

**COMPLAINT**



# CODE OF ETHICS AND CONDUCT COMPLAINT

## QUEJA DEL CÓDIGO DE ÉTICA Y DE CONDUCTA

Riverside Municipal Code Chapter 2.78  
Código Municipal de Riverside Capítulo 2.78

A Public Document  
Un Documento Público

RECEIVED

**1. Person filing complaint / 1. Persona que presenta la queja**

Name: / Nombre: Ana Miramontes

Address: / Correo electrónico: 5564 Inner Circle Drive, Riverside, CA 92506

Phone: / Teléfono: 626-695-3834

**2. Official who committed alleged violation / 2. El Oficial (Funcionario) que cometió presunta violación**

Name: / Nombre: Gabriela Plascencia

Position: / Puesto: City Councilmember

**3. Date(s) of alleged violation:**

3. Fecha(s) de presunta violación:  
10/15/2020

**4. Date you became aware of alleged violation:**

4. Fecha en que se enteró de la presunta violación:  
10/15/2020

**Complaints shall be filed with the City Clerk within 180 calendar days of discovery of an alleged violation, but in no event later than three (3) years from the date of the alleged violation.**  
Las quejas deben presentarse ante la Secretaria Municipal dentro de los 180 días posteriores al descubrimiento de una presunta violación, pero en ningún caso después de tres años a partir de la fecha de la presunta violación.

**5. Specific Prohibited Conduct Section of Code of Ethics and Conduct allegedly violated:**

5. Sección específica de conducta prohibida del Código de Ética y Conducta presuntamente violada:

☐ **Use of Official Title or Position for Personal Gain Prohibited**

El uso del título o puesto oficial para beneficio personal es prohibido

☐ **Use or Divulgence of Confidential or Privileged Information Prohibited**

El uso o la divulgación de información confidencial o privilegiada es prohibido

☐ **Use of City Resources for Non-City Purposes Prohibited**

El uso de recursos de la ciudad para fines ajenos a la ciudad es prohibido

☐ **Advocacy of Private Interests of Third Parties in Certain Circumstances Prohibited**

La defensa de los intereses privados de terceros en determinadas circunstancias es prohibido

☐ **Endorsements for Compensation Prohibited**

Endosos por compensación es prohibido

☐ **Violation of Government Code Sections 87100 et seq., Prohibited (Conflict of Interest)**

Violación de las Secciones 87100 et seq., del Código de Gobierno, es prohibido (Conflicto de Intereses)

☐ **Certain Political Activity Prohibited (Coercion of City employees to participate in election activities)**

Ciertas actividades políticas son prohibidas (sugestionar empleados de la ciudad para participar en actividades electorales)

☐ **Display of Campaign Materials in or on City Vehicles Prohibited**

La exhibición de materiales de campaña en vehículos de la ciudad o sobre ellos es prohibido

☐ **Knowingly Assisting Another Public Official in Violating This Code of Ethics and Conduct Prohibited**

Ayudar deliberadamente a otro funcionario público a violar este Código de Ética y Conducta es prohibido

☐ **Negotiation for Employment With Any Party Having a Matter Pending Before City Prohibited**

Negociación de empleo con cualquier parte que tenga un asunto pendiente ante la ciudad es prohibido

☐ **Ex Parte Contact in Quasi-Judicial Matters Prohibited**

Contacto ex parte en asuntos cuasi-judiciales es prohibido

☐ **Attempts to Coerce Official Duties Prohibited**

Intentos de coaccionar los deberes oficiales es prohibido

☐ **Violations of Federal, State, or Local Law Prohibited**

Se prohíben las infracciones de las leyes federales, estatales, o locales



**6. Description of the specific facts of the alleged violation (may submit as attached separate sheet):**

6. Descripción de los hechos específicos de la presunta violación (puede someter como hoja separada):

The State of California Penal Code section 118(a) states: Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

On October 15, 2020 the City of Riverside Board of Ethics held a public hearing regarding Code of Ethics complaint filed by Roberta Allotta against Councilwoman Gaby Plascencia. At the hearing Assistant City Clerk Eva Arceo administered an oath to all witnesses and participants, including Councilwoman Plascencia, in which they swore to that they would tell the truth.(44 minutes 30 seconds mark of the meeting video)

Evidence provided by Mrs. Allotta included copies of text messages between Arlington Business Partnership Executive Director Andrew Guerra and Councilwoman Plascencia which were dated January 3, 2020 and January 5, 2020.

During the course of the hearing and under oath Councilwoman Plascencia first states that she did send the text messages but the exchange was between her and Andrew Guerra on their personal cellphones (1 hour 18 minute mark of meeting video). Board Member Taylor Keen reiterated that Councilwoman Plascencia said texts were sent from personal cellphone as well (1 hour 28 minute mark of meeting video).

However when discussion of the text messages came up later in the meeting and Mrs. Allotta questioned Councilwoman Plascencia during cross examination the Councilwoman initially refused to answer Mrs. Allotta's question about whether or not she did indeed send the text messages, Chair Freya Foley ruled that the Councilwoman needed to answer the question. Mrs. Allotta once again asked, "Yes or no did you send the texts or correspondence" in question to which Councilwoman Plascencia answered "No".(2 hour 56 minute thru 3 hour 1 minute 26 second mark of the meeting video)

When Councilwoman Plascencia thought that the text messages were personal and not subject to the public records act she was comfortable stating that the text messages were on personal cellphones, but by the time Mrs. Allotta cross examined her, she had become aware that the texts had "no expectation" of privacy and under oath denied ever sending the texts. It is clear from her own words that Councilwoman Plascencia either perjured herself when she said that the text messages were exchanged on personal cellphones or she perjured herself when she denied that she sent the text messages altogether.

The evidence we will present clearly demonstrates a violation of the city code of ethics by violating state penal code.

**7. Names, addresses, telephone numbers, and email addresses, if known, of each person the complainant intends to call as a witness at the hearing (may identify additional witnesses on a separate sheet):**

7. Nombres, direcciones, números de teléfono y direcciones de correo electrónico, si se conocen, de cada persona a la que el demandante intenta llamar como testigo en la audiencia (puede identificar testigos adicionales en una hoja separada):

Rob Steinmueller 909-645-2514 3729 Van Buren, Riverside, CA 92503

Paul Akes 951-750-8517 9695 Magnolia Ave, Riverside, CA 92503

Andrew Guerra 951-836-1091 or 951-823-3258

Eva Arceo 951-826-5557 3900 Main Street, Riverside, CA 92522

**8. Attach copies of any and all documents, photographs, recordings, or other tangible materials to be introduced and considered at the hearing.**

8. Adjunte copias de todos y cada uno de los documentos, fotografías, grabaciones y otros materiales que existen y que se presentarán y considerarán en la audiencia.

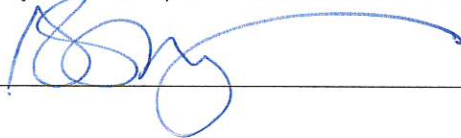
**Witnesses, documents, photographs, recordings or other tangible materials, other than those submitted with the complaint or official's reply, shall not be introduced at the hearing or considered by the hearing panel, except upon a finding by the hearing panel that the discovery of the evidence came to the awareness of the proponent after the filing of the complaint or reply and that the proponent disclosed such information to the City Clerk as soon as practicable after becoming aware of its existence. However, the hearing panel may subpoena additional witnesses, documents, photographs, recordings and other tangible evidence to be introduced and considered.**

Testigos, documentos, fotografías, grabaciones y otros materiales que existen, que no sean los presentados con la queja o la respuesta del funcionario, no serán presentados en la audiencia o considerados por el panel de audiencia, excepto cuando el panel de audiencia determine que el descubrimiento de la la evidencia llegó a conocimiento del proponente después de la presentación de la queja o respuesta y que el proponente divulgó dicha información a la Secretaría Municipal tan pronto como sea posible después de tener conocimiento de su existencia. Sin embargo, el panel de audiencia puede citar a testigos, documentos, fotografías, grabaciones y otras pruebas que existen adicionales para que se presenten y consideren.

**9. Signed under penalty of perjury of the laws of the State of California:**

9. Firmado bajo pena de perjurio de las leyes del Estado de California:

Signature / Firma



Date / Fecha

11/13/2021

**PLEASE NOTE:**

TENGA EN CUENTA:

**The burden of proof is on the complainant and the complainant must prove the violation by a preponderance of the evidence.**

La carga de la prueba descansa sobre la persona que presenta la queja y la persona que presenta la queja debe probar la violación por preponderancia de las pruebas.

**Failure to complete all sections of this form may result in the filing being deemed incomplete and the complainant will be so notified. Incomplete filings will not be processed.**

El no completar todas las secciones de este formulario puede resultar en que la presentación se considere incompleta y se notificará a la persona que presenta la queja. No se procesarán las presentaciones incompletas.

**File completed form and attachments:**

Presentar formulario completo y anexos:

**Office of the City Clerk**

**City of Riverside**

3900 Main Street

Riverside, CA 92522

(951) 826-5557

City\_Clerk@RiversideCA.gov

# **CODE OF ETHICS AND CONDUCT**

## Chapter 2.78 - CODE OF ETHICS AND CONDUCT

## 2.78.010 - Establishment of the Code of Ethics and Conduct.

Pursuant to Article 11, sections 5(a) and 7 of the California Constitution and Sections 200 and 202 of The Charter of the City of Riverside, there is hereby established by the City Council of the City of Riverside a Code of Ethics and Conduct for the Mayor, members of the City Council, and all members of appointed boards, commissions and committees which shall assure public confidence in the integrity of local government and its effective and fair operation.

(Ord. 7328 § 3, 2016)

## 2.78.020 - Purpose.

The purpose of this Code of Ethics and Conduct is to achieve fair, ethical, and accountable local government for the City of Riverside. The people of the City of Riverside expect their public officials to comply with both the letter and the spirit of the laws of the United States of America, the State of California, the Charter of the City of Riverside, the Riverside Municipal Code, and established policies of the City of Riverside affecting the operations of local government. In addition, public officials are expected to comply with the provisions of this Code of Ethics and Conduct established pursuant to the expressed will of the people. All persons covered by this Code of Ethics and Conduct shall aspire to meet the highest ethical standards in the conduct of their responsibility as a public official of the City of Riverside.

This Code of Ethics and Conduct is divided into two areas: Core Values and Prohibited Conduct. The Core Values are intended to provide a set of principles from which public officials of the City of Riverside can draw upon to assist them in conducting the public's business. As such, the Core Values are directory in nature and not subject to the complaint procedures set forth herein. The Prohibited Conduct are actions that public officials of the City of Riverside shall not engage in, and, as such, are subject to the complaint procedures set forth herein.

(Ord. 7328 § 3, 2016)

## 2.78.030 - Scope.

The provisions of this chapter shall apply to the Mayor, members of the City Council, and to all members of the boards, commissions, and committees appointed by the City Council, the Mayor, or the Mayor and City Council, including any *ad hoc* committees (collectively referred to herein as "public officials.") The provisions of this chapter shall also apply to all members of committees appointed by individual members of the City Council, Mayor, the City Manager or by department heads.

Further, the provisions of this chapter shall apply to the Mayor and Members of the City Council at all times during their term of office as elected officials of the City of Riverside. However, the provisions of this chapter shall apply to all members of the boards, commissions, and committees only while they are acting in their official capacities or affecting the discharge of their duties.

(Ord. 7328 § 3, 2016)

## 2.78.040 - Implementation.



To achieve the objectives of this chapter, the following mechanisms shall be followed.

- A. All public officials upon election or re-election, appointment or re-appointment, shall be given a copy of this chapter and required to affirm in writing that they have received a copy of this chapter and understand its provisions.
- B. Within 90 days of taking office, all new public officials shall be provided a training session which shall clarify the provisions and application of this chapter. These sessions shall be coordinated by the City Clerk with assistance from the City Manager and City Attorney.
- C. The City Attorney, or his or her designee, shall serve as a resource to those persons covered by this chapter to assist them in understanding and abiding by the provisions therein. Use of outside legal counsel in lieu of the City Attorney to advise the Board of Ethics and its hearing panels on specific matters shall be at the discretion of the Board of Ethics. If outside legal counsel is so desired, the City Attorney shall contract with the appropriate party(ies).
- D. All bodies whose members are covered by this chapter shall adopt rules of procedure which include the provisions of this chapter.
- E. The chair of each board, commission or committee covered by this chapter is responsible to provide appropriate guidance to members of their respective bodies and, if need be, communicate concerns to the Board of Ethics.

(Ord. 7328 § 3, 2016)

#### 2.78.050 - Core Values.

The people of the City of Riverside share a set of core values that constitute the guiding principles for the establishment of this chapter. These core values are expressed in the following aspirations:

- A. To strive to create a government that is trusted by everyone. The public officials of the City of Riverside shall aspire to operate the City government and exercise their responsibilities in a manner which creates trust in their decisions and the manner of delivery of programs through the local government. The public officials shall aspire to create a transparent decision making process by providing easy access to all public information about actual or potential conflicts between their private interests and their public responsibilities. The public officials shall aspire to make themselves available to the people of the City to hear and understand their concerns. They shall aspire to make every effort to ensure that they have accurate information to guide their decisions and to share all public information with the community to ensure the community understands the basis of the officials' decisions.
- B. To strive to make decisions that are unbiased, fair, and honest. The public officials of the City of Riverside shall aspire to ensure that their decisions are unbiased, fair, and honest. They shall strive to avoid participation in all decisions which create a real or perceived conflict of interest and to disclose any personal interest that could be perceived to be in conflict with the fair and impartial exercise of their responsibilities.
- C. To strive to ensure that everyone is treated with respect and in a just and fair manner. The public officials of the City of Riverside have a responsibility to make extraordinary attempts to treat all people in a manner which would be considered just and fair. They shall strive to value and encourage input from members of the community and encourage open and free discussion of public issues. They shall strive to

have all persons treated with respect as they come before the body on which they serve. They shall aspire to create an atmosphere of genuine interest in the point of view expressed by members of the community even if it differs from their own.

- D. To strive to create a community that affirms the value of diversity. The public officials of the City of Riverside shall aspire to recognize and affirm the value of all persons, families, and communities within the City of Riverside. They will encourage full participation of all persons and groups, be aware and observe important celebrations and events which reflect the values of the City's diverse population, and provide assistance for those who find it difficult to participate due to language barriers or disabilities.
- E. To strive to ensure that all public decisions are well informed, independent, and in the best interests of the City of Riverside. The public officials of the City of Riverside will encourage and support research and information gathering from verifiable sources. They will seek to ensure that information provided by the City Government to the public is accurate and clear. They will ensure that all information utilized in the decision making process, except that which by law is confidential, will be shared with the public.
- F. To strive to maintain a nonpartisan and civic minded local government. The public officials of the City of Riverside shall affirm the value of a nonpartisan council-manager form of government.
- G. To strive to ensure that all public officials are adequately prepared for the duties of their office. The public officials of the City of Riverside shall commit to participation in all orientation and training sessions which are presented to ensure full preparation for the exercise of their public duties.
- H. To strive to ensure that appointed members of boards, commissions and committees attend regularly scheduled meetings. Appointed members of boards, commissions and committees of the City of Riverside shall make a diligent effort to attend all regularly scheduled meetings of their respective board, commission or committee.

(Ord. 7328 § 3, 2016)

#### 2.78.060 - Prohibited conduct.

The following conduct is prohibited and shall be subject to the complaint procedures established in this chapter. It may be unethical for any public official to engage in one or more of the following prohibited actions:

- A. *Use of official title or position for personal gain prohibited.* Public officials of the City of Riverside shall not use their official title or position for personal gain. Personal gain includes, but is not limited to, situations wherein a public official solicits or accepts items of value in consideration of their official title or position. This does not include obtaining benefits that are otherwise permitted or authorized by law. Therefore, acceptance of gifts shall otherwise be consistent with the requirements and limitations allowable by law. Public officials shall refrain from the following: (a) accepting gifts or favors that may compromise independent judgment or give the appearance of compromised judgment; (b) using official title for matters other than the official conduct of their office; and (c) engaging in decisions which would affect the level of compensation received for service except as otherwise required or allowed by law.
- B. *Use or divulgence of confidential or privileged information prohibited.* Public officials of the City of Riverside shall not use or divulge confidential or privileged information obtained in the course of their official duties for their own personal gain, financial or otherwise, or for the gain of others, in a manner contrary to the public interest or in violation of any law.
- C. *Use of City resources for non-City purposes prohibited.* Public officials of the City of Riverside shall not use or permit the use of City resources including, but not limited to, funds, seals or logos, time,



personnel, supplies, equipment, identification cards/badges, or facilities for unapproved non-City activities, except when available to the general public, provided for by administrative rules, regulations, or policies, or approved by a majority of the City Council.

- D. *Advocacy of private interests of third parties in certain circumstances prohibited.* No elected official of the City of Riverside shall appear on behalf of the private interests of third parties before the City Council; nor shall any appointed member of a board, commission or committee of the City of Riverside appear before their own body on behalf of the private interests of third parties, except for limited exceptions as provided for in the California Fair Political Practices Commission Regulations or otherwise by law.
- E. *Endorsements for compensation prohibited.* No public official of the City of Riverside shall endorse or recommend, for compensation, any commercial product or service in the name of the City or in their official capacity within the jurisdictional boundaries of the City without prior approval of a City Council policy.
- F. *Violation of Government Code §§ 87100 et seq., prohibited.* No public official of the City of Riverside shall violate Government Code §§ 87100, et seq., or any of its related or successor statutes, from time to time amended, regulating financial interests and governmental decisions made by public officials. If an ethics complaint is filed alleging a violation of this subsection, the City recognizes that the Fair Political Practices Commission (FPPC) is the primary enforcement authority of the Political Reform Act and that its decisions should be given great weight. As such, if a complaint is pending before the FPPC raising the same or similar violations based upon the same or similar facts, then the Board of Ethics may defer action on such allegation until completion of the FPPC action. If a complaint has not been filed with the FPPC raising the same or similar violations based upon the same or similar facts, then the hearing panel of the Board of Ethics, upon a four-fifths vote, may file a complaint with the FPPC and defer action on a complaint filed pursuant to this chapter until a final action by the FPPC. A ruling on the merits by the FPPC may be accepted by the Board of Ethics as a finding on the ethics complaint filed with the City.
- G. *Certain political activity prohibited.* No public official of the City of Riverside shall coerce, or attempt to coerce, any of their subordinates or any other City employee to participate in an election campaign, contribute to a candidate or political committee, engage in any other political activity relating to a particular party, candidate, or issue, or to refrain from engaging in any lawful political activity. A general statement encouraging another person to vote does not violate this provision.
- H. *Display of campaign materials in or on City vehicles prohibited.* No public official of the City of Riverside shall display campaign materials in or on any City-owned or provided vehicle under their control or operated by that official. In addition, no public official shall transport, store, or otherwise have any campaign materials located within any City-owned or provided vehicle under their control or operated by that official. Campaign materials include, but are not limited to, bumper stickers, signs, brochures, informational documents, buttons or other similar items.
- I. *Knowingly assisting another Public Official in violating this Code of Ethics and Conduct prohibited.* No public official of the City of Riverside shall knowingly assist another public official in violating the Prohibited Conduct section of this chapter, nor shall they engage any other person to assist them in any conduct that would constitute a violation of the Prohibited Conduct section of this chapter.
- J. *Negotiation for employment with any party having a matter pending prohibited.* No public official of the City of Riverside shall negotiate for employment with any third party at the same time that third party has a matter pending before the City Council, boards, commissions, committees, or City departments and upon which the public official must act or make a recommendation.

- K. *Ex parte Contact in quasi-judicial matters prohibited.* No appointed official of the City of Riverside shall contact any public official on any matter of a quasi-judicial nature before the City Council in which the appointed official participates. A quasi-judicial matter is any proceeding which may affect the legal rights, duties or privileges of any party to the proceeding and requires the public official to objectively determine facts and draw conclusions from those facts as the basis for action.
- L. *Attempts to coerce official duties prohibited.* No elected official of the City of Riverside shall coerce, or attempt to coerce, any other public official in the performance of their official duties.
- M. *Violations of federal, State, or local law prohibited.* No public official of the City of Riverside shall intentionally or repeatedly violate the Charter of the City of Riverside, the Riverside Municipal Code, or any established policies of the City of Riverside affecting the operations of local government, or be convicted of violation of any State or federal law pertaining to the office which they hold.

(Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)

#### 2.78.070 - Complaint procedures.

- A. Only alleged violations of the Prohibited Conduct section of this chapter shall be grounds for a complaint against any public official pursuant to this chapter.
- B. Complaints shall be submitted on forms available from the City Clerk.
- C. Complaints and all required information and tangible evidence shall be filed with the City Clerk.
- D. Complaints shall include, but not be limited to, all of the following:
  - 1. Name, address, telephone number and email address, if available, of the complainant;
  - 2. Name and position of the public official against whom the complaint is made;
  - 3. Date of the alleged violation;
  - 4. The date the complainant became aware of the alleged violation;
  - 5. The specific provision of the Prohibited Conduct section of this chapter alleged to be violated;
  - 6. Description of the specific facts of the alleged violation;
  - 7. The names, addresses, telephone numbers and email addresses, if known, of each person the complainant intends to call as a witness at the hearing;
  - 8. Copies of any and all documents, photographs, recordings or other tangible materials to be introduced and considered at the hearing; and
  - 9. Signed under penalty of perjury of the laws of the State of California.
- E. Complaints shall be filed with the City Clerk within 180 calendar days of discovery of an alleged violation of this chapter, but in no event shall the complaint be filed later than three years from the date of the alleged violation. Discovery is defined as when the complainant knew or reasonably should have known of the alleged violation through the exercise of reasonable diligence.
- F. Upon filing of the complaint the City Clerk shall review the complaint for completeness only. If the complaint is deemed incomplete the City Clerk shall notify the complainant in writing within ten City business days as to the deficiencies. A complaint shall not be deemed filed until the City Clerk accepts it as complete.
- G. Within 20 City business days of the City Clerk deeming the complaint complete, the City Clerk shall set the matter for a pre-hearing conference before a hearing panel of the Board of Ethics and notify in writing the complainant and the public official against whom the complaint is filed of the date, time, and location of the

pre-hearing conference. The pre-hearing conference date shall be within 45 City business days of the complaint being deemed complete.

- H. The City Clerk shall provide a copy of the complaint and all required information and tangible evidence, without charge, to the public official against whom the complaint is made within ten City business days after the complaint is deemed complete.
- I. The public official against whom the complaint is made shall file the following with the City Clerk no later than 20 calendar days prior to the date set for the hearing:
  - 1. A written reply to the complaint;
  - 2. Copies of any and all documents, photographs, recordings or other tangible materials to be introduced and considered at the hearing; and
  - 3. The names, addresses, telephone numbers and email addresses, if known, of any person the public official intends to call as a witness at the hearing.
- J. The City Clerk shall provide a copy of the written reply and all required information and tangible evidence, without charge, to the complainant no later than ten City business days after receipt of the foregoing from the public official against whom the complaint is made.

(Ord. 7419 § 3, 2018; Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)

#### 2.78.080 - Hearing procedures.

- A. The Board of Ethics shall have the authority to adopt hearing procedures not in conflict with this chapter. In addition to any hearing procedures adopted by the Board of Ethics, the following hearing procedures shall also apply.
- B. The pre-hearing conference and hearing on the merits are not formal judicial proceedings. The technical rules of evidence do not apply.
- C. The Chair of the hearing panel of the Board of Ethics shall preside over the pre-hearing conference and hearing.
- D. No witnesses, documents, photographs, recordings or other tangible materials, other than those submitted with the complaint or reply, shall be introduced at the hearing or considered by the hearing panel. However, witnesses, documents, photographs, recordings and other tangible evidence may be introduced and considered upon a finding by a majority of the hearing panel that the discovery of such evidence came to the awareness of the proponent after the filing of the complaint or reply and that the proponent disclosed such information to the City Clerk as soon as practicable after becoming aware of its existence. Any witnesses, documents, photographs, recordings and other tangible evidence subpoenaed by the hearing panel shall also be introduced and considered.
- E. The hearing panel of the Board of Ethics shall conduct a pre-hearing conference prior to a hearing date being set by the City Clerk. All parties are to attend the pre-hearing conference; however, the absence of any party at the pre-hearing conference shall not be grounds for a continuance and the pre-hearing conference shall proceed as if the absent party were present. The pre-hearing conference shall be conducted as follows:
  - 1. The hearing panel shall review the complaint to determine if it complies with all of the following to establish jurisdiction of the Board of Ethics:
    - a. The complaint procedures section of this chapter have been followed;
    - b. The complaint is against a public official set forth in the scope section of this chapter;
    - c. The complaint alleges a violation of one or more of the provisions of the prohibited conduct section

of this chapter; and

- d. The complaint does not restate allegations of violations that were the subject of a previous complaint.
  2. If a majority of the hearing panel determines that the complaint does not comply with all of the provisions of subsection E.1 above, the Chair shall state the findings of deficiency on the record and shall call for a vote of the hearing panel to dismiss the complaint without a hearing. A roll call vote of the hearing panel shall be taken by the City Clerk who will record the vote of each member of the hearing panel. The Chair of the hearing panel shall instruct the City Clerk to prepare a Statement of Findings for the hearing panel to adopt at the next regular meeting of the Board of Ethics. This statement of findings shall be considered the final decision of the hearing panel and is immediately appealable to the City Council pursuant to the appeal procedures section of this chapter. If a majority of the hearing panel determines that the complaint complies with all of the provisions of subsection E.1 above, then the pre-hearing conference shall proceed.
  3. The hearing panel shall facilitate settlement discussions between the parties.
  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 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.
  6. The hearing panel shall determine, by a majority vote, 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.
  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-hearing conference. The hearing date shall be within 45 City business days following the pre-hearing conference.
  8. If it is determined by the hearing panel that the complainant has failed to show that it is more likely than not that there may be a potential violation of the prohibited conduct section of this chapter, the Chair of the hearing panel shall instruct the City Clerk to prepare a statement of findings for the hearing panel to adopt at the next regular meeting of the Board of Ethics. This statement of findings shall be considered the final decision of the hearing panel and is immediately appealable to the City Council pursuant to the appeal procedures section of this chapter.
  9. The hearing panel may discuss and act upon whether or not any subpoenas are necessary to be issued by the hearing panel pursuant to Riverside Municipal Code section 2.80.040.A.5 and B.5.
  10. The hearing panel may set time limits for the parties to present their evidence at the hearing on the complaint.
  11. Other than as provided for above, no decision or ruling made by the hearing panel at the pre-hearing conference is appealable to the City Council pursuant to the appeal procedures section of this chapter until after there is a final decision by the hearing panel following a hearing on the complaint.
- F. Prior to the commencement of the hearing, either party may ask the City Clerk for a continuance of the hearing on either of the following grounds:
1. The unavailability of the party at the hearing due to illness or other reason acceptable to the City Clerk; or



2. The unavailability of a witness identified in the complaint or reply.
- G. Only one continuance of the hearing shall be granted by the City Clerk to each party. If a continuance is granted, the City Clerk shall give written notice to all parties of the new hearing date, time, and location within 20 City business days of the granting of the continuance.
- H. The complainant shall have the burden of proof by a preponderance of the evidence to establish a violation of the prohibited conduct section of this chapter. Preponderance of evidence means evidence that is more convincing and, therefore, more probable in truth and accuracy. The complainant shall proceed first. The complainant may, but is not required to, make an opening and closing statement, examine and cross-examine witnesses, reference particular tangible evidence submitted with the complaint or reply, and introduce rebuttal evidence. The complainant shall have a maximum of 15 minutes to make both an opening and closing statement, if desired. The apportionment of the maximum total time of 15 minutes shall be at the sole discretion of the complainant.
- I. The public official shall proceed second. The public official may, but is not required to make an opening and closing statement, examine and cross-examine witnesses, reference particular tangible evidence submitted with the complaint or reply, and introduce rebuttal evidence. The public official shall have a maximum of 15 minutes to make both an opening and closing statement, if desired. The apportionment of the maximum total time of 15 minutes shall be at the sole discretion of the public official.
- J. Neither party shall be allowed to examine the other party as part of their presentation of evidence. However, a party may cross-examine the other party as to any matters directly testified to by that party during their presentation of evidence. Cross-examination is limited to only those matters testified to by the party or witness during their presentation of evidence.
- K. During the hearing, any member of the hearing panel of the Board of Ethics may ask questions of the parties or witnesses.
- L. The parties may present rebuttal evidence. The complainant may present rebuttal to the public official's evidence following the completion of the presentation of evidence by the public official. The public official may offer rebuttal evidence to the complainant's evidence during the public official's presentation of evidence. The public official may also present evidence to rebut the complainant's rebuttal evidence. Rebuttal evidence must be evidence directly or indirectly refuting the evidence introduced by the other party.
- M. Upon the conclusion of evidence presented by the parties, the Chair shall facilitate verbal deliberations by the hearing panel.
- N. All findings shall be by a majority vote of the hearing panel and recorded by the City Clerk.
- O. Within five City business days following the hearing, the City Clerk shall notify all parties in writing of the decision of the hearing panel and the appeal procedures.
- P. No member of the Board of Ethics who is either the complainant, or the subject of a complaint filed pursuant to this chapter, shall sit as a member of the hearing panel considering such complaint and must recuse himself or herself as a member of that panel.
- Q. 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.

(Ord. 7433 § 3, 2018; Ord. 7419 § 3, 2018; Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)

- A. A decision by the hearing panel finding a violation of the Prohibited Conduct section of this chapter shall be auto appealed to the City Council. The City Clerk shall place the appeal on the agenda of a regular meeting of the City within 30 City business days of the hearing by the hearing panel and shall notify the parties in writing of the hearing date.
- B. A decision by the hearing panel of the Board of Ethics not finding a violation of the Prohibited Conduct section of this chapter may be appealed to the City Council by either party. The appeal shall be taken by filing a written notice of appeal with the City Clerk within ten City business days following the date of the hearing by the hearing panel. The notice of appeal shall be in writing on a form provided by the City Clerk. The City Clerk shall place the appeal on the agenda for a regular meeting of the City Council within 30 City business days of the filing of the notice of appeal. The City Clerk shall notify the parties in writing of the hearing date.
- C. If there is no appeal of the decision by the hearing panel, then the decision of the hearing panel shall become final and there shall be no further right to appeal.
- D. The record on appeal shall consist of a transcript of the hearing before the hearing panel, as well as all tangible evidence and testimony considered at the hearing. No new evidence will be received or considered by the City Council at the hearing on the appeal.
- E. 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. 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.
- F. If the City Council finds there is a violation of the Prohibited Conduct section of this chapter, then the City Council may determine sanctions in accordance with the enforcement and sanctions section of this chapter.
- G. The City Clerk shall notify both parties in writing of the findings and determination of the City Council on the appeal. The findings and determination of the City Council is final and there is no further right to appeal.
- H. Complaints, replies, supporting documentation, transcripts of hearings, notices of appeal, and all decisions thereon shall be public records and retained by the City Clerk for a period of at least two years.
- I. No elected official who is either the complainant, or the subject of a complaint, filed pursuant to this chapter shall participate in the appeal of a decision of the hearing panel considering such complaint and must recuse himself or herself from participation.

(Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)

#### 2.78.100 - Enforcement and sanctions.

Upon a finding by a majority of the City Council that any public official violated any provision of the Prohibited Conduct section of this chapter, the City Council may impose any of the following sanctions:

A. *Elected Officials.*

- 1. Public censure.

B. *Appointed Officials of Boards, Commissions and Committees.*

- 1. Referral to the Board, Commission or Committee of which the appointed official is a member for public censure;
- 2. Public censure by the Mayor and City Council; or
- 3. Removal from office by a majority of the Mayor and City Council.

- C. No public official who is either the complainant, or the subject of a complaint, filed pursuant to this chapter in any deliberations or decision concerning any sanctions to be imposed pursuant to such complaint.

(Ord. 7328 § 3, 2016)

2.78.110 - Monitoring and oversight.

- A. Prior to the end of July of each year, the boards and commissions shall agendaize and discuss at a regular meeting this Code of Ethics and Conduct and submit to the Board of Ethics any recommendations for the Board's consideration.
- B. Prior to the end of August of each year, the Board of Ethics shall agendaize and discuss at a regular meeting the effectiveness of this Code of Ethics and Conduct, recommendations of the other boards and commissions, and submit to the Governmental Affairs Committee its recommendations.
- C. Prior to the end of September of each year, the Governmental Affairs Committee shall agendaize and discuss at a regular meeting the effectiveness of this Code of Ethics and Conduct and the recommendations of the Board of Ethics and other boards and commissions, and instruct the City Manager to present a report to the City Council for its discussion and consideration.
- D. Prior to the end of each year, the Chairperson of the Governmental Affairs Committee shall present a report to the City Council which shall include the recommendations of the Board of Ethics, the other boards and commissions, and the Governmental Affairs Committee. The City Council shall hold a public hearing on its evening agenda at a regularly scheduled meeting, and shall review the report and make an independent evaluation of the effectiveness of this chapter and discuss and direct the City Attorney to make any changes to this chapter it deems appropriate.

(Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)

2.78.120 - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

(Ord. 7328 § 3, 2016)

**State of California**

**PENAL CODE**

**Section 118**

---

118. (a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

(Amended by Stats. 1990, Ch. 950, Sec. 2.)





Gaby

Happy New Year! How are things at ABP? Rob emailed me and asked me to call him to discuss difference in opinions.

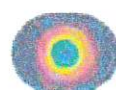
1/3/2020

Happy New Year to you! I hope you are doing well and that you are enjoying time with your grandmother and family. I'm doing well. Been off since the 19th and looking forward to going back on Monday. Glad Rob reached out to you. Hopefully you both can talk soon.

Will you be at Winterfest tomorrow?

Nice!

I have no interest in talking to





Gaby

Nice!

I have no interest in talking to him it was super disrespectful for them to put him on the board. Unless he calls me to tell me they removed him we have nothing to talk about.

No I'm leaving to big bear for the weekend.

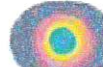
I myself don't know what the rest of the EC have talked about and decided to do since I've been out.

Enjoy Big Bear!

Read more...

Thanks

Have fun tomorrow don't work too hard







Gaby

the weekend.

I myself don't know what the rest of the EC have talked about and decided to do since I've been out.

Enjoy Big Bear!

Read Friday

Thanks

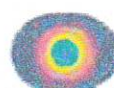
Have fun tomorrow don't work too hard

Today 1:23 AM

Hi Andrew I hope you are well.  
How was the Winter Wonderland?

Do you want to send me a blurb and I can highlight it tomorrow.

1/5/2020





Gaby

I know Sean is trying to piss you and Jim off by questioning why ABP is not being supported more by you two. Sean was already told to be respectful. If you feel that Sean is a barrier to you serving on our board at anytime, let me know so that I can bring it you my Executive Committee's attention.

I will tell the exec board myself  
Did he say that publicly or in private to Rob?

What is Dolr inc?

It was in private convo after the meeting. Dolr is a corporation that manages several business rentals in the



iMessage







Gaby

It was in private convo after the meeting. Dolr is a corporation that manages several business rentals in the BID.

So he is there spokesperson now?

God no...I don't know what he thinks he can do for us that you can't.

So why did they let him present on their behalf

Sean is a partner of the Dolr Corp. I thought you meant Sean was ABP's spokesperson. That's how Sean was appointed to the board on a BID business





Gaby

Let's schedule something with  
the exec board soon  
I'm not going to help with shit  
if he is going to be in their ear  
bashing me

I'm calling Sean today to tell  
him to resign from the  
planning commission 📞

The next executive committee  
meeting is January 6th at  
9am. Does that work to you?

How funny, that was one of  
the things another board  
member said would be  
beneficial to ABP.

Ha I bet not for long I know he  
won't resign but I will remove  
him nonetheless so what will



Additional evidence has been requested via a California Public Records Act request.

The request includes the following:

**Phone records showing all calls and texts to and from any and all cellphones used by Councilwoman Gaby Plascencia on January 3, 2020 thru January 5, 2020**

**Any and all text messages between Councilwoman Gaby Plascencia and Arlington Business Partnership Executive Director Andrew Guerra**

**Any and all text messages or emails to or from Councilwoman Gaby Plascencia pertaining to the Arlington Business Partnership**

**Any and all text messages or emails to or from Councilwoman Gaby Plascencia pertaining to Sean Mill**

# **HEARING RULES AND PROCEDURES**



**BOARD OF ETHICS  
HEARING RULES AND PROCEDURES**

**Adopted on May 3, 2018**

**Implementing City Council Action of July 24, 2018**

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 CONFERENCE

- A. The Hearing Panel shall conduct a pre-hearing conference within forty-five (45) City business days of the complaint being deemed complete by the City Clerk.
- 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. The meeting will be convened by the Chair of the Hearing Panel immediately upon the conclusion of the regular meeting of the Board of Ethics.
- C. The pre-hearing conference is not a formal judicial proceeding and the rules of evidence shall not apply.
- D. The Chair of the Hearing Panel shall preside over the pre-hearing conference.
- E. The pre-hearing conference shall take place prior to a hearing date on the complaint being set by the City Clerk.
- F. All parties are to be present at the pre-hearing conference; however, the absence of any party shall not be grounds for continuing the pre-hearing conference and it shall proceed as if the absent party were present.
- G. The Hearing Panel shall review the complaint to determine if it complies with all of the provision of RMC 2.78.080 E1.
- H. If a majority of the Hearing Panel determines that the complaint does not comply with all of the provisions of RMC 2.78.080 E1, the Chair shall state the findings of deficiency on the record and call for a vote of the Hearing Panel to dismiss the complaint without a formal hearing based upon those findings of deficiency. The Chair shall then instruct the City Clerk to prepare a Statement of Findings for the Hearing Panel to adopt the Statement of Findings at the next regular meeting of the Board of Ethics.

- I. If a majority of the Hearing Panel determines that the complaint complies with all of the provisions of RMC 2.78.080 E1, then the pre-hearing conference shall continue.
- J. The Hearing Panel shall facilitate settlement discussions 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 and no hearing will be scheduled. If the parties cannot resolve their dispute informally, the pre-hearing conference shall continue.
- K. The Hearing Panel 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 of the Hearing Panel 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.
- L. The complainant shall then have ten (10) minutes to verbally present to the Hearing Panel 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 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 how the tangible evidence tends to prove a violation of the Prohibited Conduct section of the Code of Ethics.
- M. The Hearing Panel is to assume that all representations of evidence by the complainant are true for the limited purpose of determining whether the complainant has shown that it is more likely than not that a violation of the Prohibited Conduct section of the Code of Ethics has occurred.
- N. If it is determined by a majority of the Hearing Panel that it is more likely than not that there may be a potential violation of the Prohibited Conduct section of the Code of Ethics, then the City Clerk shall set a hearing date on the complaint.
- O. If it is determined by a majority of the Hearing Panel 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 for the Hearing Panel 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.
- Q. The Hearing Panel may set time limits for the parties to adhere to in presenting their evidence at the hearing.

#### 8. 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.
- 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, as determined by the Hearing Panel at the pre-hearing conference, 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 it is duplicative, or if 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 evidence as determined by the Hearing Panel at the pre-hearing conference;
  - (3) To cross-examine opposing witnesses on any matter relevant to the issues covered in the direct examination; and
  - (4) To impeach any witness regardless of which party first called the witness to testify.
- D. Neither party shall be allowed to examine the other party as part of their presentation of evidence. However, a party may cross-examine the other party as to any matters directly testified to by that party during their presentation of evidence.
- E. A party may re-direct and re-cross witnesses, subject only to the limitations imposed by the Chair.
- F. A party may present rebuttal evidence. The complainant may present rebuttal to the public official's evidence following the completion of the public official's presentation of evidence. The public official may present rebuttal to the complainant's evidence during the public official's presentation of evidence. The public official may also rebut the complainant's rebuttal evidence following the complainant's presentation of rebuttal evidence. Rebuttal evidence must be evidence directly or indirectly refuting the evidence presented by the other party.
- G. 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.
- 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.
- 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.
- 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.
- F. The complainant shall present their case first.
- G. Upon the conclusion of the complainant's case, the respondent may make their opening statement, if reserved, and then shall present their case.
- 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.
- I. If the parties reserved time for a closing statement, each party may make a closing statement beginning with the complainant.
- 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

- A. Complaints of violation of Chapter 2.78 against one (1) or more elected officials named in the same or separate complaint forms shall be considered to be separate complaints against each elected official. Each complaint shall be heard separately on its own merits against each elected official before separately convened Hearing Panels of the Board of Ethics.
- B. Complaints of violation of Chapter 2.78 against one (1) or more appointed officials named in the same or separate complaint forms shall be considered to be separate complaints against each appointed official. Upon concurrence by the complainant and each named appointed official, the complaints shall be heard by one hearing panel of the Board of Ethics at the same hearing. Otherwise, each complaint shall be heard separately against each appointed 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.