

# CAPP 35-3

22 November 2019



## The CAP Guide To Membership Termination Appeal Hearings



**NATIONAL HEADQUARTERS, CIVIL AIR PATROL  
Maxwell Air Force Base, Alabama**



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## **How to Use This Guide.**

The Civil Air Patrol has developed this guide for use by CAP officers who have been appointed to serve as participant of a Civil Air Patrol Membership Termination Appeal Board. It is also designed to provide guidance to commanders at all levels, as well as to persons who are appealing their termination of membership from CAP.

On average, the instances when Membership Termination Appeal Boards are appointed are statistically very low. However, whenever the need for a formal Appeal Board arises, this pamphlet will give all personnel involved an excellent starting point to ensure that all requirements and procedures for appeals stated in CAPR 35-3, Membership Termination, are correctly fulfilled.



## **Chapter 1: Overview of CAP Membership Termination Process.**

As a starting point, it is beneficial to review and understand the key concepts of Civil Air Patrol membership.

**KEY CONCEPTS OF CAP MEMBERSHIP:** (1) Civil Air Patrol membership is a privilege and not a right. (2) All CAP memberships are on a year to year basis. (3) Membership renewal is not automatic nor is it guaranteed. (4) All members are required to comply with the CAP Constitution, Bylaws, Regulations, Policies, and the Orders of higher authority in order to maintain their CAP membership. (5) If at any time during the membership-year a commander determines continued membership to be averse to the best interest of CAP, the member concerned may be terminated prior to his or her membership expiration date.

The term *due process*, as applied in the context of CAP membership termination, refers to all the steps listed in CAP Regulations which establish the process for taking away a CAP membership. To comply with due process, every single step in this process must be followed to the letter.

Membership termination starts when a commander of an individual CAP member (referred to as an “Initiating Commander”) determines that the member has done something that falls under the criteria of CAPR 35-3 to warrant termination. Membership termination is the most severe sanction that can be given to a CAP member, so it should only be used in cases when no other form of disciplinary sanction is adequate.

**CADET TERMINATIONS BASIS:** § A, Para 3(a)(1)-(8). **Automatic:** Marriage after age 18; Military Enlistment (Except National Guard/ Reserve/ROTC/Service Academy); Failure to Pay a CAP Debt; Bad School Grades; Loss of Immigration Status; or Voluntary Resignation. Para 3(b) Failure to make satisfactory progress in the CAP Cadet Program; Para 3(c) Missing 3 meetings in a row without excuse. **Misconduct:** Para 3(d)(1)-(6) Conduct unbecoming CAP cadet; Making false statement about CAP; Serious/Willful violations of CAP policy/regs; Insubordination, **For Cause:** Para 3(e) Criminal conviction/Pattern of arrests.

**SENIOR TERMINATIONS BASIS:** § B, Para 4. **Automatic:** Nonrenewal, Resignation, Failure to meet initial membership qualifications, Failure to Pay a CAP Debt, Not Replying to an info request from NHQ. **For Cause:** Para 4(b)(1)-(11) Moral turpitude; Conduct unbecoming CAP Officer; Financial irresponsibility, Drunkenness, Making a false statement about CAP; Substandard duty performance over a period of time; Failure to obey rules, regulations, or orders; Insubordination, or any other conduct, action or incident which violates CAP Membership policy, *Etc.*

For reasons not involving misconduct or termination for cause, the unit commander will prepare a CAP Form 2B as outlined in CAPR 35-3, paragraph 6a. For reasons of misconduct or cause, the Initiating Commander sends a letter of notification to the member who is to be terminated. The letter is usually delivered by personal service to the individual or by US Mail, but there must be proof that the person received it. The body of the letter must be written to include certain elements to satisfy due process. Attachment 2 of CAPR 35-3 contains a sample Letter of Notification. At an Appeal Board, the Letter of Notification should be admitted into evidence as an exhibit.

Generally, when the basis is what the regulation refers to an “automatic” loss of membership, there is no right to an appeal. However, when the basis is for “cause” or “misconduct,” a Senior Member or Cadet will have the right to appeal.

A member who wants to exercise his or her right to appeal begins by notifying the Initiating Commander of their desire to appeal within 30 days of receiving the Letter of Notification. They must also send their appeal notice to the “Approving Authority,” who is usually the Commanding Officer in the Chain of Command over the Initiating Commander.

Once a timely request for appeal has been made, the Approving Authority selects a Chair and Board Members to hear the appeal. A sample Order Appointing a CAP Membership Termination Appeal Board is in Attachment 1.



## **Chapter 2: What is a CAP Membership Termination Appeal Board?**

CAP Membership Termination Appeal Boards consist of three or more impartial officer members, senior in grade to the Appellant. The Approving Authority also appoints a Board Chair from among the members who will preside at all board hearing. The Board Chair can appoint a CAP Representative at their discretion. The Appellant can have an assistant, provided that the Assistant is not a current or former CAP Legal Officer. None of the participants, including the CAP Representative or the Board Chair, must be a lawyer. The Board Chair can also appoint a Bailiff to assist the Appeal Board with such things as securing the hearing area and maintaining order at the hearing. All appointments must be in writing.

The sole function of the Appeal Board is to consider the relevant facts presented during an Appeal Hearing and make a written factual determination of whether the termination reasons stated by the Initiating Commander in the Letter of Notification are sustained by the evidence.

Appeal Boards have no legal powers. They are not a court of law and are not equivalent to military courts-martial. Appeal Boards cannot issue subpoenas or give orders to people, nor grant any specific relief. CAP has the responsibility to present sufficient evidence to warrant the termination.

The appellant should take this opportunity to present a defense, and he or she can choose to either appear in person before the Appeal Board, choose not to appear, or to appeal completely in writing. If the appeal is limited to written form, the live hearing process still needs to be conducted.

Appeal Boards are closed and are not open to the public or other CAP members. The hearing is designed to be informal; however, military customs and courtesies are to be observed. Both sides may call live witnesses in person, via telephone, or using video messenger, and witnesses are sworn in and are subject to cross questioning. Both sides can submit matters in writing.



### **Chapter 3: Conducting the Appeal Board Hearing.**

Once a terminated member has appealed and an order appointing an Appeal Board has been signed, a suitable location for the hearing should be selected.



Appeal Boards can meet for several hours and can sometimes extend into a second day, so the location chosen for the hearing should be comfortable and large enough to accommodate the Board members, the Appellant, a possible

CAP Representative, and a possible Appellant's Assistant. There should be a place where a witness can sit before the board to testify during the hearing.

Sometimes Appeal Board Hearings are held in conference rooms at places like squadron meeting locations or local hotels. You should also take into consideration where the Appeal Board participants live when deciding on the location of the hearing.

If you have a Bailiff, the Chair should instruct that individual on the best way to maintain order and security for the Board Hearing. Usually witnesses are staged outside of the closed board hearing and will not be allowed to enter until called to testify. A Bailiff can be assigned the process of monitoring the waiting area of the witnesses.

Boards should have access to refreshments, wi-fi and if needed a photo copier/printer. There is no requirement to make a verbatim recording of the board's hearing, but if any recording is made, a copy of the proceedings must be made available to all parties at no cost.

The Chair will set the uniform of the day for all participants. Because the Appellant is suspended from CAP pending appeal, he or she should be advised to wear suitable civilian attire.

The typical order of board hearings is as follows:

**(A) Each side makes an opening statement.** An opening statement is a brief summary of what each side expects the evidence will be during the hearing. Opening statements are not arguments. An opening statement is not required, and both sides may waive their opening statement.

**(B) The CAP presents written evidence and calls witnesses, followed by cross examination.** The CAP has the burden of proof, so it presents its case first. Typically, the CAP Representative places the Letter of Notification and the Board Appointment Order into evidence first, followed by any reports or written statements. After this, the CAP may call witnesses and conduct direct questioning. The witnesses must appear voluntarily and is not subject to being ordered or subpoenaed to appear. Witnesses can appear in person, telephonically, or via video conferencing. After a witness is questioned by the CAP Representative, the Appellant has the right to cross examine each witness. The scope of Cross Examination is limited to only the issues and topics that the witness testified to under direct questioning. Each Board member is also allowed to ask their own questions of each witness.

**(C) The Appellant presents written evidence and can call witnesses.** The Appellant has no burden, but they may call their witnesses and present testimony supportive of their case via direct questioning. After each of the Appellant's witnesses has been presented, they may be cross-examined by the CAP Representative. Each Board Member is also allowed to ask their own questions of each witness.

**(D) The CAP presents brief rebuttal.** Rebuttal is a form of evidence that is presented to contradict or nullify other evidence that has been presented by the other side.

**(E) Closing arguments by each side.** A closing argument is a speech made after all the evidence has been presented that reviews and summarizes all the evidence, and convincingly explains each side's position in the case.

**(F) The Board meets in private session and votes on findings.** The deliberations of the Appeal Board are secret. Members vote on the result. If the vote is not unanimous, the dissenting members should produce a written report outlining their decision to dissent.

During the hearing, the Board Chair will make rulings when asked by either party, on relevancy, materiality, and admissibility of the evidence. Any party having an objection will so state their objection in a timely and respectful manner.

**CONCEPTS OF EVIDENCE:** The Chair has an important duty to rule on evidence when asked to do so. Since no legal background or experience is required to serve as a Chair, it can be helpful to understand some basic concepts of evidence:

- **RELEVANT EVIDENCE** is evidence presented by a party while this Board is in session that has any tendency to make a fact important to the issues now before this Board more probable or less probable than it would be without the evidence.
- **EVIDENCE IS MATERIAL** if it is significant, influential, or informative, especially to the extent of determining a cause or affecting a judgment.
- **ADMISSIBILITY OF EVIDENCE** is defined as whether the evidence can be or should be considered by the Board Members at all. Generally, all evidence that is relevant and material is also admissible in a Board Hearing. However, sometimes a piece of evidence may be relevant and admissible, but may not be reliable or authentic, so its admissibility could be denied.



## **Chapter 4: Appeal Board Hearing After Action.**

After the hearing is over, the Board Chair writes a written report summarizing the evidence presented by both sides and stating the conclusions and findings of the Appeal Board. This report is submitted to the Approving Authority for action.

Action by the Approving Authority is normally due within 10 days after the Board's report has been received and the Appellant will be notified once the Approving Authority acts by appropriate letter. If the Appeal Board recommends retention, that recommendation is binding on the Approving Authority, and no termination will result.

If the Appeal Board recommends termination, then the Approving Authority can either approve the original termination or can decide to override the Board and retain the Appellant. If the Approving Authority retains the Appellant, the suspension is lifted, and the member can resume CAP activities. The CAP cannot appeal.

If the Approving Authority sustains the termination, he or she will notify the appellant, the initiating commander and CAP/DP of his/her decision. The initiating commander will then complete a CAP Form 2b and forward a copy of the appellant and CAP/DP. The appellant may then seek review by the Membership Action Review Panel as outlined in CAPR 35-8.



## **Conclusion.**

The CAP Membership Termination process is an important tool, but it is time consuming and detailed process that should not be undertaken without reading and understanding the applicable regulations and this pamphlet.

Often, the circumstances surrounding a membership termination can cause emotional stress for the participants in an Appeal Board. CAP remains a volunteer organization, and if you have been appointed to serve on an Appeal Board and do not feel that you can be successful, you should ask for reassignment. Service on an Appeal Board is not for everyone.

On the other hand, these procedures are not new, and they have been correctly and fairly applied in many cases. Service on an Appeal Board is an important duty which can be satisfying. Commanders at all levels greatly value the time it takes to serve as a Board participant, regardless of what the Board may decide.

# Attachment 1:

## Sample Order Appointing a CAP Membership Termination Appeal Boards



HEADQUARTERS WASHINGTON WING  
UNITED STATES AIR FORCE AUXILIARY  
POST OFFICE BOX 4459  
JOINT BASE LEWIS-McCHORD, WA 98438-0459

PERSONNEL ACTION )  
NUMBER WA 19-8 )

30 October 2019

The following individuals are hereby appointed to serve as the Washington Wing Appeal Board for the membership termination of Captain John D. Smith, CAPID 543210. AUTHORITY: CAPR 35-3, paragraph 8.

Lt Col Billy Mitchell	Board Chairperson
Major Jimmy Doolittle	Board Member
Major Amelia Earhart	Board Member
1 <sup>st</sup> Lt Eddie Rickenbacker	CAP Representative

Additionally, CMSgt Glen Curry is hereby appointed to serve as the Bailiff to assist the Board throughout these proceedings.

FOR THE COMMANDER,

*Carl A. Spaatz*

CARL A. SPAATZ, Maj, CAP  
Wing Personnel Officer

DISTRIBUTION:

1 - Each Individual Concerned  
1 - Each Squadron Concerned  
1 - Each Group Concerned



## **Attachment 2: PROCEDURAL GUIDE FOR CAP MEMBERSHIP TERMINATION APPEAL BOARDS**

**BC=** BOARD CHAIRPERSON

**CR=** CIVIL AIR PATROL REPRESENTATIVE

**AP=** APPELLANT (OR APPELLANT'S ASSISTANT IF PRESENT)

**WT=** WITNESS

*The words in italics are notes only and should not be read aloud.*

The [bracketed content] indicates information that should be added into the wording by the reader.

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### **PART I: Preliminary Matters Before the Board**

**BC=** This Board will come to order.

**CR=** This Civil Air Patrol Membership Appeal Board is hereby convened at \_\_\_\_\_ hours on \_\_\_\_\_ [date] in accordance with Civil Air Patrol Regulation 35-3, Section D, paragraph 9, and pursuant to [Personnel Action] [Special Order] Number \_\_\_\_\_, which was signed and dated on \_\_\_\_\_, [and as amended by [Personnel Action] [Special Order]] \_\_\_\_\_, dated \_\_\_\_\_,] Headquarters \_\_\_\_\_ [Wing][Region] CAP. The appointing order and any amendments thereto have been marked as Exhibit A, and it is requested that the Board Chairperson admit Exhibit A as a matter for the record.

**BC=** The order shall be entered into the record as Board Exhibit A.

**CR=** This Appeal Board has been convened at the request of [Mr.][Ms.] [Name] \_\_\_\_\_, formerly [state their former rank], who is the Appellant in this matter, and who was a CAP member assigned to \_\_\_\_\_ [unit name].

**CR=** The Appellant has been notified for termination of [his][her] membership from the Civil Air Patrol by \_\_\_\_\_ [rank and name] who is the Commander of \_\_\_\_\_ [unit name] where the Appellant was assigned. In accordance with Paragraph 9(a)(1), this officer is the Initiating Commander who is making this nomination, and it has duly forwarded to the Board for action along with a written Summary of Circumstances which have prompted the Appellant's membership termination. The signed and served Notification Letter and the Initiating Commander's Summary Statement have been marked as Exhibit B, and it is requested that the Chairperson admit Exhibit B as a matter for the record.

BC= The Notification Letter and the Initiating Commander's Summary Statement shall be entered into the record as Exhibit B.

CR= The following persons detailed to this Board are present:

[Rank and Name]\_\_\_\_\_, Appeal Board Chairperson

[Rank and Name]\_\_\_\_\_, Appeal Board Member

[Rank and Name]\_\_\_\_\_, Appeal Board Member

CR= I am [Rank and Name]\_\_\_\_\_, and I will be the Civil Air Patrol Representative for this Membership Termination Appeal Board. I was appointed by the Chairperson and have been detailed by [name and rank]\_\_\_\_\_, the Approving Official.

BC= Good [morning][afternoon]. My name is [Rank and Name]\_\_\_\_\_ and I have been appointed as the Chairperson of this Membership Termination Appeal Board.

BC= (*To Appellant*) [Mr.][ Ms.] [name]\_\_\_\_\_, you have requested that we undertake this Appeal process in order to review the Initiating Commander's determination that a basis exists to terminate your membership from Civil Air Patrol. In making this determination, the members of the Appeal Board will consider all relevant facts presented in this hearing and will make written findings as to whether or not the basis for termination stated by the Initiating Commander are sustained by the evidence.

(If either a Bailiff or Recorder are employed, read the following, otherwise skip ahead to the next LANDING POINT\*\*\*)

BC= (*Read only if a Bailiff has been appointed.*) In addition to these officers and parties, I have also appointed [Rank and Name]\_\_\_\_\_ as the Bailiff who shall provide assistance to the Board members and the parties as required.

BC= (*Read only if a Recorder has been appointed.*) I have appointed [Rank and Name]\_\_\_\_\_ to act as the official recorder of the Board, whose duty it shall be to [keep the minutes][make a recording] of these proceedings and to organize and safeguard the Board's exhibits.

BC= (Read only if a Bailiff and/or a Recorder has been appointed.) The [Bailiff][and the][Recorder] [is/are] ex-officially part of the Board and play[s] no role in determining the outcome of this Board.

(**\*\*\*Landing point from previous skip, follow script below ...**)

BC= (To Appellant) [Mr./Ms. and Name] \_\_\_\_\_, you have the right to have an assistant to aid you in these proceedings. The person who you may select need not be an attorney and cannot be a CAP Legal Officer. They must appear here willingly and at no expense to the Civil Air Patrol. [Mr./Ms. and Name] \_\_\_\_\_, do you anyone here to serve as your assistant?

AP= [Mister/Madam] Chairman, with me here today is [Rank or Title and Name] \_\_\_\_\_ and I want [him/her] to assist me. - OR - [Mister/Madam] Chairman, I wish to proceed without an assistant.

(If an Appellant's Assistant is present, read the following, otherwise skip ahead to the **LANDING POINT\*\*\***)

BC= (To Appellant's Assistant) [Rank or Title and Name] \_\_\_\_\_, do you accept the responsibility for acting in these proceedings as the Assistant for [Mr./Ms.][Appellant's Name] \_\_\_\_\_?

AP= Yes, I do.

BC= (To Appellant's Assistant) [AP's Assistant's Rank or Title and Name] \_\_\_\_\_, you will be permitted to remain as the assistant for the appellant in this matter.

(**\*\*\*Landing point from previous skip, follow script below ...**)

BC= I will now explain the procedures we will use when conducting this Appeal Board. As the Board's Chairperson, it is my duty to fairly and judiciously conduct these proceedings according to the requirements of CAPP 35-3. I am the presiding officer of this Appeals Board. I am not a judge, and this is not a courtroom, however, I will ensure that the appropriate level of military decorum is exercised at all times. I will also ensure that both parties are given a full, fair, and impartial hearing, the sole objective of which is to determine the truth of the matters alleged against the Appellant as a basis for membership termination.

BC= These proceedings are not open to the public. Only the members of the Board, the Civil Air Patrol Representative, the Initiating Commander, and the Appellant [and the Appellant's Assistant] are permitted address the

Appeals Board while the hearing is being conducted. Anyone who is present to appear as a witness and must exit the hearing room before the opening statements are made. Witnesses will be invited back into the hearing room [by the Bailiff] when they are needed to testify and [they will leave] [are free to remain] once their testimony is concluded.

**BC=** The following is the format that I will follow in conducting this Membership Termination Appeal Board. First, the CAP Representative may make an opening statement to summarize what facts and issues [he][she] intends to present. Next, the appellant may similarly [through their Assistant] make an opening statement. In the alternative, either side may waive their opening statements. Thereafter, the CAP Representative will be given an opportunity to present evidence, call witnesses, or submit written documents. If a witness is called to submit live testimony, they will be placed under oath, and once they testify, the cross examination of that witness will be permitted by the opposing party. Once the CAP Representative has concluded the presentation of evidence and has rested the CAP's case, the Appellant may also then [through his Appellant's Assistant] present evidence, call witnesses, or submit written documents. The Appellant [himself][herself] may testify in person or may elect to not testify at all. If the Appellant elects to testify, [he][she] will be placed under oath and will also be subject to cross-examination by the CAP

Representative. The Appellant can also submit a written statement. Once the Appellant has concluded [his][her] case, I will entertain brief and limited rebuttal evidence, after which each party may make a summation argument before the Board.

**BC=** Before offering testimony, each witness will be administered an oath. As the Appellate Board Chairman, I will administer all oaths in these proceedings. This Board does not have the ability to subpoena evidence or witnesses. All witness offering testimony to this Board must appear here in person [or telephonically] [or via video conference], voluntarily, and at their own expense.

**BC=** Since all matters presented in these proceedings are for the consideration of the Board, the individual members of the Board are permitted and are generally encouraged to ask questions of any witness or party. To keep this process orderly, I do ask that any Board member who has a question to please raise their hand or to otherwise indicate to me that they have a question.

**BC=** As I have already stated, I will permit both the Appellant and the Civil Air Patrol Representative to present relevant evidence. There are no rules of evidence in these proceedings and the requirements of the Federal and State Rules of Evidence do not apply here. Evidence may be submitted in a written form or it may be given orally in the form of sworn testimony. There is no requirement that evidence be of any particular kind or submitted in any particular form; however, evidence presented no matter what form it may take, must be relevant and material.

**BC=** Relevant evidence is evidence presented by a party while this Board is in session that has any tendency to make a fact important to the issues now before this Board more probable or less probable than it would be without the evidence. Evidence is material if it is significant, influential, or informative, especially to the extent of determining a cause or affecting a judgment. Admissibility is whether or not the evidence can be or should be considered by the Board Members at all.

**BC=** Some evidence can be relevant and material, but it may ultimately be unsuitable for admission to the Board because it is not authentic or it is unverified, questionable, or has been forged, faked, or is unreliable. Also, sometimes admissibility of a piece of evidence may be denied because it is unfair to one of the parties to allow its consideration.

**BC=** As the Presiding Officer, I alone will be the final authority on what constitutes relevant, material, and admissible evidence before this Appeal Board. If a party feels that the other party's proposed evidence is not admissible or relevant to an issue before this Board, he or she shall fully and in a timely fashion, state their objection when the evidence is offered. I will consider the basis for the objection and will use my common sense and logical judgment to decide whether that piece of evidence is admissible or not. Only that evidence which I deem to be admissible will be considered by the Board.

**BC=** The Board members are free to give whatever weight to the admissible evidence that they deem warranted in their individual judgments. For example, a particular piece of evidence may be relevant, and thus it is admissible, and the Board will consider it. However, that same piece of evidence although relevant and admissible may not be believable or could possibly be subject to questions about its reliability. In this manner, it will be for the Board members to decide how persuaded or convinced they are when they begin their deliberations after the Board has closed.

**BC=** As I have already announced, both parties may call and question witnesses, and likewise, both parties may cross examine each-other's witnesses. You are advised that cross-examination must be limited to asking questions about issues or facts which were raised during the initial questioning of the witness. Exceeding the scope of cross-examination will not be permitted, and I will hear and rule on any objections made in that regard.

**BC=** Do either the CAP Representative or the Appellant [or Appellant's Assistant] have any questions? Does any member of the Appeal Board have any questions?

**BC=** At this time, we will take our [morning][afternoon] recess. We will reconvene at (time) \_\_\_\_\_ hours. We are at recess.

*(After the Recess...)*

**PART II: Presentation of Evidence & Argument**

BC= The Board will come to order.

BC= *(To the CAP Representative)*, [Rank and Name], \_\_\_\_you may make your opening statement on behalf of the Civil Air Patrol.

*(CAP Representative makes opening statement.)*

BC= *(To the Appellant or the Appellant's Assistant/Counsel)*, [Rank or Title and Name], \_\_\_\_\_you may make your opening statement on behalf of yourself [the Appellant].

BC= *(To the CAP Representative)*, [Rank and Name], \_\_\_\_\_, you may proceed with your case.

*(NOTE: At this point, the CAP Representative may call witnesses or present written documentation to support the CAP's case. The calling of witnesses may be carried out as follows)*

CR= *(To the Chairperson)* [Mister][Madam] Chairperson, the CAP calls as it's witness, [Rank or title and Name]\_\_\_\_\_.

*(NOTE: If a bailiff is appointed, he or she shall locate the witness and invite them to come into the place where the hearing is being conducted.)*

BC = *(To the Witness)* [Sir][Ma'am], please raise your right hand. Do you [swear][affirm] that in the matter now in hearing, you shall tell the truth, the whole truth, and nothing but the truth?

Witness= Yes, I do.

CR= Please state your name, rank, and unit of assignment for the record.

*(NOTE: If live witnesses are called by the CAP Representative, the Appellant or his or her Assistant/Counsel shall be permitted to cross-examine the witness. Cross-examination cannot exceed the scope of the matters or issues inquired upon during the initial examination. Members of the Board may ask questions as they deem appropriate but should remain neutral and avoid advocating for one side or the other.)(NOTE: At the conclusion of the CAP's case, the CAP Representative will announce to the Board that his/her case is rested as follows:)*

CR= *(To the Chairperson)* [Mister][Madam] Chairperson, at this time, the CAP rests it's case.

BC= (*To the Appellant or the Assistant for the Appellant*) [Rank or Title and Name], \_\_\_\_\_ you may now proceed with your case.

AP= (*To the Chairperson*) [Mister][Madam] Chairperson, the Appellant calls as it's witness, [rank or title and name]\_\_\_\_\_.

*(NOTE: At this point, the Chairperson will administer the oath to the witness as follows:)*

BC= (*To the Witness*) [Sir][Ma'am], please raise your right hand. Do you [swear][affirm] that in the matter now in hearing, you shall tell the truth, the whole truth, and nothing but the truth?

Witness= Yes, I do.

BC= Please state your name, rank, and unit of assignment for the record. (*Witness replies*). (*To the Appellant*) Your witness.

*(NOTE: The Chair administers oaths and preliminary questions each successive witness, including the Appellant, if the Appellant testifies.)*

*(NOTE: At the conclusion of the Appellant's case, the Appellant or Appellant's Assistant will announce to the Board that his or her case is rested as follows:)*

AP= (*To the Chairperson*) [Mister][Madam] Chairperson, at this time, the Appellant rests [our][my] case.

BC= (*To the CAP Representative*) [Rank and Name]\_\_\_\_\_, do you have any rebuttal matters that you wish to present?

CR= [Yes][No]

*(NOTE: Rebuttal in the Appeals Board should be limited to addressing only the issues raised by the opposing side. The parties cannot use rebuttal to present additional evidence which should have been presented in their primary case. The Chairperson is advised to inquire of each side and determine if what the party seeking a rebuttal opportunity truly qualifies as rebuttal.)*

BC= (*If the matter sought meets the requirements for prima facie rebuttal, then the Chairperson will say:*) You may proceed.

*(The Civil Air Patrol Representative then offers brief rebuttal to address the issue raised by the Appellant's case.)*

BC= *(If the issues are not within the scope of rebuttal, then the Chairperson should say:)* The issues you seek to present are not within the scope of rebuttal. I will therefore not permit any rebuttal.

BC= We have now come to the part of the Appeals Board process where each side will be permitted to address the Board and offer its summation of evidence in this case.

BC= *(If time limits are imposed:)* [I will permit each side no more than\_\_minutes per side in making their own summation.] Since the Civil Air Patrol, through its appointed representative, has the burden of establishing that the reasons for termination are sustained by the evidence, the Civil Air Patrol Representative will be allowed to make [his][her] presentation first. After this summation has concluded, the Appellant will be permitted to make [his][her] closing presentation [through the Appellant's Assistant]. The Civil Air Patrol Representative will then be permitted to make one final rebuttal summation. After these summations are concluded, the Board will then close for deliberations.

*(NOTE: A party may waive their closing argument, however, this is rarely done.)*

BC= *(To the CAP Representative)* [Rank and Name] \_\_\_\_\_, does the Civil Air Patrol wish to present any summation arguments at this time?

CR=[Yes] [No]

BC= *(To the Appellant or Appellant's Assistant)* [Rank or Title and Name], \_\_\_\_\_, does the Appellant wish to present any summation arguments at this time?

AP=[Yes] [No]

### **Part III: Closing of the Board and Deliberations.**

BC= This Appellate Board has now received all of the admissible evidence presented by both sides and will shortly enter closed session deliberations to discuss the evidence and make our final determinations. In accordance with CAP Regulation 35-5, Section D, paragraph 9(e), the Appeals Board will make findings and recommendations to the [Name of the State or Region] Commander. These findings will address whether or not the termination of the appellants' membership in the Civil Air Patrol should be affirmed or reversed.

**BC=** If a majority of the Board members vote for reversal, the appellant will be retained as a member of the Civil Air Patrol. However, if a majority of the Board vote to affirm the termination, the Board will then forward that recommendation to the next higher echelon of the initiating Commander who will then make his/her decision to either retain or terminate the Appellant's CAP Membership.

**BC=** This concludes the Appeal hearing in the matter of the termination of [Rank and Name of the Appellant] \_\_\_\_\_. The parties and those who have appeared as witnesses are commended for their efforts and participation in these proceedings. All personnel are excused [dismissed].

**BC=** The Board is now closed for deliberations.

