



# BOARD OF ETHICS

## Code of Ethics and Conduct Complaint Pre-Hearing Conference Training

Office of the City Attorney  
January 5, 2023

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## ROLE OF THE CHAIR

### Hearing Panel Pre-Hearing Conference

1. Chair of the Hearing Panel shall preside over the pre-hearing conference and hearing [RMC 2.78.080(C) – Hearing Procedures]
2. Chair will call the meeting to order
  - a. Address Item 1 - Public Comment on the published agenda
  - b. After public comment, announce Item 2 on the published agenda.
3. Ask complainant and respondent identify themselves



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## ROLE OF THE CHAIR

### 4. First matter for the Hearing Panel to address:

A. Chair asks City Clerk to confirm by yes or no to each that all complaint procedures have been followed:

1. Name, address, telephone number, and email address, if available, of complainant
2. Name and position of the public official against whom the complaint is made
3. Date of alleged violation
4. Date the complainant became aware of the alleged violation
5. Specific provision(s) of the Prohibited Conduct section of this chapter alleged to be violated
6. Description of the specific facts of the alleged violation(s)
7. The names, addresses, telephone numbers and email addresses, if known, of each person the complainant intends to call as a witness at the hearing
8. Copies of any and all documents, photographs, recordings or other tangible materials to be introduced and considered at the hearing
9. Signed under penalty of perjury of the laws of the State of California
10. Filed within 180 calendar days of discovery of the alleged violation of this chapter, but no more than three years from the date of the alleged violation<sup>3</sup>



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## ROLE OF THE CHAIR

B. Chair will ask the Hearing Panel to discuss whether:

(yes or no): \_\_\_\_ The complaint is against a public official subject to the Code.

C. Chair will ask the Hearing Panel to discuss whether:

(yes or no): \_\_\_\_ The complaint alleges a violation of one or more prohibited conduct sections of the Code;

D. Chair will ask the Hearing Panel to discuss whether:

(yes or no): \_\_\_\_ The complaint does not restate allegations of violations that were the subject of a previous complaint



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## ROLE OF THE CHAIR

### Chair to call for the following motions:

1. Call for a motion to determine if the complaint does or does not comply with all these requirements.

[Motion, second to the motion and a vote]

2. If a majority of the hearing panel finds the complaint does not comply with all of the requirements, the Chair shall state the findings of deficiency on the record and shall call for a motion of the hearing panel to dismiss the complaint without a hearing.

[Motion, second to the motion and a vote]

If motion carries, the Hearing Panel shall instruct the City Clerk to prepare a Statement of Findings for the Hearing Panel to adopt at the next regular meeting of the Board of Ethics [RMC Section 2.78.080(E)(2)]

**NOTE: If the Hearing Panel determines that the complaint does comply, the pre-hearing conference then continues.**



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## ROLE OF THE CHAIR

5. Second matter for the Hearing Panel to address:

A. The Code requires the Hearing Panel to facilitate settlement discussions:

1. Chair will ask the parties if there is a desire by the parties to settle the matter
2. If so, Chair will ask how or what is the proposal, etc.

6. Third matter for the Hearing Panel to address:

A. Chair will ask the Hearing Panel to review the submitted evidence and determine if any evidence is irrelevant and should be deemed inadmissible.

B. Hearing panel will review and have a discussion of the evidence

C. Chair will ask "Does any member wish to make a motion to exclude any evidence as irrelevant and inadmissible."

[Motion, second to the motion and a vote]



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## ROLE OF THE CHAIR

### 7. Fourth matter for the Hearing Panel to address:

A. Chair: "The Hearing Panel will now consider whether complainant has shown that the evidence, if taken as true, more likely than not shows a potential violation of prohibited conduct of the Code of Ethics."

B. Chair: "I will now read Section 7 L and M of the Board of Ethics Hearing Rules: The Complainant now has 10 minutes to verbally present to the Hearing Panel any and all evidence, both tangible and testimonial, that the complainant intends to use at the hearing to prove a violation of the Prohibited Conduct section of the Code of Ethics. This presentation is for the complainant to convince the Hearing Panel that the complaint has merit and that a formal hearing is necessary. The complainant shall summarize any witness testimony the complainant intends to introduce at the hearing and explain how that testimony tends to prove a violation of the Prohibited Conduct section of the Code of Ethics. In addition, the complainant shall explain to the Hearing Panel how the tangible evidence tends to prove a violation of the Prohibited Conduct section of the Code of Ethics."



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## ROLE OF THE CHAIR

**The Hearing Panel is to assume that all representations of evidence by the complainant are true for the limited purpose of determining whether the complainant has shown that it is more likely than not that a violation of the Prohibited Conduct section of the Code of Ethics has occurred.**

After the presentation by the Complainant, the Chair will call for public comment.

[Complainant does not get to comment on their own presentation]

If virtual meeting, the Chair will ask the City Clerk to announce the phone #/meeting ID for phone-in public comment and wait to see if there are any calls. Ask for public comments from those attending in person.



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## ROLE OF THE CHAIR

C. Chair: "I will now ask the Hearing Panel to discuss whether the complainant has shown that the evidence, if taken as true, more likely than not shows that there may be a potential violation of the prohibited conduct section of the Code of Ethics."

D. Chair: "I will now ask for a motion determining that the complainant has shown that the evidence, if taken as true, more likely than not shows that there may be a potential violation of the prohibited conduct section of the Code of Ethics."

[Motion, second to the motion and a vote]



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## ROLE OF THE CHAIR

E. If after the vote, the Panel determines that the complainant **has failed** to show that it is more likely than not that there may be a potential violation of prohibited conduct, **THEN** the Chair shall instruct the City Clerk to prepare a statement of findings for the hearing panel to adopt at the next regular meeting of the Board of Ethics.

**Chair:** "The Hearing Panel has determined, by majority vote that the complainant has failed to show that it is more likely than not that there may be a potential violation of prohibited conduct. I now instruct the City Clerk to prepare a statement of findings for the Hearing Panel to adopt at the next regular meeting of the Board of Ethics."



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## ROLE OF THE CHAIR

F. If after the vote, the Hearing Panel determines that the complainant **has shown** that it is more likely than not that there may be a potential violation of prohibited conduct, **THEN** discuss the following:

i. If applicable, does the Hearing Panel have to issue subpoenas

**Chair:** "Does the Hearing Panel wish to issue any subpoenas?"

ii. **Chair:** "Does the Hearing Panel want to set limits for the parties at the future hearing on the complaint?"

iii. Adjourn the meeting



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## Questions



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