
2.78.080 Hearing procedures.

- A. 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.
- B. 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.
- C. 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 set forth in (D) through (Q) shall apply.
- D. The pre-conference and hearing on the merits are not formal judicial proceedings. The technical rules of evidence do not apply.
- E. The Chair of the hearing panel of the Board of Ethics shall preside over the hearing.
- F. 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.
- G. Prior to the commencement of the hearing, either party may ask the City Clerk or the hearing panel 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 the hearing panel; or
 - 2. The unavailability of a witness identified in the complaint or reply.
- H. Only one continuance of the hearing shall be granted by either the City Clerk or the hearing panel 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 date, time, and location. The hearing panel may grant a continuance on their own motion.

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- I. 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.
 - J. 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.
 - K. 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.
 - L. During the hearing, any member of the hearing panel of the Board of Ethics may ask questions of the parties or witnesses.
 - M. 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.
 - N. Upon the conclusion of evidence presented by the parties, the Chair shall facilitate verbal deliberations by the hearing panel.
 - O. All findings shall be approved by a majority vote of the hearing panel and recorded by the City Clerk. The hearing panel may approve such findings at the conclusion of the hearing and direct the City Clerk to prepare the statement of findings or designate members of the hearing panel to prepare the statement of findings to include a recommendation for sanctions. If members of the hearing panel prepare the statement of findings, the hearing panel must consider and approve such findings within 30 City business days after the hearing, at a subsequent meeting of the hearing panel.

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- P. Within five City business days of approval of the statement of findings, the City Clerk shall notify all parties in writing of the decision of the hearing panel and the appeal procedures.
- Q. 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.
- R. 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. No. 7697, § 3, 2025; Ord. 7632 § 1(Exh. A), 2023; Ord. 7433 § 3, 2018; Ord. 7419 § 3, 2018; Ord. 7403 § 3, 2017; Ord. 7328 § 3, 2016)