



Code of Ethics and Conduct Annual Review

**Inclusiveness, Community Engagement, and Governmental
Processes Committee and Board of Ethics Ad Hoc Committee
February 1, 2023**

Code of Ethics Review Recommendations

That the Inclusiveness, Community Engagement and Governmental Processes Committee and Board of Ethics Ad Hoc Committee:

1. Continue review of the Code of Ethics and consider additional amendments as identified by the City Council on the following slides; and
2. Direct staff to prepare any requested amendments to Riverside Municipal Code Chapters 2.78 – Code of Ethics and 2.80 – Board of Ethics.



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1. Mediation training and determine who is the facilitator in settlement discussions?

2.78.075 Pre-Conference Procedures.

3. The hearing panel shall facilitate settlement discussions between the parties. The settlement process can include, but is not limited to, the hearing panel taking a break during the pre-conference and allowing the complainant and the public official to confer privately to determine if a resolution can be reached. If the parties are unable to resolve their dispute, the pre-conference will then continue. Any proposed resolutions or offers of settlement that were not accepted will not be introduced as evidence nor considered as part of the formal ethics complaint.



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2. Add language clarifying presentations during the pre-conference and hearing proceedings are at the discretion of the parties to the complaint, not the hearing

2.78.075 Pre-Conference procedures.

4. The hearing panel shall review the submitted tangible evidence to determine if it is relevant to the issues raised in the complaint. If it is determined, by a majority vote, that any such evidence is irrelevant to the issues raised in the complaint, then such evidence will be deemed inadmissible at the hearing and shall be excluded.
5. The complainant ~~shall~~ may verbally present to the hearing panel any and all evidence, both tangible and testimonial, that will be presented at the hearing to prove the allegations in the complaint. The public official ~~may then verbally~~ will have the option or opportunity to present to the hearing panel any and all evidence, both tangible and testimonial, that will be presented at the hearing or address the evidence presented by the complainant, including 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 this chapter



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3. Setting of time limits and expediting the hearing proceedings.

2.78.075 Pre-Conference Procedures.

D.7. If it is determined by the hearing panel that it is more likely than not that there may be a potential violation of the prohibited conduct section of this chapter has occurred, then the City Clerk shall set a hearing date on the complaint within 20 City business days of the pre-conference. The hearing date shall be within 45 City business days following the pre-conference.

**Hearing Procedures state the public official shall file a reply no later than 20 calendar days prior to the hearing date.*

D.10. The hearing panel may set time limits for the parties to present their evidence at the hearing on the complaint.

**Additionally, Hearing Procedures allow each party maximum 15 minutes total for opening and closing statements apportioned at sole discretion of parties.*



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4. Use of attorneys by parties at the pre-conference and hearing

2.78.080 Hearing procedures.

- DB. The ~~pre-hearing conference and~~ hearing on the merits are not formal judicial proceedings. The technical rules of evidence do not apply.
- RQ. Neither the complainant, nor the public official against whom a complaint is filed pursuant to this chapter, 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.



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5. Appeals of the pre-conference decision should be allowed for instances of procedural errors, but not for substantive findings.

2.78.075 Pre-Conference procedures.

- D.11. No decision or ruling made by the hearing panel at the pre-conference is appealable to the City Council pursuant to the appeal procedures section of this chapter.



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6. Discussion as to whether City Council makes a final determination on an appeal of a De Novo Hearing.

2.78.090 Appeal procedures.

DE. The City Council shall review the record of the hearing to determine whether the hearing panel committed a clear error or an abuse of discretion based upon the record. The City Council may also question the complaining party, the public official or the chair or designee of the hearing panel. If no such finding is made by a majority of the City Council, then the City Council shall adopt the decision of the hearing panel as the findings of the City Council on appeal. If there is a finding by the City Council of a clear error or an abuse of discretion by the hearing panel, then that finding shall be clearly stated and the matter shall be referred back to the Board of Ethics for a *de novo* (new) re-hearing of the matter in light of the findings on appeal. The de novo hearing shall be conducted before the same hearing panel, but no pre-conference shall be held, and shall ~~correct~~ consider the clear error of law or abuse of discretion identified by the City Council when issuing its findings.



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7. Simplify the hearing process which includes a pre-conference and hearing, followed potentially by an appeal and de novo hearing briefly outlined below:

- A. **Pre-conference** by hearing panel within 45 City business days of the complaint being deemed complete by the City Clerk. No later than 30 calendar days before the pre-conference, the City Clerk must draw a hearing panel disqualifying members by Ward residency when complaint involves an elected official.
1. Hearing panel reviews complaint to determine if it complies.
 2. If so, hearing panel facilitates settlement discussion.
 3. If no settlement is reached, hearing panel reviews evidence for relevance and deems irrelevant evidence as inadmissible.
 4. Complainant presents evidence.
 5. Hearing panel determines if more likely than not that there may be a potential violation. If so, forwards complaint to a hearing.



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B. **Hearing** within 45 City business days of the pre-conference

1. The hearing is not a formal judicial proceeding. Technical rules of evidence do not apply.
2. Complainant presents evidence and has the burden of proof.
3. Public official presents second.
4. Parties may present rebuttal evidence.
5. Hearing panel deliberates and makes findings.



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- C. **Appeal** by either party must be filed within 10 City business days following the hearing.
1. The City Clerk shall place appeal on a City Council agenda within 30 City business days.
 2. The appeal shall consist of a transcript and tangible evidence and testimony considered at the hearing.
 3. The City Council shall review the record to determine whether hearing panel committed a clear error or abuse of discretion or adopt the findings of the hearing panel.
 4. If it is determined a clear error or abuse of discretion, City Council refers matter for de novo hearing
 5. If City Council adopts the findings of the hearing panel, the City Council may determine sanctions.



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- D. **De Novo Hearing** not defined in the procedures how soon the de novo hearing must take place, but the 45 City business days have been used as required for the pre-conference and hearing proceedings.
1. Shall be conducted by same hearing panel for a re-hearing of the matter in light of the findings by the City Council on appeal
 2. Complainant presents evidence and has the burden of proof.
 3. Public official presents second.
 4. Parties may present rebuttal evidence.
 5. Hearing panel shall consider the clear error of law or abuse of discretion when issuing its findings.



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Staff submits the following options for discussion:

1. Remove automatic disqualification based on residency.
2. Conduct Pre-Conference proceedings at a regular meeting of the Board of Ethics, not a hearing panel.
3. Eliminate facilitating settlement discussions from the pre-hearing conference.
4. Allow the City Clerk and the Board of Ethics Chair to reject, administratively, complaints which are not correctly filled out.



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