ARTICLE IX – DISCIPLINARY ACTION INITIATION FLOW CHART - POST

Signed Incident Report

NO → A signed Incident Report is required.

YES → The Post Commander will assign an individual or committee to complete an investigation/report.

Are there reasonable grounds to believe that an offense has been committed?

NO → Determination letter by Post Commander sent to the accuser.

YES → The signed Incident Report and Investigation results are presented to the Post membership for action. Did the Post pass a motion by 2/3 vote to initiate Disciplinary Action.

NO → Determination letter sent to the accused and the accuser.

YES → Initiating Officer (Post Commander) Completes Disciplinary Action Forms:

Special Order Initiating Disciplinary Action (DA-1)
Charges and Specifications (DA-2)
Request for Hearing (DA-6)

These forms along with a copy of the signed **Incident Report** and **Investigative Report** are sent to the Accused
Personally Delivered
or
Certified Mail/Return Receipt Requested.

Hearing Requested? (within 15 days of receipt)

NO → Initiating Officer (Post Commander) orders penalty with concurrence of a majority of Post membership.

YES → The accused is notified of penalty with right to appeal the severity of the sentence to the Department Commander.

***Certified Mail/Return Receipt Requested**

Incident Report, Investigative Report, DA-1, DA-2, DA-6, and Penalty Letter forwarded to Department Headquarters.

***Include Certified Mail Receipts**

YES → Request sent to Department Commander for the issuance of an Order Appointing a Disciplinary Hearing Panel. (DA-3)

(DA-3)
Appoints Panel Members.
Appoints Panel President.
Sets Date/Time/Location of Hearing.

Initiating Officer will be responsible for providing a Prosecutor & Recording Officer. The Accused may choose professional or lay counsel.

Panel President

The duties of the President shall commence upon the issuance of the Special Order. The President shall be acquainted with the hearing procedures, maintain order and give the necessary directions for the conduct of the proceedings. The President shall rule upon all questions concerning the admissibility of evidence, the competency of witnesses, continuances, adjournments, recesses, motions, challenges and orders, the propriety of any argument or statement of counsel and on any other matter deemed appropriate for the official and efficient conduct of the hearing. The president of the panel shall take notes or cause notes to be taken that summarize the substance of the testimony of the witnesses and exhibits, the arguments of counsel, the objections and rulings on matters brought to the attention of the panel and other matters of significance occurring in the course of the proceedings. The Panel President shall not discuss the merits of the case with members of the panel prior to the Hearing.

-Hearing-
Completion of
Findings & Sentencing (DA-4)
Record of Hearing of Disciplinary Action (DA-5)

Copy of Findings & Sentencing (DA-4) to the accused.

Appeal? (Accused may request Trial record.)

Assembly of Trial Record
Special Order Initiating Disciplinary Action (DA-1)
Charges and Specifications (DA-2)
Order Appointing a Disciplinary Hearing Panel (DA-3)
Findings & Sentencing (DA-4)
Record of Hearing of Disciplinary Action (DA-5)
Request for Hearing (DA-6)
The tape recording or videotape of the proceedings.
The President's notes of the proceedings.
Any exhibits admitted into evidence.
All Certified Mail Receipts or Notice of Delivery.

Record forwarded to Department Commander.

YES → Proper Appeal?
Within 30 days of imposition of penalty.
States the facts of the case based on the evidence introduced at the hearing.
Makes a clear and concise statement of the reason or reasons upon which the member claims the case was erroneously decided.
States the relief requested by the member.

NO → Department Commander‘s determination to member.

YES → The Department Commander will provide a copy of the written appeal to the prosecutor, who shall have fifteen (15) days from the receipt of the copy to make a written response directly to the Department Commander. The prosecutor will also mail a copy of their written response to the accused. The accused or their counsel shall then have ten (10) days from the date of such response to make a further written submission to the Department Commander. Once accomplished, the Department Commander shall decide the appeal and inform the accused and the Post Commander in writing as to their determination. The decision of the Department Commander is final unless within fifteen (15) days an appeal is made to the Commander-in-Chief. Such an appeal must be made in writing and mailed by registered or certified mail, return receipt requested, to the Commander-in-Chief at National Headquarters in Kansas City.

Department Commander‘s determination forwarded to Commander-in-Chief with package.
Appeal?

YES → Commander-in-Chief reviews appeal and handles in accordance with Article IX, section 904.
Appeal?

NO → Commander-in-Chief reviews package and issues penalty via Special Order (after 30 day suspense.)

YES → Appeal forwarded to the National Council of Administration-Committee on Appeals in accordance with Article IX, section 904.

NO → Case filed in accordance with National Document Retention Policy.

NO → Package forwarded to Commander-in-Chief with letter from Department Commander stating no appeal received.

Commander-in-Chief reviews package and issues penalty via Special Order.

YES → Department Commander will provide a copy of the written appeal to the Post Commander, who shall have fifteen (15) days from the receipt of the copy to make a written response directly to the Department Commander. The Post Commander will also mail a copy of their written response to the accused. The accused or their counsel shall then have ten (10) days from the date of such response to make a further written submission to the Department Commander. Once accomplished, the Department Commander shall decide the appeal and inform the accused and the Post Commander in writing as to their determination. The decision of the Department Commander is final unless within fifteen (15) days an appeal is made to the Commander-in-Chief.

NO → Proper Appeal?
Received within 30 days of ordered penalty.
Clear & Concise reason(s) case was erroneously decided
States Relief.

NO → Department Commander‘s determination to member.

Department Commander review & forwarded to the Commander-in-Chief.

Commander-in-Chief reviews package and issues penalty via Special Order.