

BOARD OF ETHICS HEARING RULES AND PROCEDURES

Pursuant to Section 804 of the Charter of the City of Riverside (Charter), and pursuant to Section 2.78.080 of the Riverside Municipal Code (RMC), the Board of Ethics hereby adopts hearing rules and procedures for the conduct of hearings before a Hearing Panel of the Board of Ethics on complaints of violation of RMC Chapter 2.78, copies of which shall be kept on file in the Office of the City clerk, where they shall be made available for public inspection and posted on the City's website.

1. PURPOSE

The purpose of these rules and procedures is to establish a uniform set of guidelines to be followed in a hearing on a complaint alleging a violation of RMC Chapter 2.78. At the discretion of the Presiding Authority, and when warranted by good cause, deviation from these rules and procedures are permissible.

2. CONSISTENCY WITH RMC CHAPTER 2.78

These rules and procedures are to be interpreted consistent with the language set forth in RMC Chapter 2.78. In the event of a discrepancy or conflict between these rules and procedures and the language of RMC Chapter 2.78, the language of RMC Chapter 2.78 shall govern.

3. HEARING PANEL

A Hearing Panel shall be duly constituted from the members of the Board of Ethics pursuant to the procedures set forth in RMC Section 2.80.040.

4. DISQUALIFICATION

No member of the Board of Ethics who is either the complainant or the respondent in a complaint of a violation of RMC Chapter 2.78 shall sit as a member of a Hearing Panel considering such complaint and must recuse themselves from participating as a member of that Hearing Panel.

5. PRESIDING AUTHORITY

The Presiding Authority of a Hearing Panel shall be the Chair as determined pursuant to the procedures set forth in RMC Section 2.80.040.

6. ASSISTANCE OF LEGAL COUNSEL

Neither the complainant, nor the respondent shall be represented at the hearing by an attorney. Although an attorney may be present and consulted at the hearing, the attorney shall not address the Hearing Panel or participate in any aspect of the hearing.

7. PRE-HEARING DETERMINATIONS

- A. The Hearing Panel shall conduct a preliminary review of the complaint to determine if it complies with all of the requirements set forth in RMC Section 2.78.080 G;
- B. If a majority of the Hearing Panel determines that the complaint does not comply with all of the provisions of RMC Section 2.78.080 G, the Chair shall state the findings of deficiency on the record and shall call for a roll call vote of the Hearing Panel. If a majority of the Hearing Panel votes that the complaint complies with the requirements of RMC Section 2.78.080 G, then a hearing on the merits of the complaint shall go forward. If, however, a majority of the Hearing Panel determines that the complaint does not comply with all of the requirements of RMC Section 2.78.080 G, then the Chair shall state the findings of deficiency on the record and the complaint shall be dismissed without prejudice. (RMC Section 2.78.080 H).

8. CONTINUANCES

- A. Prior to the date set for the hearing, the City Clerk may grant one (1) continuance to each party upon a showing that either the party is unavailable to attend the hearing for good cause, or a witness identified in the complaint or reply is unavailable to attend the hearing.
- B. For good cause shown and upon a majority vote, the Hearing Panel may continue a hearing before the introduction of any evidence.

9. PRE-HEARING EXCHANGE OF EVIDENCE

- A. All evidence, including witness information, to be introduced by the complainant at the hearing must be filed with the complaint alleging a violation of RMC Chapter 2.78.
- B. All evidence, including witness information, to be introduced by the respondent at the hearing must be filed with the City Clerk's Office no later than twenty (20) calendar days prior to the date set for the hearing.

- C. No evidence, including witnesses, shall be allowed into evidence at the hearing except where a majority of the Hearing Panel finds by majority vote that the discovery of such evidence or witness came to the awareness of the proponent after the filing of the complaint or reply and that the proponent disclosed such evidence or witness information to the City Clerk as soon as practicable after becoming aware of the evidence or witness.

10. BURDEN OF PROOF

The complainant shall have the burden of proving by a preponderance of evidence a violation of RMC Section 2.78.060 by the respondent. Preponderance of evidence means evidence that is more convincing and, therefore, more probable in truth and accuracy.

11. INTRODUCTION OF EVIDENCE

- A. Technical rules of evidence do not apply. Any relevant evidence shall be admitted. The Hearing Panel shall be the sole determiners of the weight to be given to all admitted evidence. The Chair shall have the authority to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- B. Oral evidence shall be taken only under oath. The oath shall be administered by the City Clerk or their designee.
- C. Each party shall have these rights:
 - (1) To call and examine witnesses;
 - (2) To introduce tangible evidence;
 - (3) To cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination; and
 - (4) To impeach any witness regardless of which party first called the witness to testify.
- D. A party may re-direct and re-cross witnesses, subject only to the limitations imposed by the Chair.
- E. The Chair shall be the final decision maker concerning any objections raised by the parties.

12. CHRONOLOGY OF THE HEARING

- A. The Chair shall call the matter for hearing and asks the parties to identify themselves.
- B. The City Clerk, or their designee, shall administer the oath to all witnesses who will be offering testimony before the Hearing Panel. No testimony will be received by the Hearing Panel without the witness first having been administered the oath.
- A.C. Prior to opening statements, each party will have five (5) minutes to address any technical or procedural issues with the Chair. The Chair shall have the authority to determine these issues in any reasonable manner that does not conflict with these rules or Chapter 2.78. The Chair's decision on these issues shall be final.
- B.D. The parties shall have a maximum total of fifteen (15) minutes to make both their opening and closing statements. The parties shall have sole discretion as to how they apportion their time between their opening and closing statements.
- C.E. The complainant shall make their opening statement first. The respondent may then make their opening statement, or reserve making their opening statement until after the complainant concludes their case.
- D.F. The complainant shall present their case first.
- E.G. Upon the conclusion of the complainant's case, the respondent may make their opening statement, if reserved, and then shall present their case.
- F.H. After the initial presentation of evidence by both parties, the parties, beginning with the complainant, may introduce evidence in rebuttal. Such rebuttal evidence shall be limited to matters raised in the presentation of the complainant's or respondent's case, and no new matters may be raised.
- G.I. If the parties reserved time for a closing statement, each party may make a closing statement beginning with the complainant.
- H.J. Upon the conclusion of closing statements, if any, the Chair shall facilitate discussion and deliberations by the hearing Panel.
- K. The final decision of the Hearing Panel shall be made by a formal motion with a second and approved by a majority vote of the Hearing Panel.

13. WRITTEN STATEMENT OF FINDINGS AND DECISION

A Written Statement of Findings and Decision setting forth the final decision of the Hearing Panel shall be prepared and placed on the agenda for the next regularly scheduled meeting of the Board of Ethics that is at least fourteen (14) calendar days after the date of the final decision by the Hearing Panel for a vote by the members of that Hearing Panel only. Upon a majority vote by the members of the Hearing Panel, the Statement of Findings and Decision shall be the final decision of that Hearing Panel.

14. COMPLAINTS TO BE HEARD SEPARATELY

Complaints of violation of Chapter 2.78 against one (1) or more public officials named in the same or separate complaint forms shall be considered to be separate complaints against each public official. Each complaint shall be heard separately on its own merits against each public official before separately convened Hearing Panels of the Board of Ethics.

15. SUBPOENAS

Subpoenas may be issued by the Hearing Panel for the attendance of witnesses or the production of books, papers or documents where the Hearing Panel determines it necessary for a meaningful hearing or decision by four (4) or more affirmative votes.