

Board of Ethics Standing Rules and Hearing Rules and Procedures Amendments by Ad Hoc Committee

**Board of Ethics
August 3, 2023**

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Standing Rules and Hearing Rules and Procedures Amendments

Edit #1 – Reordering of items in the document

- | | |
|------------------------------------------------|------------------------------------------------|
| 3. Hearing Panel | 3. Pre-Conference |
| 4. Disqualification | 4. Continuances |
| 5. Presiding Authority | 5. Hearing Exchange of Evidence |
| 6. Assistance of Legal Counsel | 6. Burden of Proof |
| 7. Pre-Hearing Conference | 7. Hearing Panel |
| 8. Continuances | 8. Disqualification |
| 9. Pre-Hearing Exchange of Evidence | 9. Presiding Authority |
| 10. Burden of Proof | 10. Assistance of Legal Counsel |
| 11. Introduction of Evidence | 11. Introduction of Evidence |
| 12. Chronology of Hearing | 12. Chronology of the Hearing |
| 13. Written Statement of Findings and Decision | 13. Written Statement of Findings and Decision |
| 14. Complaints to be Heard Separately | 14. Complaints to be Heard Separately |
| 15. Subpeonas | |

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Reference – BOE Standing Rules Pgs 1-8


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Standing Rules and Hearing Rules and Procedures Amendments

**Edit #2 – Renaming all instances of the words Hearing Panel to Board of Ethics for Pre-Conference items
Renaming all instances of Pre-Hearing Conference to Pre-Conference**

Before	After
<p>A. The Hearing Panel<u>Board of Ethics</u> shall conduct a pre-hearing conference within forty-five (45) City business days of the complaint being deemed complete by the City Clerk.</p>	<p>A. The Board of Ethics shall conduct a pre-conference within forty-five (45) City business days of the complaint being deemed complete by the City Clerk.</p>
<p>C. The pre-hearing-conference is not a formal judicial <u>proceeding</u> and the rules of evidence shall not apply.</p>	<p>C. The pre-conference is not a formal judicial proceeding and the rules of evidence shall not apply.</p>
<p>D. The Chair of the Hearing Panel<u>Board of Ethics</u> shall preside over the pre-hearing-conference.</p>	<p>D. The Chair of the Board of Ethics shall preside over the pre-conference.</p>



Reference – BOE Standing Rules Pgs 1-8
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Standing Rules and Hearing Rules and Procedures Amendments

Edit #3 – Section 3 of Document: Pre-Hearing Conference

Before	After
<p>B. The pre-hearing-conference shall be noticed as a special meeting of the Hearing Panel to occur on the same date and at the same time as a regular meeting of the Board of Ethics as part of their monthly agenda. The meeting will be convened by the Chair of the Hearing Panel<u>Board of Ethics</u> immediately upon the conclusion of the regular meeting of the Board of Ethics.</p>	<p>B. The pre-conference shall occur on the same date and at the same time as a regular meeting of the Board of Ethics as part of their monthly agenda. The meeting will be convened by the Chair of the Board of Ethics immediately upon the conclusion of the regular meeting of the Board of Ethics.</p>
<p>E. The pre-hearing-conference shall take place prior to athe hearing date enfor the complaint being set by the City Clerk.</p>	<p>E. The pre-conference shall take place prior to the hearing date for the complaint being set by the City Clerk.</p>
<p>G. The Hearing Panel<u>Board of Ethics</u> shall review the complaint to determine if it complies with all of the provision<u>provisions</u> of RMC 2.78.080-E<u>4075 D</u>.</p>	<p>G. The Board of Ethics shall review the complaint to determine if it complies with all of the provisions of RMC 2.78.075 D.</p>


Reference – Riverside Ordinance 7632 Section 2.78.075 Preconference Procedures Pg 6
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Standing Rules and Hearing Rules and Procedures Amendments

Edit #3 – Section 3 of Document: Pre-Hearing Conference (cont.)

Before

- H. If a majority of the ~~Hearing Panel~~Board of Ethics determines that the complaint does not comply with all of the provisions of RMC 2.78.080 ~~E-4070 D~~, the Chair shall state the findings of deficiency on the record and call for a vote of the ~~Hearing Panel~~Board of Ethics to dismiss the complaint without a formal hearing based upon those findings of deficiency. ~~A roll call vote of each member of the Board of Ethics shall be taken by the City Clerk.~~ The Chair shall then instruct the City Clerk to prepare a Statement of Findings for the ~~Hearing Panel~~Board of Ethics to adopt ~~the Statement of Findings~~ at the next regular meeting of the Board of Ethics.
- I. If a majority of the ~~Hearing Panel~~Board of Ethics determines that the complaint complies with ~~all of the~~provisions of RMC 2.78.080 ~~E-4070 D~~, then the pre-~~hearing~~conference shall continue.

After

- H. If a majority of the Board of Ethics determines that the complaint does not comply with all of the provisions of RMC 2.78.070 D, the Chair shall state the findings of deficiency on the record and call for a vote of the Board of Ethics to dismiss the complaint without a formal hearing based upon those findings of deficiency. A roll call vote of each member of the Board of Ethics shall be taken by the City Clerk. The Chair shall then instruct the City Clerk to prepare a Statement of Findings for the Board of Ethics to adopt at the next regular meeting of the Board of Ethics.
- I. If a majority of the Board of Ethics determines that the complaint complies with the provisions of RMC 2.78.070 D, then the pre-conference shall continue.



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Standing Rules and Hearing Rules and Procedures Amendments

Edit #3 – Section 3 of Document: Pre-Hearing Conference (cont.)

Before

- J. The ~~Hearing Panel~~Board of Ethics shall facilitate settlement discussions in private between the parties to determine if a resolution of the issues raised in the complaint can be settled without the need for a formal hearing. If the issues can be resolved among the parties, then upon completion of the terms of the settlement, the complaint shall be ~~dismissed by the complainant~~considered settled and no hearing will be scheduled. If the parties cannot resolve their dispute informally, the pre-~~hearing~~conference shall continue.
- K. The ~~Hearing Panel~~Board of Ethics shall review all submitted tangible evidence to determine if it is relevant to the issues raised in the complaint. If it is determined by a majority vote of the ~~Hearing Panel~~Board of Ethics that any evidence is irrelevant to issues raised in the complaint, then such evidence will be deemed inadmissible at the hearing and shall be excluded.

After

- J. The Board of Ethics shall facilitate settlement discussions in private between the parties to determine if a resolution of the issues raised in the complaint can be settled without the need for a formal hearing. If the issues can be resolved among the parties, then upon completion of the terms of the settlement, the complaint shall be considered settled and no hearing will be scheduled. If the parties cannot resolve their dispute informally, the pre-conference shall continue.
- K. The Board of Ethics shall review all submitted tangible evidence to determine if it is relevant to the issues raised in the complaint. If it is determined by a majority vote of the Board of Ethics that any evidence is irrelevant to issues raised in the complaint, then such evidence will be deemed inadmissible at the hearing and shall be excluded.



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Standing Rules and Hearing Rules and Procedures Amendments

Edit #3 – Section 3 of Document: Pre-Hearing Conference (cont.)

Before

- L. The complainant shall then ~~have ten (10) minutes to~~ verbally present to the ~~Hearing Panel~~Board of Ethics ~~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~~Board of Ethics 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~~Board of Ethics how the tangible evidence tends to prove a violation of the Prohibited Conduct section of the Code of Ethics.

- ~~M. Any member of the Board of Ethics may ask questions of either parties during the pre-conference.~~

After

- L. The complainant shall then verbally present to the Board of Ethics 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 Board of Ethics 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 Board of Ethics how the tangible evidence tends to prove a violation of the Prohibited Conduct section of the Code of Ethics.

- M. Any member of the Board of Ethics may ask questions of either parties during the pre-conference.



Reference – Riverside Ordinance 7632 Section 2.78.075 Preconference Procedures Pg 7

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Standing Rules and Hearing Rules and Procedures Amendments

Edit #3 – Section 3 of Document: Pre-Hearing Conference (cont.)

Before

- ~~Q.P.~~ If it is determined by a majority of the ~~Hearing Panel~~Board of Ethics that the complainant has failed to establish that it is more likely than not that there may be a potential violation of the Prohibited Conduct section of the Code of Ethics, the Chair shall instruct the City Clerk to Prepare a Statement of Findings ~~of the dismissal~~ for the ~~Hearing Panel~~Board of Ethics to adopt at the next regular meeting of the Board of Ethics.

- ~~P. The Hearing Panel may discuss and act upon any subpoenas the Hearing Panel determines, by a super majority vote, are necessary to be issued for a meaningful hearing or decision pursuant to RMC 2.80.040 A5 and B5.~~

- ~~R. Appeals shall only be allowed in accordance with RMC Section 2.78.090(A)~~

After

- P. If it is determined by a majority of the Board of Ethics that the complainant has failed to establish that it is more likely than not that there may be a potential violation of the Prohibited Conduct section of the Code of Ethics, the Chair shall instruct the City Clerk to Prepare a Statement of Findings of the dismissal for the Board of Ethics to adopt at the next regular meeting of the Board of Ethics.

- R. Appeals shall only be allowed in accordance with RMC Section 2.78.090(A)



Reference – Riverside Ordinance 7632 Section 2.78.075 Preconference Procedures Pg 6 and 7

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Standing Rules and Hearing Rules and Procedures Amendments

Edit #4 – Section 4 of Document: Continuances

Before

8.4. CONTINUANCES

- A. 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 pre-conference or hearing~~ due to illness or other reason acceptable by the Board of Ethics or City Clerk.
- B. ~~For good cause shown and upon a majority vote, the~~The Board of Ethics or Hearing Panel may ~~continue a hearing before the introduction of any evidence~~grant a continuance on their own motion.

After

4. CONTINUANCES

- A. The City Clerk may grant one (1) continuance to each party upon a showing that either the party is unavailable to attend the pre-conference or hearing due to illness or other reason acceptable by the Board of Ethics or City Clerk.
- B. The Board of Ethics or Hearing Panel may grant a continuance on their own motion.



Standing Rules and Hearing Rules and Procedures Amendments

Edit #5 – Section 5 of Document: Hearing Exchange of Evidence

Edit #6 – Section 7 of Document: Hearing Panel

Before

- C. No ~~new~~ 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.

7. 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(B)(3)(C).~~

After

- C. No new evidence, including witnesses, shall be allowed into evidence at the hearing except where 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.

7. 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(B)(3)(C).




Standing Rules and Hearing Rules and Procedures Amendments

Edit #7 – Section 8 of Document: Disqualification
 Edit #8 – Section 7 of Document: Presiding Authority

Before	After
<p><u>8. DISQUALIFICATION</u></p> <p>In accordance with RMC Section 2.80.040(B), 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 or Pre-Conference considering such a complaint and must recuse themselves from participating as a member of that Hearing Panel or Pre-Conference.</p> <p><u>9. PRESIDING AUTHORITY</u></p> <p>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(B). The Presiding Authority of a Pre-Conference shall be the Chair of the Board of Ethics as set forth in RMC Section 2.78.075(D)</p>	<p>8. DISQUALIFICATION</p> <p>In accordance with RMC Section 2.80.040(B), 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 or Pre-Conference considering such complaint and must recuse themselves from participating as a member of that Hearing Panel or Pre-Conference.]</p> <p>9. PRESIDING AUTHORITY</p> <p>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(B). The Presiding Authority of a Pre-Conference shall be the Chair of the Board of Ethics as set forth in RMC Section 2.78.075(D)</p>



Reference – Riverside Ordinance 7632 Section 2.80.040 Duties and Powers Pg 12 & 13
 Riverside Ordinance 7632 Section 2.78.075 Preconference Procedures Pg 6




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Standing Rules and Hearing Rules and Procedures Amendments

Edit #9 – Section 10 of Document: Assistance of Legal Counsel

Before	After
<p><u>10. ASSISTANCE OF LEGAL COUNSEL</u></p> <p><u>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 as set forth in RMC Section 2.78.080 (R).</u></p>	<p>10. ASSISTANCE OF LEGAL COUNSEL</p> <p>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 as set forth in RMC Section 2.78.080 (R).</p>



Reference – Riverside Ordinance 7632 Section 2.78.080 Hearing Procedures Pg 8



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Standing Rules and Hearing Rules and Procedures Amendments

Edit #10 – Section 12 of Document: Chronology of Hearing Section 13 of Document: Written Statement of Findings and Decision

Before

~~E. Any member of the Hearing Panel may ask questions of either parties or witnesses~~

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. ~~The statement of findings must be considered and approved by the Hearing Panel within 30 business days after the hearing conclusion in accordance with RMC Section 2.80.080(O).~~ 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.

After

E. Any member of the Hearing Panel may ask questions of either parties or witnesses

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. The statement of findings must be considered and approved by the Hearing Panel within 30 business days after the hearing conclusion in accordance with RMC Section 2.80.080(O). 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.



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Standing Rules and Hearing Rules and Procedures Amendments

Edit #11 – Section 15 of Document: Subpoenas

Before

~~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.~~

After



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Recommendation

That the Board of Ethics adopt the proposed amendments to the Standing Rules and the Hearing Rules and Procedure as proposed by the Ad Hoc Committee.



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