



CITY OF SAN ANTONIO MUNICIPAL CIVIL SERVICE COMMISSION GENERAL PROCEDURES

APPEALS

Within ten (10) city business days (which **excludes Saturdays, Sundays and City Council approved holidays**), after the receipt of notice of suspension, demotion or termination, an employee covered by civil service benefits may appeal in writing to the Commission for a hearing. The following information must be included in the appeal: **(NOTE: The Commission does not hear appeals on Employee Performance Evaluations (EPE), Accident Review Board actions, or the EEO process.)**

1. Name
2. Department/Supervisor
3. Suspension/Termination/Demotion Date
4. Name of Representative
5. Work Phone
6. Home Phone
7. Names, Address, Department of Witnesses to be subpoenaed, if known at the time of the appeal
8. Employee's Signature

The ten (10) city business days described in the Municipal Civil Service Rules (Rule XVII Sec. 3), shall be defined to **exclude Saturdays, Sundays and City Council approved holidays** and as such apply to the processes described within these Municipal Civil Service Commission Procedures. It will be the responsibility of the Appellant or their Representative to bear proof that such an appeal was filed, should a question arise concerning such timeliness. Proof of an appeal being submitted in a timely manner are a time-stamped copy of the appeal provided by the Human Resources Department, or a copy of an email to the Human Resources Department appealing a suspension, demotion or termination. The Appellant or Representative is responsible for acquiring such proof from the Human Resources Department.

SCHEDULED HEARINGS

The Commission will normally meet on Tuesdays and Thursdays as required. The time of the hearings will be as officially posted in compliance with the Texas Open Meetings Act. Suspension and Demotion hearings are scheduled for a maximum of four hours; termination hearings are scheduled for a maximum of eight hours; therefore, each party should be prepared to present their case within the allotted time.

WITNESSES/SUBPOENAS

Either the City or the Appellant/Representative may call a **reasonable** number of witnesses subject to the final approval of the Commission. The witnesses must have **first hand personal knowledge** of the circumstances of the charges. **Character witnesses or witnesses without first hand knowledge are not acceptable and will not be permitted to testify.** Witnesses should be identified, their need to appear qualified, and agreement reached by both parties to proceed with the hearing. The Commission shall rule on objections to appearance of any witnesses.

Witness identity for the hearing must be disclosed to the opposing party and the Human Resources Department at least ten (10) city business days (which excludes Saturdays, Sundays and City Council approved holidays) prior to the date of the hearing.

The Human Resources Department will issue subpoenas to the Appellant's witnesses who are City employees. Human Resources will make every attempt to issue the subpoenas at least five (5) city business days (which excludes Saturdays, Sundays and City Council approved holidays) prior to the hearing. . The City Attorney's Office will coordinate with the department of employees who they will need at a hearing. Subpoenas for non-city employees will be prepared by the Human Resources Department, but **will not be issued by the department.** It is the responsibility of both the City Attorney and Appellant/Representative to arrange the issuance of subpoenas for non-city employees. The appearance of non-city witnesses is the sole responsibility of the requesting party.

Witness identity submitted to the Human Resources Department must include the following information:

1. Name of Witness
2. Job Title
3. Telephone Number of Witness
4. Department and Supervisor of Witness (City employee only)
5. Address of Witness if non-employee

Prior to the hearing date, both the City Attorney and Appellant/Representative are expected to contact their witnesses to ensure they will be present to appear before the Commission. The party requesting the witness shall notify the witness of postponements, rescheduling, and change in appearance times.

PLACING WITNESSES UNDER THE RULE

The witnesses on both sides shall be sworn and asked to leave the hearing room so they cannot hear the testimony as delivered by any other witness in the case.

Both the Appellant and a Representative of the department may stay in the hearing room, regardless if they are later called to testify.

Witnesses under the rule shall be instructed that they are not to converse with each other concerning the case.

EVIDENCE AND EXHIBITS DISCLOSURE

The City and the Appellant/Representative shall disclose through e-mail, U.S Postal Service or in person all evidence and exhibits to be presented to the Commission to the Human Resources Department and the other party at least **five (5) city business days** (which excludes Saturdays, Sundays and City Council approved holidays) prior to the date of the hearing. If evidence is mailed through the US Postal Service, it must be postmarked at least **five (5) city business days** prior to the date of the hearing (which excludes Saturdays, Sundays and City Council approved holidays). **Faxing of exhibits to Human Resources by either party will not be accepted. NO EXCEPTIONS!**

If, during the hearing process, it becomes essential to present newly discovered evidence or new witnesses are identified, the other party may request a continuance of the hearing or object to the introduction of the new evidence or witness. The Chairperson has the authority to make the final decision to allow the new evidence to be submitted or the new witness to testify.

The Chairperson may exclude:

- redundant, irrelevant, or cumulative evidence;
- evidence that is not properly authenticated;
- any exhibit not previously exchanged; and
- testimony of a witness not previously identified as a witness.

The Chairperson has final approval on evidence to be presented and witnesses to be heard.

POSTPONEMENTS

The City Attorney and/or the Appellant/Representative may request postponements in accordance with the following procedures:

All postponements must be requested as soon as possible, but **no later than two (2) city business days (which excludes Saturdays, Sundays and City Council approved holidays)** prior to the scheduled hearing, **between 8:00a.m. and 4:30p.m.** Postponement requests must be in writing and delivered to the Human Resources Department for approval consideration by the Commission Chairperson. All requests must demonstrate good cause for the postponement. There will normally not be more than **ONE** postponement allowed for each party of

the case. Unusual circumstances may warrant exceptions subject to the approval of the Commission Chairperson.

If a postponement is granted to either party as a result of the City and/or the Appellant/Representative making such a request, and such request comes after the deadline to identify witnesses or the deadline to exchange evidence, the time deadline to disclose witnesses or exchange evidence shall not be extended, but must meet the original deadline. If postponement is granted prior to the deadline to identify witnesses or deadline to exchange evidence, then either or both deadlines will be extended to meet the new date of the hearing.

FORFEITURE OF APPEAL RIGHTS UNDER SECTION 3 OF RULE XVII OF THE MUNICIPAL CIVIL SERVICE RULES

The Commission will wait for 15 minutes from the time of the scheduled hearing for the City Attorney and Appellant/Representative to appear. If the Commission is satisfied that a party was duly notified, but failed to appear, the Commission may hear from any party present and then go into Executive Session and rule on the matter, to include finding that the Appellant forfeited the right to appeal by failing to appear for the scheduled hearing.

DECORUM

Both the City and Appellant/Representative must be respectful to Commissioners, witnesses and each other. No person present shall be permitted to indulge in personalities, use language personally offensive, and/or question motives of the Commissioners or charge deliberate misrepresentation. IT IS IMPERATIVE THAT THE CHAIRPERSON MAINTAIN ORDER AT ALL TIMES. THE CHAIRPERSON MUST NOT PERMIT DEBATE OR COMMENTS FROM ANY PERSON WHO HAS NOT BEEN RECOGNIZED. INTERRUPTIONS MUST BE SILENCED BY VOICE, USE OF THE GAVEL OR OTHER MEANS, AND, IN THE EVENT OF ANY PERSON'S FAILURE TO HEED THE DIRECTIONS OF THE CHAIRPERSON, THAT INDIVIDUAL MAY BE REMOVED FROM THE ROOM.

All cell phones must be either turned off or on the vibrate mode and there will be no loud talking while witnesses are testifying. If either the City and their department Representative or Appellant and his/her Representative need to communicate while a witness is testifying, it must be done in writing.

SUMMATION

The City Attorney and Appellant/Representative will have a maximum **of five (5) minutes** to summarize. Since the City has the burden to prove the disciplinary action, the City will be the first to present opening and closing statements.

DELIBERATIONS

The Commission shall recess into Executive Session to determine, by a preponderance of the evidence, whether the employee committed any of the alleged rule violations. The Commission shall then discuss the appropriateness of the disciplinary action if it found that any of the Municipal Civil Service Commission rules were violated by the employee.

Once the Commission has adequately discussed the matter in Executive Session, the Commission must then reconvene the hearing into Open Session. By majority vote, the Commission may either recommend to the City Manager that he/she sustain, reverse, modify, or amend the disciplinary action. The Secretary to the Commission shall prepare the recommendation in writing to be communicated to the City Manager.

REINSTATEMENT

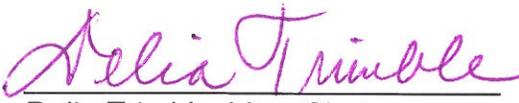
Commission recommendations to reinstate an employee shall be without back-pay unless specifically requested by the Appellant/Representative and stated in writing in the written recommendation to the City Manager.

SIGNED AND EXECUTED THIS 16 DAY OF July, 2015

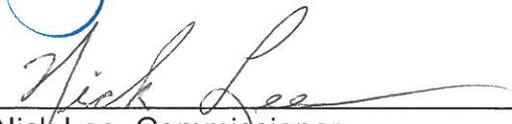
(Previously published procedures are hereby rescinded.)



Joseph S. Tartell, Chairperson



Delia Trimble, Vice-Chair



Nick Lee, Commissioner

