



City of Arts & Innovation

Inclusiveness, Community Engagement, and Governmental Processes Committee

TO: INCLUSIVENESS, COMMUNITY ENGAGEMENT, AND GOVERNMENTAL PROCESSES COMMITTEE **DATE: DECEMBER 7, 2022**

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

WARDS: ALL

SUBJECT: CODE OF ETHICS ANNUAL REVIEW

ISSUE:

Conduct the annual review of the effectiveness of the Code of Ethics and Conduct and consider the recommendations of the Board of Ethics following their review of the recommendations of the joint meeting of the Inclusiveness, Community Engagement, and Governmental Processes Committee (ICGC) and Board of Ethics Ad Hoc Committee (herein referred to as "Committee").

RECOMMENDATIONS:

That the Inclusiveness, Community Engagement, and Governmental Processes Committee:

1. Perform the annual review of the effectiveness of the Code of Ethics and Conduct as required by Section 2.78.110 of the Riverside Municipal Code (RMC);
2. Review the redlined RMC Chapters 2.78 and 2.80 attached as recommended by the Committee;
3. Consider recommendations from the Board of Ethics following their review of the recommendations of the Committee; and
4. Direct City Manager to forward final recommendations to the City Council.

BACKGROUND:

Riverside Municipal Code 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). This included the City Council ordinance introduced on February 15, 2022, amending Chapter 2.78 of the Riverside Municipal Code as a result of the 2021 COE review and the Board of Ethics subsequent proposed changes to the Complaint Procedures. These changes added the acceptance of amended complaints and affirmed that de novo hearings are to be heard by the same hearing panel to the extent possible.

DISCUSSION:

The Board of Ethics will meet on December 1, 2022 to review the recommendations of the Committee as outlined in the summary below and as reflected in the redlined Chapters 2.78 and 2.80 attached. The Board will forward final recommendations to ICGC for consideration.

In summary, during the Committee meeting discussions of September 27 and November 3, 2022, the Committee agreed upon the following recommendations:

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.
- The Board of Ethics Hearing Panel should review complaints 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.
- Any pre-hearing conference decision is not appealable.
- The “pre-hearing conference” be renamed as the “pre-conference.”
- One continuance may be granted by the Hearing Panel for extenuating circumstances.

2. Hearing

- Section 2.78 and 2.80.040 be amended to allow either the Board of Ethics or the Hearing Panel to seek outside counsel for hearings.
- Add language regarding amendments to complaints.

- Remove subpoena power from Section 2.80.040 – Board of Ethics Duties and Powers.
- 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.
- The hearing panel Chair or designee shall be present during City Council appeal proceedings to answer questions.
- If no appeal is filed after the determination of a violation, findings shall be adopted and referred to the 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 held 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

- If no appeal is filed after determination of a violation, 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 the prohibited conduct occurred outside City limits and the complainant is a witness to the misconduct. The complainant must identify the specific statute violated under Section 2.78.070(M).
- Change the 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.
- Section 2.78.090(I) - Replace “elected official” with “public official.”

Note: The redlined Chapter 2.78 includes proposed sections separating the pre-hearing conference process from the hearing procedures.

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