the pre-hearing conference or evidentiary hearing, any relevant fact or the contents or authenticity of any document.

1212.2 Post-conference stipulations may be received as evidence.

1212.3 Parties may also stipulate the procedure to be followed in the proceeding and such stipulation may, on written or oral motion of all parties, be approved by the Presiding Member and govern the conduct of the proceeding.

1213 CONTINUANCES

1213.1 A hearing scheduled to be conducted before the Board shall not be delayed by a continuance unless a motion for the continuance is made not less than five (5) days before the scheduled hearing date.

1213.2 A continuance shall not be granted unless the motion for continuance, in the Board's opinion, sets forth good and sufficient cause for the continuance.

1213.3 Conflicting engagements of counsel or a party's representative, or absence of counsel or a party's representative, shall not be regarded as sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given. The employment of new counsel or a new representative shall not be regarded as sufficient cause for continuance unless a motion for continuance is filed promptly after the party becomes aware that the employment of the former counsel or representative will end.

1214 NONAPPEARANCE OF PARTIES AND DEFAULT

1214.1 The Presiding Member may wait a reasonable length of time for a party to appear before beginning a proceeding, including an informal hearing, a pre-hearing conference, or an evidentiary hearing. After a reasonable time, however, if a party who has received notice has not appeared, the Presiding Member may proceed as follows:

- (a) The Presiding Member may proceed with the hearing, obtain the testimony of those persons present, and, on the basis of the testimony and the record, the Board may issue a decision in the case;
- (b) The Presiding Member, for good cause, may postpone the hearing without taking testimony; or
- (c) In the case of the appellant failing to appear, the Presiding Member, with the concurrence of a majority of the members present, may dismiss the appeal and sustain the decision of the Chief.

1215 ASSIGNMENT OF BOARD MEMBERS TO HEARING PANELS

1215.1 Board members shall sit on hearing panels in such order and at such times as the Chairperson of the Board directs.

1215.2 In determining the composition of a hearing Panel, the Chairperson shall:

- (a) Comply with the requirements of Section 908(c) of the Act;
- (b) Assign the Board member designated by the Director of the Department of Behavioral Health, or the public member who qualifies as mental health professional, to any hearing panel at which an issue concerning the mental health of the appellant will be adjudicated; and

(c) Make hearing assignments in a manner that equitably divides the workload among the Board members.

1215.3 In the sole discretion of the Chairperson, a hearing may be assigned to the full Board.

1215.4 Any decision of a hearing Panel shall be the final decision of the Board with no right of any party to request consideration by the full Board; provided, a party may request reconsideration, rehearing, or re-argument before the Panel pursuant to Section 1222.

1216 INTERPRETERS

1216.1 The Board shall ascertain before the hearing whether an interpreter will be required, pursuant to the notice issued pursuant to Subsection 1203.1, and shall make appropriate arrangements if an interpreter is required.

1216.2 An oath or affirmation shall be administered to the interpreter orally or in writing.

1217 SPECIFIC RULES OF HEARING PROCEDURE

1217.1 A party may cross-examine any other party or person, except that the Presiding Member may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious.

1217.2 Witnesses shall be examined and cross-examined orally under oath or affirmation.

1217.3 The order of procedure at the hearing shall be as follows:

(a) Call to order and opening comments by the Presiding Member;

(b) Consideration of pending motions and procedural matters;

(d) The appellant's case;

(e) The Chief's case; and

(g) Any rebuttal offered by the appellant.

1217.4 In an evidentiary hearing, no decision or order of the Board shall be made except upon the exclusive record of the proceedings before the Board.

1218 BURDEN OF PROOF

1218.1 An appellant challenging an adverse action shall have the burden of production of evidence and the burden of persuasion in any appeal before the Board.

1218.2 The Board reviews disputed facts de novo. An appellant shall prove disputed material facts by a preponderance of the evidence. Preponderance of the evidence

shall mean the degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a disputed fact more probably true than untrue.

1218.3 The Board shall defer to the Chief's exercise of discretion in applying the statutory and regulatory standards for licensure, provided that it is rationally supportable and could have been arrived at reasonably and shall include an explanation in its decision as to why it has or has not upheld the Chief's determination under that standard.

1219 POST-HEARING PROCEDURES

1219.1 The record shall be closed at the end of the hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the Chairperson or Presiding Member.

1219.2 Prior to issuing the final decision, the Board may, on its own motion, reopen the record and require further hearing or briefing on designated issues before the Board.

1219.3 Notice of a further hearing along with a designation of issues shall be forwarded to any party who participated in the earlier proceedings, or his or her legal representative. Notice shall be given at least fourteen (14) days prior to the date set for further hearing.

1220 PROPOSED FINDINGS

1220.1 The Board may request parties to submit proposed findings of fact and conclusions of law for the consideration of the Board within the time the Presiding Member may direct.

1220.2 Copies of proposed findings and conclusions shall be served by each party upon the opposing party.

1221 FINAL DECISION

1221.1 Within ninety (90) days after the conclusion of an evidentiary hearing, the Board shall render its final decision in writing, setting forth findings of fact and conclusions of law and giving the reasons for its decision. The findings of fact shall be based upon the evidence adduced at the hearing along with any other evidence in the record.

1221.2 For appeals decided without an evidentiary hearing, the Board shall render its final decision in writing within ninety (90) days after the deadline for the receipt of the parties' directed responses pursuant to sections 1210 or 1211, if any, or the conclusion of any informal hearing, whichever comes later. The findings of fact shall be based upon the undisputed evidence in the record.

1221.3 [Reserved]

- 1221.4 [Reserved]
- 1221.5 The final decision shall sustain, reverse, or modify the Chief’s final action.
- 1221.6 The final decision shall include an instruction that the appellant or the Chief may pursue judicial review in the manner provided by the Act.
- 1221.7 The final decision shall be effective ten (10) days after service upon the parties, or on such other date as may be set forth in the decision.
- 1221.8 Any party may file a motion to stay a final decision pending appeal. A party filing a motion to stay may also move for an administrative stay of the effective date of a final order while the Board considers the motion to stay pending appeal.
- 1221.9 In determining whether to grant a stay of a final decision, the Board may consider the following factors: whether the party filing the motion is likely to succeed on the merits, whether denial of the stay will cause irreparable injury to the movant, whether and to what degree granting the stay will harm other parties; whether the public interest favors granting a stay; and any other factor the Board seems relevant.

1222 RECONSIDERATION

- 1222.1 A party may file a motion for reconsideration, rehearing, or re-argument of a final decision within ten (10) days after service of the decision upon the parties. The motion shall be served upon the opposing party.
- 1222.2 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.
- 1222.3 Within seven (7) days after a motion has been filed and served, an opposing party may file a response in opposition to or in support of the motion.
- 1222.4 Neither the filing nor the granting of the motion shall stay a decision unless the Board orders otherwise.
- 1222.5 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review, nor will it affect the deadline for judicial review.

1223 SUBPOENAS AND DISPOSITIONS

- 1223.1 The Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence.
- 1223.2 Each subpoena issued by the Board shall include the following:
- (a) The name of the respondent;

- (b) The title of the action;
- (c) A specification of the time allowed for compliance with the subpoena; and
- (d) A command to the person to whom it is directed:
 - (1) to attend and give testimony at a time and place specified in the subpoena; and/or
 - (2) to produce and permit inspection and copying of the books, papers, documents, or tangible things designated in the subpoena.

1223.3 Any party may, by a written motion, ask the Board to subpoena particular persons or evidence.

1223.4 A request for subpoena shall state the relevancy, materiality, and scope of the testimony or documentary evidence sought, including, as to documentary evidence, the identification of all documents desired and the facts to be proven by them in sufficient detail to indicate materiality and relevance.

1223.5 Any person to whom a subpoena is directed may, prior to the time specified in the subpoena for compliance, ask the Board to quash or modify the subpoena.

1223.6 Any application to quash a subpoena shall be accompanied by a brief statement of the reasons supporting the motion to quash.

1223.7 The Board may quash or modify the subpoena upon a showing of good cause.

1223.8 Upon written notice and for extraordinary circumstances, such as the need to preserve testimony or the need to obtain testimony from a non-resident witness or party, the Board may order testimony to be taken by deposition before any person who is designated by the Board to administer oaths. Such deposition may be conducted by video conference or other electronic means approved by the Board.

1224 SERVICE OF SUBPOENA OR NOTICE OF DISPOSITION

1224.1 A subpoena or notice of deposition may be served by any person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena or notice upon a person named therein shall be made by delivering a copy of the subpoena to the person and, if the person's attendance is commanded, by tendering to that person the fees for one (1) day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or the District of Columbia or an officer or agency thereof, fees and mileage need not be tendered.

1224.2 Witnesses are entitled to the same fees and mileage as witnesses in the Superior Court of the District of Columbia.

1224.3 Service of a subpoena or notice of deposition, and fees, to an individual may be

made by any of the following means:

- (a) Handing the subpoena or notice to the person;
- (b) Leaving the subpoena or notice at the person's District government office with the person in charge of the office;
- (c) Leaving the subpoena or notice at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing in that dwelling place or abode; or
- (d) Mailing the subpoena or notice by registered or certified mail to the person at the person's last known address.

1224.4 When the person to be served is not an individual, a copy of the subpoena or notice of the deposition and fees shall be delivered by one (1) of the following ways:

- (a) Handing the subpoena or notice to a registered agent for service;
- (b) Handing the subpoena or notice to any officer, director, or agent in charge of any office of that person; or
- (c) Mailing the subpoena or notice by registered or certified mail to the representative at his or her last known address.

1224.5 The individual serving a subpoena shall file with the Board a return of service setting forth the facts establishing proper service.

1224.6 The Board may, upon the failure by any person to obey a subpoena served upon that person, apply to the D.C. Superior Court for an order requiring the person to appear before the Board to give testimony, produce evidence, or both. If a person fails to obey the order without an adequate excuse, the Board may apply for an order that the person be held by the court for contempt.

1225 TRANSCRIPTS: CITATION AND COSTS

1225.1 All proceedings, except for settlement conferences, shall be recorded. The recording is the official record of what occurred at the proceeding.

1225.2 Any party may obtain a copy of the recording of a hearing at the party's expense.

1225.3 Transcripts of the recording of the proceedings shall be prepared by a qualified reporter or transcriber who shall personally certify that he or she is not a party or counsel to a party or otherwise related to or employed by a party or counsel in the case; that he or she has no material interest in the outcome of the case; and that the transcript represents the testimony and proceedings of the case as recorded.

1225.4 In filings, a party may only rely upon a transcript prepared according to this section.

1225.5 Unless otherwise stipulated by the parties or ordered by Board, if a party cites to a portion of a transcript, the entire transcript of the case must be filed with the Board, and a copy must be served on the opposing party.

1225.6 In any case in which a party files a petition for review in the District of Columbia Court of Appeals, the Board will arrange for the preparation and filing of a transcript without charge only if the Court of Appeals has permitted the petitioner to proceed in forma pauperis. In all other cases, the Board will arrange for preparation and filing of a transcript only after the Board receives payment for the cost of preparing the transcript.

1226 SUMMARY SUSPENSION PROCEEDINGS

1226.1 A person subject to a summary suspension or summary limitation of a license issued pursuant to the Act shall have the right to request a hearing to the Board, in the manner described in § 1202.3(a)-(f), within seventy-two (72) hours after service of notice of the summary suspension or limitation of the license on the Board. The request for a hearing must be submitted to the Board via email at cplrb@dc.gov.

1226.2 (a) The Board shall hold a hearing within seventy-two (72) hours after receipt of a timely request for hearing; provided, that if the request is filed during the emergency, as defined in § 1202.8(a), the Board may, notwithstanding Section 905(b) of the Act (D.C. Official Code § 7-2509.05(b)) (as authorized by the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor's Order 2020-079, dated July 22, 2020, and any subsequent emergency, temporary, or permanent legislation or Mayor's Order providing similar authority), hold the hearing up to twenty-one (21) days after the request is filed.

(b) The Board shall issue a written decision within seventy-two (72) hours after the conclusion of the hearing, which shall be effective on issuance, unless a different time of effectiveness is set forth in the decision; provided, that if the hearing is held during the emergency, as defined in § 1202.8(a), the Board may, notwithstanding Section 905(b) of the Act (D.C. Official Code § 7-2509.05(b)) (as authorized by the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor's Order 2020-079, dated July 22, 2020, and any subsequent emergency, temporary, or permanent legislation or Mayor's Order providing similar authority), issue the written decision up to seven (7) days after the conclusion of the hearing.

1226.3 The Board shall notify the Chief and the appellant of the date and location of the hearing as soon as practicable.

1226.4 The Chief shall have the burden of production and the burden of persuasion for the summary suspension.

1226.5 A summary evidentiary hearing shall be conducted in a manner that provides opportunity to the licensee to challenge the basis of the Chief's suspension action through the presentation of documentary evidence and testimony, as well as the ability to examine and cross-examine any witness.

1226.6 If the Board sustains the suspension, it shall issue a written decision setting forth its findings of facts and conclusions of law.

1226.7 Any decision of the Board to sustain a suspension shall be a final action for purposes of appeal.

1227 DISMISSALS AND REVERSALS

1227.1 Any appeal request filed with the Board that is untimely filed, or fails to include a copy of the Chief's final notice or a copy of the registration certificate for the pistol which the appellant seeks to carry concealed, may result in a dismissal.

1227.2 Any appeal request filed with the Board that involves the same or a similar matter currently pending in a criminal proceeding may be dismissed without prejudice. The appellant may resubmit his or her appeal within fifteen (15) days after the conclusion of the criminal proceeding.

1227.3 Any decision by the Chief to reverse an adverse action shall result in a dismissal by the Board. The Chief's reversal, properly served on appellant, shall not require a separate order by the Board before the Chief's reversal becomes effective.

1227.4 Any decision of the Board to dismiss an appeal, with or without prejudice, shall be a final action for purposes of appeal.

1299 DEFINITIONS

1299.1 For the purposes of this chapter, the term:

"Act " Title IX of the Firearms Regulations Control Act of 1975, effective January 6, 2015 (D.C. Act 20-564; 62 DCR 866 (January 23, 2015)) and any substantially similar emergency, temporary, or permanent versions of this legislation.

" Board " the Concealed Pistol Licensing Review Board created by the Act

"Chairperson" the Chairperson of the Board.

"Chief " the Chief of the Metropolitan Police Department or his or her designee.

"Legal holiday" a day designated a legal holiday by the President of the United States, the Mayor, or District or federal law.

"Presiding Member" the Board member presiding over a Panel, or the Chairperson when an appeal is assigned to the full Board.