



GUIDELINES FOR PERSONNEL BOARD HEARINGS OF GRIEVANCES AND DISCIPLINE APPEALS

The Santa Rosa Personnel Board has adopted the following guidelines for the conduct of Appeal and Grievance Hearings before the Board. It is the Board's intent that these guidelines serve as the framework within which orderly hearings are to be conducted. The guidelines are not inflexible and may, in whole or in part, be waived by the Personnel Board if it determines that to do so will serve the ends of justice in a particular case.

These guidelines are intended to apply only to appellate and grievance hearings before the Personnel Board. They do not in any way alter the Personnel Rules and Regulations adopted by the City. Appellants shall be familiar with the Personnel Rules and Regulations and must comply with the provisions thereof with regard to the grievance procedure and discipline appeal procedure (Rule VIII).

1. Time of hearing

- a) The date and time of hearings shall be set in advance by the Board with the assistance of the Human Resources Director. The board encourages the parties to participate in mediation upon a request for a hearing. All requests to delay scheduled Personnel Board Hearings shall be made in writing to the Human Resources Director no less than three (3) business days prior to the beginning of the hearing. The Personnel Board delegates to the Human Resources Director the authority to approve or deny requests to delay a Board hearing in response to a written request. The Human Resources Director shall approve a request to delay a hearing upon a showing of good cause. The number of times a hearing has been canceled shall be considered in determining whether good cause exists.
- b) Hearings shall begin promptly at the scheduled time. All parties are expected to be prepared and have any witnesses, representatives, court recorders and/or other necessary parties present at least five (5) minutes before the scheduled starting time. The Board shall not delay the beginning of a hearing because of the absence of a witness, representative, court recorder, or any other party.

2. Pre-hearing Motions and Meetings

- a) All pre-hearing motions which are intended to be brought before the Board must be filed with the Board and served on the responding party at least five (5) working days before the scheduled hearing date. Responses to pre-hearing motions must be filed with the Board and served on the moving party at least two (2) working days prior to the hearing date.
- b) Pre-hearing motions and responses not filed in accordance with subsection (a) of this rule need not be considered by the Board.
- c) All pre-hearing motions and responses submitted for the Board's consideration shall be accompanied by a Memorandum of Authorities which shall substantiate the moving or responding party's position. Failure to submit the required memorandum is sufficient grounds for the summary denial of the motion or for the Board to disregard the response as the case may be.
- d) The parties shall meet at a pre-hearing meeting not later than the week prior to the hearing. The purpose of the pre-hearing meeting is to review the hearing memoranda and proposed exhibits, resolve any evidentiary disputes, if possible, and generally streamline the issues for the hearing.
- e) Applicants for employment with the City who have appeal rights to the Personnel Board under the Personnel Rules, shall submit a Hearing Memorandum, under Section 3 below, and shall attend the pre-hearing meeting (or have a representative attend on their behalf). Failure to submit a Hearing Memorandum under Section 3 below, and/or attend the pre-hearing meeting shall waive the applicant's appeal rights.

3. Hearing Memorandum

Each party in an appeal or grievance hearing shall submit to the Board, by delivery to the Human Resources Department, by 12:00 noon, at least eleven (11) working days prior to the scheduled hearing date, eleven (11) copies of a "Hearing Memorandum" which may include the complete direct testimony of any witness, including that of the party, in written form. Each such witness must be available at the hearing for cross-examination and questions from the Board. A copy of the Hearing Memorandum form is attached to these guidelines. All the pages in the Hearing Memorandum and any copies of direct testimony shall be consecutively numbered (Bates stamped or in clear, bold hand writing) so that they can be easily referred to during the hearing.

4. Evidence and Testimony

- a) The Board is not bound by formal rules of evidence. Generally, all relevant evidence and testimony shall be admitted and the Board shall weigh the credibility of such evidence and testimony. Cumulative and/or repetitive testimony may not be allowed.

- b) All documentary evidence shall be submitted as set forth in the Hearing Memorandum.
- c) Each party shall be limited to two (2) hours to present its case, exclusive of cross-examination. Questioning by the members of the Board and opening and closing statements are not included. The Board Chair shall have the discretion upon a showing of good cause at the pre-hearing meeting to expand the time limits set forth herein.

5. **Burden of Proof**

- a) In appeals from disciplinary action the City shall have the burden of establishing that the action taken was justified under the circumstances. The appellant shall have the burden of establishing any affirmative types of defenses.
- b) In matters other than disciplinary actions, the grievant or moving party shall bear the burden of establishing their case.
- c) The party who has the burden of proof shall be required to submit sufficient evidence to establish their case.

6. **Witnesses**

- a) All witnesses present at the beginning of the hearing shall be sworn by the Board Chair. Witnesses not so sworn shall be sworn prior to beginning their testimony.
- b) Motions to exclude witnesses from the hearing room must be made prior to the beginning of testimony.
- c) Hearings before the Personnel Board shall ordinarily not be delayed due to the absence of a witness.

7. **Open or Closed Hearings**

Hearings of the Personnel Board are generally open to the public. However, a closed hearing shall be held where an employee appeals a disciplinary matter. In a hearing where complaints or charges are brought against an employee, the employee has the right to have the complaints or charges heard in an open hearing, rather than a closed hearing. See Government Code Section 54957. The employee shall designate “open” or “closed” at Section 9 of the Hearing Memorandum.

8. Opening and Closing Statements

Parties or their representatives shall be allowed to make brief opening and closing statements. Said statement should be concise and to the point. Opening and closing statements shall be limited to a total of fifteen (15) minutes. The Board Chair shall have the discretion upon a showing of good cause at the pre-hearing meeting to expand the time limits set forth herein.

9. Recording of Hearings

Hearings before the Personnel Board may be recorded and copies of the tapes shall be kept on file with the Human Resources Department of the City of Santa Rosa for thirty (30) calendar days after the rendering of the final decision by the City Manager. Persons wishing to review the tape or make copies must schedule an appointment with the Human Resources Director, or representative, during the thirty (30) calendar-day period.

Adopted 6-20-83 by the Personnel Board

Amended 9-10-91 by the Personnel Board

Amended 7-21-93 by the Personnel Board

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