

## 2.78.075 - Pre-conference procedures.

- A. The complainant may be permitted to submit one revised complaint to only add additional allegations of the prohibited conduct section of this chapter. This updated complaint must be submitted to the City Clerk following the established policies and procedures within 30 days of the original complaint being filed with the Clerk and within the 180 calendar days of discovery of an alleged violation of this chapter. The only amendment may be the addition of additional allegations of violations of the prohibited conduct section of this chapter. If an amended complaint is submitted to the City Clerk within the 30-day time frame, the City Clerk reviews the amended complaint in accordance with RMC Section 2.78.070. The time frames established in the RMC for actions by the City Clerk, hearing panel and Board of Ethics will be reset using the date that the amended complaint has been accepted and determined to be complete. The acceptance of the amended complaint is not deemed to be a continuance.
- B. Within 20 City business days of the City Clerk deeming the complaint complete, the City Clerk shall set the matter for a pre-conference before 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-conference. The pre-conference date shall be within 45 City business days of the complaint being deemed complete.

Prior to the commencement of the pre-conference, either party may ask the City Clerk or the Board of Ethics for a continuance of the pre-conference on either of the following grounds: the unavailability of the party at the pre-conference due to illness or other reason acceptable to the City Clerk or the Board of Ethics.

Only one continuance of the pre-conference shall be granted by either the City Clerk or the Board of Ethics at the request of each party. If a continuance is granted, the City Clerk shall give written notice to all parties of the next available pre-conference date, time, and location.

- C. 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.
- D. The Board of Ethics shall conduct a pre-conference prior to a hearing date being set by the City Clerk. All parties are to attend the pre-conference; however, the absence of any party at the pre-conference shall not be grounds for a continuance and the pre-conference shall proceed as if the absent party were present. The pre-conference shall be conducted as follows:
1. The Board of Ethics 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. For alleged violations of 2.78.070(M), the complaining party must identify the specific section(s) of the Charter of the City of Riverside, the Riverside Municipal Code, or the policy of the City of Riverside, including when the policy of the City of Riverside was established, that is alleged to have been violated, and the Board of Ethics must determine that this requirement has been met by the complainant; and
  - d. The complaint does not restate allegations of violations that were the subject of a previous complaint.
2. If a majority of the Board of Ethics determines that the complaint does not comply with all of the provisions of RMC Section 2.78.070(D), the Chair shall state the findings of deficiency on the record and shall call for a vote of the Board of Ethics to dismiss the complaint without a hearing. A roll call vote of the Board of Ethics shall be taken by the City Clerk who will record the vote of each member of the Board of Ethics. The Chair of the Board of Ethics shall 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. This statement of findings shall be considered the final decision of the Board of Ethics. If a majority of the Board of Ethics determines that the complaint complies with all of the provisions of Section 2.78.070(D), then the pre-conference shall proceed.
3. The Board of Ethics shall facilitate settlement discussions between the parties. The settlement process can include, but is not limited to, the Board of Ethics 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 complaint. If the parties reach a settlement, the parties shall report to the Board of Ethics that the complaint has been settled and that no hearing is necessary.
4. The Board of Ethics 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 may verbally present to the Board of Ethics 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 will have the option or opportunity to present to the Board of Ethics 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. During the pre-conference, any member of the Board of Ethics may ask questions of the parties.

6. The Board of Ethics 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 Board of Ethics 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 a hearing panel shall be selected in accordance with RMC Section 2.80.040(B). 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.
8. If it is determined by the Board of Ethics 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 Board of Ethics 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. Alternatively, the Board of Ethics may designate members of the Board of Ethics to prepare the findings. If members of the Board of Ethics prepare the findings, such findings shall be adopted at the next regular meeting of the Board of Ethics. This statement of findings shall be considered the final decision of the Board of Ethics.
- [9. Reserved.]
10. The Board of Ethics may set time limits for the parties to present their evidence at the hearing on the complaint.
11. Appeals shall be only allowed in accordance with RMC Section 2.78.090(A).

(Ord. 7632 § 1(Exh. A), 2023)

## Chapter 2.80 - BOARD OF ETHICS

### 2.80.010 - Creation of Board of Ethics.

Pursuant to Article 11, sections 5(a) and 7 of the California Constitution and Sections 200, 202, 800, 801, 802, 804, and 805 of the Charter of the City of Riverside, there is hereby established by the City Council of the City of Riverside a Board of Ethics.

(Ord. 7632 § 1(Exh. A), 2023; Ord. 7329 § 3, 2016)

### 2.80.020 - Purpose.

It is the purpose of the Board of Ethics to advise and make recommendations to the City Council of the City of Riverside on all matters pertaining to the adoption, revision, administration, and enforcement of the Code of Ethics and Conduct for the City of Riverside as set forth in Chapter 2.78 of the Riverside Municipal Code (RMC), and to conduct hearings upon complaints.

(Ord. 7632 § 1(Exh. A), 2023; Ord. 7329 § 3, 2016)

### 2.80.030 - Membership and term of service.

- A. The Board of Ethics shall consist of nine members to be appointed in accordance with Section 802 of the Charter of the City of Riverside by the Mayor and City Council.
- B. Members may be removed from the Board by five affirmative votes of the Mayor and City Council for incompetence, malfeasance, misfeasance, nonfeasance or neglect of duties.

(Ord. 7632 § 1(Exh. A), 2023; Ord. 7329 § 3, 2016)

### 2.80.040 - Duties and powers.

- A. The duties of the Board of Ethics shall include the following:
  - 1. Annually review, hold public meetings, and make recommendations to the City Council regarding the overall effectiveness of RMC Chapter 2.78, including any adopted or proposed City policies, in accordance with the procedures established therein;
  - 2. Receive and review complaints of violations of RMC Chapter 2.78;
  - 3. Convene a hearing panel of the Board of Ethics to conduct hearings on complaints of violations of RMC Chapter 2.78 pursuant to the provisions of this chapter;
  - 4. Conduct hearings on complaints of violations of RMC Chapter 2.78 in accordance with the procedures set forth therein;
  - 5.

Issue a decision with findings to the City Council for all complaints determined by the hearing panel of the Board to be a violation of RMC Chapter 2.78;

6. Establish meeting rules and procedures and hearing rules and procedures not in conflict with the Charter of the City of Riverside, Riverside Municipal Code, adopted rules and procedures of the City Council, or any local, state or federal law.

B. In order to carry out its duties, the Board of Ethics is authorized to:

1. Hold public meetings, review, discuss, and make recommendations to the City Council regarding the overall effectiveness of RMC Chapter 2.78, including any recommended amendments thereto or the adoption of or changes to policies implementing RMC Chapter 2.78;
2. Receive from the City Clerk and review all complaints of violations of RMC Chapter 2.78, including all submitted evidence;
3. Convene a hearing panel of the Board of Ethics to conduct hearings on complaints of violations of RMC Chapter 2.78 as follows:
  - a. A hearing panel shall be comprised of no fewer than five members of the Board and one alternate;
  - b. A hearing panel, once established, shall be the sole hearing body to conduct hearings and render decisions with findings on the complaint for which the panel was convened;
  - c. Immediately after a pre-conference is conducted by the Board of Ethics as set forth in RMC Section 2.78.075, if necessary a hearing panel shall be selected by the City Clerk by randomly drawing names of Board members until all names have been drawn. The first five names drawn shall constitute the hearing panel, with the sixth name drawn as an alternate;
  - d. The alternate shall be present at the hearing, but will not participate unless and until any member of the hearing panel is unable to continue as a member of the hearing panel. At that point the alternate shall become a member of the hearing panel;
  - e. Any Board member who is selected as a member of a hearing panel or alternate shall notify the City Clerk not less than 15 calendar days before the hearing that he or she is unable to participate on the hearing panel or as an alternate and the reasons why;
  - f. If any member of the hearing panel or the alternate so notifies the City Clerk, the alternate shall then become a member of the hearing panel and the seventh name of a Board member previously drawn shall then become an alternate. This process shall be followed until a five member hearing panel and alternate is established;
  - g. If, after the commencement of a hearing, the hearing panel does not have at least five members, the chairperson shall adjourn the hearing to a date certain. If the hearing can be reconvened with the same members of the hearing panel, then the hearing shall

proceed from the point at which the hearing was adjourned. If the hearing cannot continue with all of the same members of the hearing panel as constituted at adjournment, then the hearing shall begin anew;

- h. If a complaint concerns a member of the Board, that member shall be disqualified from participating on the hearing panel; and
  - i. The first name drawn by the City Clerk shall serve as chairperson of the hearing panel to preside at the hearing.
4. Conduct hearings, swear witnesses, receive and consider evidence, ask questions, and otherwise hold hearings in accordance with the provisions of RMC Chapter 2.78;
5. Render decisions with findings following a hearing on a complaint for violation of RMC Chapter 2.78, to be sent to the City Council for final action;
6. Adopt rules of procedure for the conduct of the business of the Board, and for the administration of hearings on complaints, so long as those rules of procedure do not conflict with the Charter of the City of Riverside, Riverside Municipal Code, adopted rules and procedures of the City Council, or any local, state or federal law.
7. Determine occurrences when outside legal counsel shall be used to advise the Board of Ethics or a hearing panel in lieu of the City Attorney. If outside legal counsel is so desired, the City Attorney shall contract with the appropriate party(ies).

(Ord. 7632 § 1(Exh. A), 2023; Ord. 7329 § 3, 2016)

#### 2.80.050 - 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.

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