

SAPOA COUNTER PROPOSAL 4-9-2021

ARTICLE 28 DISCIPLINARY ACTION

Section 9.

A. The arbitrator may not substitute his/her judgment for the judgment of the Chief on the disciplinary penalty chosen, except as provided in Subsection B.

B. The award of the Arbitrator shall state whether the Chief's original written statement and charges are supported by a preponderance of the evidence considering the reliable and probative evidence in the records as a whole. The arbitrator may:

1. Sustain the disciplinary penalty if s/he finds the original written statement and charges supported;

2. Overturn the disciplinary penalty if s/he finds the original written statement and charges unsupported;

3. Reduce the disciplinary penalty if s/he finds some of the original statement and charges unsupported; and

4. Reduce the disciplinary penalty if s/he finds (a) the penalty selected by the Chief constitutes disparate treatment as compared to past discipline of similarly situated officers, and (b) the Chief is unable to provide a reasonable explanation for the disparity in treatment.

C. This agreement authorizes an arbitrator to reduce as indefinite suspension to a period greater than 45-days.

The award of the Arbitrator shall state which particular factual charges he finds to be true, if any, and the particular rules he finds such conduct to have violated, if any. Where the charges are upheld, the award shall state whether the discipline imposed is upheld, or whether some lesser discipline is substituted. This agreement authorizes an arbitrator to reduce an indefinite suspension to a period greater than 45 days.