



Board of Ethics

City of Arts & Innovation

TO: BOARD OF ETHICS

DATE: DECEMBER 1, 2022

**FROM: CITY CLERK'S OFFICE AND
CITY ATTORNEY'S OFFICE**

WARDS: ALL

ISSUE:

Review and consider the Inclusiveness, Community Engagement, and Governmental Processes Committee and Board of Ethics Ad Hoc Committee (Committee) recommended amendments to the Code of Ethics Sections 2.78 and 2.80 for final recommendations to be forwarded to the Inclusiveness, Community Engagement, and Governmental Processes Committee (ICGC) for its annual review of the effectiveness of the Code of Ethics as required by Section 2.78.110 of the Riverside Municipal Code.

RECOMMENDATIONS:

That the Board of Ethics:

1. Review the redlined RMC Chapters 2.78 and 2.80 attached as recommended by the Committee; and
2. Forward final recommendations to the ICGC for recommendation to the City Council.

BACKGROUND:

Riverside Municipal Code (RMC) Chapters 2.78 and 2.80 provide for an annual review of the Code of Ethics and Conduct (COE) by community members, Boards and Commissions, the ICGC, and the City Council.

On July 7, 2022, the ICGC requested a joint meeting with an Ad Hoc committee of Board of Ethics members to review the Codes' complaint process and procedures.

On August 4, 2022, the Board of Ethics conducted its annual review and formed an Ad Hoc Committee, comprised of Chair Stahovich and Members Foley, Huerta, and Newman as Alternate, to meet with ICGC.

On September 27 and November 3, 2022, the Committee reviewed Riverside Municipal Code Sections 2.78 and 2.80 focusing on the following areas:

1. Pre-hearing Conference
2. Hearing
3. Appeals
4. Sanctions
5. Miscellaneous

In conjunction with the areas listed above, the Committee collectively reviewed the recommendations of the last two years' annual reviews (2020 and 2021) including the City Council ordinance introduced on February 15, 2022, amending Chapter 2.78 of the Riverside Municipal Code as a result of COE review of 2021, and the Board of Ethics subsequent proposed changes to the Complaint Procedures regarding acceptance of amended complaints and affirming de novo hearings are to be heard by the same hearing panel to the extent possible.

DISCUSSION:

In summary of the Committee meeting discussions of September 27 and November 3, 2022, the Committee agreed upon the following recommendations which are reflected in the redlined Chapters 2.78 and 2.80 attached:

1. Pre-hearing Conference

- The pre-hearing conference is necessary to vet frivolous complaints and should not be eliminated
- Attorneys should not participate in the pre-hearing conference proceedings
- Establish more formality to settlement discussions as an off the record discussion, if needed. A suggestion for an informal settlement conference, not in front of the hearing panel.
- The Board of Ethics should review complaint for elements of sections allegedly violated and have an opportunity to ask questions at the pre-hearing conference
- The public official should have the option to speak at the pre-hearing conference
- The Riverside Municipal Code - Code of Ethics and Conduct pre-hearing conference and hearing procedures should be separated and Sections 2.78.080 (N) and 2.78.080(O) amended as outlined in the draft ordinance
- Any pre-hearing conference decision is not appealable
- The “pre-hearing conference” be renamed to the “pre-conference”
- One continuance may be granted by the Hearing Panel for extenuating circumstances

2. Hearing

- Section 2.78 and 2.80.040 amend to allow either the Board of Ethics or the Hearing Panel to seek outside counsel for hearings
- Add language regarding amendments to complaints as outlined in the draft ordinance
- Section 2.80.040 – Board of Ethics Duties and Powers remove subpoena power
- One continuance may be granted by the Hearing Panel for extenuating circumstances

3. Appeals

- The provision “automatically appealed” changed to “may be appealed”
- Parties must identify a clear error of law or an abuse of discretion as part of their appeal
- Hearing panel Chair or designee shall be present during City Council appeal proceedings to answer questions
- After determination of a violation and no appeal is filed, findings shall be adopted and referred to City Council to impose sanctions
- If there is a finding by the City Council of a clear error or an abuse of discretion by the hearing panel, a “de novo” hearing will be before the same hearing panel, with no pre-conference, and the hearing panel shall correct the error of law or abuse of discretion identified by the City Council.

4. Sanctions

- After determination of a violation and no appeal is filed, a report shall be referred to City Council to impose sanctions

5. Miscellaneous

- Complaints should be limited to City of Riverside residents and business owners unless prohibited conduct occurred outside City limits and complainant is a witness and complainant must identify specific statute violated under Section 2.78.070(M)
- Change Section 2.80.040 provision from “if a complaint concerns a City Council member” to “if a complaint is against a City Council member”
- Section 2.80.040 of Board of Ethics - add language to allow for smaller composition of a hearing panel if necessary. See suggested language providing that the panel size could be reduced to at least three.
- Section 2.78.090(l) - Replace “elected” with “public”

Note: The redlined Chapter 2.78 includes proposed sections separating the pre-hearing conference process from the hearing procedures. The recommendations are reflected in the redlined Chapters 2.78 and 2.80 attached.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Donesia Gause, City Clerk

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Redlined Chapters 2.78 and 2.80 with proposed revisions
2. RMC 2.78 Code of Ethics and Conduct Thresholds Chart