

Board of Ethics Board of Ethics

Pre- Conference Procedural Checklist

- Call the meeting to Order

- Address item 1 on agenda – Public Comment

Announce Phone # and wait to see if there are any calls. Ask for public comments from those attending in person.

- After public comment, announce and read the agenda title for item 7 (the pre-conference) on the published agenda.

Ask complainant and respondent to identify themselves

FIRST MATTER FOR THE BOARD OF ETHICS TO ADDRESS:

AS THE BOARD OF ETHICS WE MUST REVIEW THE COMPLAINT AND DETERMINE IF IT COMPLIES WITH ALL OF THE PROCEDURAL REQUIREMENTS OF THE CODE OF ETHICS AND CONDUCT

- Chair:** “I will now ask the Board of Ethics to discuss and determine whether the complaint procedures which are set forth in RMC section 2.78.070, “Written Complaint procedures” of this chapter have been followed.” (RMC 2.78.075.D.1.a) (Yes or No)

Notes: *Ask the City Clerk to confirm this.*

Chair: “I will now ask the Board of Ethics to discuss and determine whether the complaint is against a public official subject to the Code.” (RMC 2.78.075.D.1.b) (Yes or No)

Notes: _____

Chair: “I will now ask the Board of Ethics to discuss and decide whether the complaint alleges a violation of one or more prohibited conduct sections of the Code.” (RMC 2.78.075.D.1.c) (Yes or No)

Notes: *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*

Chair: “I will now ask the Board of Ethics to discuss and decide whether the complaint does not restate allegations of violations that were the subject of a previous complaint.” (RMC 2.78.075.D.1.d) (Yes or No)

Notes: *Ask the City Clerk or the Boardmembers if this is the same as another complaint*

Motion:

Chair to call for the following motion:

Chair: “I now call for a motion to determine if the complaint does or does not comply with all of these requirements.”

[Motion, second to the motion and a vote]

NOTE: If a majority of the Board of Ethics finds the complaint DOES NOT COMPLY with all of the requirements, 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. (RMC 2.78.075.D.2)

“The Board of Ethics has determined that the complaint is deficient because [*state the deficiency*]. I now call for a vote of the Board of Ethics to dismiss the complaint without a hearing and instruct the City Clerk to prepare a Statement of Findings.”

[vote]

Section 2.78.080.E.2 Note: The Board of Ethics must 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.

NOTE: If the Board of Ethics determines that the complaint DOES COMPLY, the pre-hearing conference then continues.

In the event that the Complainant and/or Public Official/Respondent are not present during the pre-conference and have not provided any reason and/or excuse to favor a continuance, it is therefore the Board's prerogative to continue the pre-conference hearing in a modified manner, based solely on the merits of what has been submitted as documentary evidence and/or formal complaint. We therefore will skip the step regarding settlement discussions under RMC 2.78.080.D.3 because both parties are not present to have such discussions.

SECOND MATTER FOR THE BOARD OF ETHICS TO ADDRESS:

□ Note: *The Code requires the Board of Ethics to facilitate settlement discussions. RMC 2.78.080.D.3 provides that 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*

- i. **Chair:** "I will now ask the parties if there a desire to engage in settlement discussions?" (Yes or No)
- ii. **Take a break and allow the parties to confer privately**
- iii. **Chair resumes the meeting and states:** "Has a settlement been reached? What is the settlement?"

THIRD MATTER FOR THE BOARD OF ETHICS TO ADDRESS:

Chair: “I now ask the Board of Ethics to review the submitted evidence and determine if any evidence is irrelevant and should be deemed inadmissible.” RMC 2.78.075.D.4

Board of Ethics: Review and have a discussion of the evidence and whether there is any irrelevant evidence

Notes: _____

Chair: “Does any member wish to make a motion to exclude any evidence as irrelevant and inadmissible.”

[Motion, second to the motion and a vote]

FOURTH MATTER FOR THE BOARD OF ETHICS TO ADDRESS:

Chair: “The Board of Ethics will now consider whether complainant has shown that the evidence, if taken as true, more likely than not shows a potential violation of prohibited conduct of the Code of Ethics.” RMC 2.78.075.D.5

Chair:
“I will now read Section 3.L, M and N of the Board of Ethics Hearing Rules:

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 to 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 party during the pre-conference.

N. The Board of Ethics 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 is more likely than not that a violation of the Prohibited Conduct section of the Code of Ethics has occurred.

- Call up Complainant to present their case (the evidence)
- Ask the Board of Ethics if they have any questions for the Complainant
- Call up Public Official to present their evidence RMC2.78.075.D.5
- Ask the Board of Ethics if they have any questions for the Public Official
- After presentation by Complainant, call for public comment – complainant does not get to comment on their own presentation

Announce Phone # and wait to see if there are any calls. Ask for public comments from those attending in person.

Chair: “I will now ask the Board of Ethics to discuss 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 the Code of Ethics.”

Board of Ethics: Review and have a discussion of whether the evidence, if true, more likely than not shows that there may be a potential violation of the prohibited conduct section of the Code of Ethics.

Notes: _____

Chair: “I will now ask for a motion determining that 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 the Code of Ethics.”

Board of Ethics: Make a motion that “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 the Code of Ethics Review.”

Or

Board of Ethics: Make a motion that “The complainant **has not 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 the Code of Ethics Review.”

Notes: _____

If after the vote, the Panel determines that the complainant **has failed** to show that it is more likely than not that there may be a potential violation of prohibited conduct, **THEN** the Chair 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.

Chair: “The Board of Ethics has determined, by majority vote that the complainant has failed to show that it is more likely than not that there may be a potential violation of prohibited conduct. I now 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.”

If after the vote, the Board of Ethics determines that the complainant **has shown** that it is more likely than not that there may be a potential violation of prohibited conduct, **THEN** discuss the following:

Chair: “Does the Board of Ethics want to set time limits on the presentation of evidence by each party at the hearing on the complaint?”

Adjourn the meeting