



City of Arts & Innovation

Board of Ethics Memorandum

TO: BOARD OF ETHICS **DATE: SEPTEMBER 2, 2021**

FROM: CITY ATTORNEY'S OFFICE **WARDS: ALL**

SUBJECT: PRE-HEARING CONFERENCE PROCESS OVERVIEW FOR CODE OF ETHICS AND CONDUCT COMPLAINTS

ISSUES:

Review the pre-hearing conference process for Code of Ethics and Conduct complaints.

RECOMMENDATION:

That the Board receive and file a presentation on the pre-hearing conference process as required by Riverside Municipal Code section 2.78.080 for Code of Ethics and Conduct complaints.

DISCUSSION:

Riverside Municipal Code (RMC) section 2.78.080 requires the Hearing Panel to review the complaint and supporting evidence offered by the complainant to determine whether there may be a potential violation of the Ethics Code and Conduct that should be heard at a hearing.

More specifically, RMC section 2.78.080 requires that the Hearing Panel conduct a pre-hearing conference and do the following:

- Determine if the complaint complies with all of the following mandates to establish the jurisdiction of the Board of Ethics:
 - The complaint procedures of the Riverside Municipal Code have been followed (RMC 2.78.070);
 - The complaint is against a public official subject to the Code of Ethics RMC 2.78.030);
 - The complaint alleges a violation of one or more prohibited conduct sections of the Code of Ethics (RMC 2.78.060);
 - The complaint does not restate allegations of violations that were the subject of a previous complaint (RMC 2.78.080.E.1.d);
- If a majority of the hearing panel determines that the complaint does not comply with one or all of mandates outlined 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 and direct the City Clerk to prepare the appropriate record.

- If a majority of the Hearing Panel determines that the complaint does comply with the mandates outlined above, then the Hearing Panel shall facilitate settlement discussions between the parties.
- If settlement is not reached between the parties, then the Hearing Panel shall review the tangible evidence and determine if any evidence is irrelevant and should be deemed inadmissible;
- The complainant shall 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.
- The Hearing Panel shall determine if 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 of the Code.
- 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.
- 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.
- Discuss and act upon any subpoenas that the Hearing Panel determines, by a super majority vote, are necessary to be issued for a meaningful hearing or decision.
- Determine whether to set time limits for parties to present evidence at the hearing

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Susan Wilson, Assistant City Attorney

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