
RULES AND PROCEDURES CITY OF SCOTTSDALE PERSONNEL BOARD

1.0. General

1.1. Authority. The authority of the Personnel Board ("Board"), including the right to establish rules and procedures for personnel hearings ("Rules"), is derived from the Scottsdale city charter and the provisions of Chapter 14 of the Scottsdale Revised Code, relating to Human Resources Management ("Code"). These Rules supplement the provisions of the city charter and the Code. They are intended to govern the manner in which hearings ("Hearings") on appeals to the Personnel Board are conducted.

1.2. Arizona Open Meeting Law. All of the proceedings of the Personnel Board shall be subject to the provisions of the Arizona Open Meeting Laws (A.R.S. §§ 38-431 et seq.) The Personnel Board may meet in executive session, as provided by the Open Meeting Laws. Two (2) of the three (3) members of the Personnel Board shall constitute a quorum for the transaction of any business.

Meetings of the Personnel Board, including Hearings, shall be conducted by the chairperson ("Chairperson") or, in the absence of the Chairperson, the Chairperson's designee. "Chairperson", as used in these Rules and Procedures, includes both the Chairperson and designee.

2.0. Pre-hearing Procedures.

2.1. Representation by Counsel. Both the employee bringing the appeal ("Appellant") and the City ("Respondent"), collectively the "Parties", may be represented by legal counsel. At the time that each party provides the list of witnesses and copies of the exhibits to the other party, as required by section 2.2 of these rules, below, the appellant will indicate to the respondent, in writing, whether appellant will be represented by counsel at the hearing, indicating counsel's name, address and telephone number.

In the event that the appellant does not make timely disclosure of counsel, but is later represented by counsel, and notice is received prior to the hearing, the respondent is entitled to a continuance of the hearing, upon the filing of a written request for continuance. If the first notice the respondent receives that the appellant is represented by counsel is at the time set for the hearing, the respondent, at its election, is entitled to a continuance of the hearing or may consent to proceed with the hearing as scheduled. A continuance based upon this section shall not be considered as a continuance as a matter of right, as referred to in section 2.5, below, but in addition to any such continuance.

2.2. List of Witnesses and Exhibits. Each Party shall provide to the other Party, not less than ten (10) working days prior to the date set for the Hearing, or as otherwise ordered by the Chairperson, a list of witnesses they intend to call for testimony, and the exhibits that they intend to present at the Hearing. It is also the responsibility of each Party to provide four (4) copies of each exhibit for the Board, through the General Manager Human Resources, or designee, at this time.

2.3. Subpoena Power. While the Personnel Board has the authority to issue subpoenas for either testimony or documents, the Board will only do so upon written request of the Appellant and/or Respondent. Such a request shall be directed to the Chairperson, through the General Manager Human Resources, or designee, not later than ten (10) working days prior to the scheduled Hearing. Human Resources, on behalf of the Chairperson, will prepare subpoenas, and the subpoenas will be returned to the party that named the witnesses for service. If the Chairperson receives no such request, Human Resources will send a courtesy notice to witnesses named on the witness list(s), by mail, one (1) week in advance of the scheduled hearing.

2.4. Participation of Witnesses. The Personnel Board is not responsible for securing the attendance of witnesses. The Personnel Board has no authority to compensate anyone for attending or testifying at a Hearing, or for traveling to and from a Hearing, or for any other costs incurred for participating in a Hearing. The City will compensate employees, however, who are required to attend or testify at a Hearing, as may be provided by the City Code. In the event of a postponement or cancellation of a scheduled Hearing, it is the responsibility of the naming party (Appellant and/or Respondent) to notify witnesses of such action.

2.5. Continuance of Hearing. Either Party may request the continuance of a Hearing. Requests for continuance must be submitted to the Personnel Board not less than five (5) working days prior to the scheduled date of the Hearing. Each Party is entitled to only one (1) continuance of a Hearing, as a matter of right, but on the request of a Party, the Chairperson may grant additional continuances upon a showing of good cause, when in the interest of fairness to the Parties.

2.6. Withdrawal/Abandonment of Appeal. The Appellant may submit a written request to the General Manager Human Resources, or designee, to withdraw an appeal at any time prior to the Boards' findings, conclusions and recommendations. Withdrawal of an appeal shall constitute a waiver of the employee's right to appeal.

No later than five (5) working days prior to the scheduled personnel board hearing date, the appellant shall confirm, in writing, appellant's intent to attend the personnel board hearing. The written confirmation must be directed to and received by the General Manager, Human Resources, within the time period indicated above. In the event the Appellant fails to confirm his/her intent to appear on this date, as required by this section, without just cause, the Board shall consider the appeal to have been abandoned and the employee shall be deemed to have waived any right to appeal.

2.7. Pre-hearing Motions. Either party may file pre-hearing motions not later than ten (10) working days before the scheduled date of the Hearing. The moving party shall file the original and five (5) copies of any pre-hearing motion with the General Manager Human Resources, or designee. All pre-hearing motions shall be submitted in writing with any relevant exhibits attached to the motion. The Chairperson shall rule on any such motion either prior to the hearing or at the time set for the hearing, with or without oral argument, as the Chairperson may so determine. The Chairperson shall make the determination as to whether oral arguments are necessary. If the Chairperson determines

oral arguments are necessary, the Chairperson shall schedule such oral arguments at such time as the Chairperson may determine, including at the time of the scheduled hearing. The decision of the Chairperson on any such motion shall be final as to that motion.

3.0. Conduct of Hearings.

3.1. Exclusion of Witnesses. Upon the request of the Appellant or Respondent, witnesses will be excluded from the Hearing until it is time for them to testify. At no time, however, shall the Appellant or Respondent (City representative) or their attorneys, if any, be excluded from the Hearing.

3.2. Hearing Participants. Participation in a Hearing shall be limited to the Parties and their counsel, if applicable, unless otherwise stipulated by the Parties prior to the Hearing and approved by the Chairperson. There shall be no consultation or communications, written or oral, between the Parties and non-participants in attendance at the Hearing, except during breaks. Legal assistants or paralegals employed by counsel for the Parties, however, may communicate with the Parties, during the Hearing, if they are introduced to the Personnel Board at the beginning of the Hearing. Communications permitted by this section may not disrupt the Hearing.

3.3. Rules of Evidence Inapplicable. The formal rules of evidence applicable to state and federal courts shall not apply in Personnel Board Hearings. All testimony, however, shall be upon oath or affirmation administered by the Chairperson.

3.4. Presentation of Evidence; Generally. Each Party shall have the right to present the testimony of witnesses and documentary evidence. Each Party shall have the right to examine and cross-examine witnesses for the other Party. Each Party shall have the right to object to the admission or exclusion of testimony and evidence because it is irrelevant, immaterial, incompetent, verbose, or unduly repetitious. A Party may also object to the extent or limitation of examination or cross-examination.

3.5. Rulings by Chairperson. The Chairperson shall preside over Hearings and shall determine the manner in which the Hearing will be conducted. The Chairperson shall rule on objections made to the admission of testimony or evidence. Motions made prior to or during the Hearing shall require the recognition of the Chairperson, shall be made in order, and shall be ruled upon by the Chairperson.

3.6. Order of Presentation.

(a) Prior to presenting evidence and testimony, the Respondent and Appellant may each give a brief opening statement (i.e. 5-10 minutes). After the opening statements, the Respondent will present testimony and evidence in support of the action that is the subject of the appeal. The Appellant shall be given the opportunity to cross-examine each witness.

(b) After the Respondent has presented all of its witnesses and evidence, the Appellant will be given the opportunity to present witnesses and evidence. The Respondent shall be given the opportunity to cross-examine each witness.

3.7. Summations. When the Appellant's presentation of witnesses and evidence is concluded, each Party shall be given the opportunity to give a summation of its position, beginning with the Respondent. Each summation shall be limited to fifteen (15) minutes, except as may otherwise be provided by the Chairperson.

3.8. Record of Proceedings. All Hearings, with the exception of executive sessions, shall be recorded either stenographically or audio recorded. Minutes of executive sessions shall be taken as provided by law. The recording(s) of the proceedings, along with all documents and exhibits of evidence shall constitute the record and shall be maintained by the General Manager Human Resources, or designee. All of the documents and materials constituting the record shall be subject to the Arizona Public Records Laws (A.R.S. §§ 39-121 et seq.).

4.0. Findings of Fact, Conclusions and Recommendations.

After the summations have been given, the Personnel Board will consider all of the evidence and make findings of fact, conclusions and recommendations, which shall be done in open session. The Board will transmit its written findings of fact, conclusions and recommendations to the city manager. The recommendation shall be to:

- a. Affirm the decision of the department's general manager.
- b. Overrule the decision of the department's general manager.
- c. Modify the decision of the department's general manager, as specifically recommended.

5.0. City Manager's Review and Decision.

The city manager, within a reasonable time after having received the written findings of fact, conclusions and recommendations from the Personnel Board, shall notify the General Manager Human Resources, or designee, of the city manager's decision in respect to the appeal. The General Manager Human Resources, or designee, shall immediately, in writing, notify the Appellant and Respondent and their respective legal counsel, if any, of the city manager's decision.

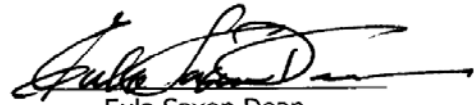
6.0. Compliance by General Manager.

Within a reasonable period of being notified of the city manager's decision, the department's general manager shall take any action necessary to comply with the decision. It shall be the responsibility of the department's general manager to notify the employee of any such action.

7.0. Expansion or Limitation of Time.

The time limits set forth in these Rules for the completion of any act, requirement or activity may be expanded or limited by the Chairperson, at the Chairperson's discretion, when necessary to facilitate the preparation for or conduct of the Hearing, or in the interest of fairness.

Revisions ADOPTED by the Personnel Board of the City of Scottsdale this 19th day of November 2007.

A handwritten signature in black ink, appearing to read "Eula Saxon Dean", with a horizontal line underneath it.

Eula Saxon Dean

Chairperson