

# City of Leon Valley Ethics Review Board

## RULES OF PROCEDURE for Meetings & Hearings

### A. GENERAL

These procedural rules were approved by the Ethics Review Board pursuant to authority granted in the Code of Ethics as enacted by the City Council.

*Code of Ethics Art. 7, §§ 2(c), and 5(a).*

### B. MEETINGS

1. **Applicability.** The rules below are applicable to meetings, which include hearings.
2. **Decorum.** Every person present must exhibit civility and professionalism. Personal attacks, insulting remarks, and threats are prohibited. Speakers must confine their remarks to the subject under discussion.
3. **Calling Meetings.** Board meetings can be called by the Chair or upon request of three Board members.

*Code of Ethics Art. 7, §5.*
4. **Call to Order.** The Chair will:
  - a. call the meeting to order;
  - b. announce the time the meeting is convened; and
  - c. state whether a quorum of three or more board members is present.
5. **Open Meetings Act.** Board meetings shall be conducted in compliance with the Texas Open Meetings Act.
6. **Adjournment.** Board meetings will be adjourned at the Chair's initiative or upon vote of a majority of the members present.
7. **Role of the Chair.** As presiding officer, the Chair will control meetings, including the flow of discussion. Only one person may speak at a time. The Chair will enforce these rules through the following measures:
  - a. by calling a person to order, advising them of the rules and requesting compliance;
  - b. by ending a person's opportunity to speak on an agenda item; and/or
  - c. by ordering a person to leave a meeting and barring the person's presence during the remainder of the meeting.

For purposes of these Rules, the term Chair shall include the Vice-Chair when the Chair is absent or has been recused. If both the Chair and Vice-Chair are absent or recusing themselves, the remaining members will select from among themselves a presiding officer for that particular meeting.

- 8. Recusals.** At any point prior to the commencement of deliberations, Board members can recuse themselves. It is preferred that recusals be communicated to the Chair prior to a meeting or hearing so that ad hoc (i.e., alternate) members can be designated.

**9. Attendance & Abstaining.**

Upon receipt of an agenda for meeting or hearing, each member of the Board shall immediately (preferably within twenty-four (24) hours) inform the City Secretary's Office if the member is planning to:

- a. attend;
- b. not attend; or
- c. attend but abstain from participation.

*Code of Ethics Art. 7, §1(g).*

### C. HEARINGS

- 1. Calling Hearings.** Hearings can be called by the Chair or upon request of three Board members. The Chair and the Board each has discretion to decide whether to hold a hearing regardless of whether the Complainant or the Person Charged in the Complaint requests a hearing.

*Code of Ethics Art. 7, §3(e).*

- 2. Timing for Hearings.** Hearings will be called within forty-five days after the filing of a Complaint, or as soon as reasonably possible thereafter. This deadline shall be extended by any amount of time granted to a respondent pursuant to a respondent's request for additional time to respond or attend proceedings.

*Code of Ethics Art. VII, §§4(c) and 6(a).*

- 3. Powers.** At a hearing, the Board may:

- a. allow witnesses to testify under oath;
- b. may establish time limits and other rules relating to the participation of any person in the hearing;
- c. admit evidence;
- d. request additional information from the city;
- e. make determinations;
- f. make recommendations (when appropriate); and
- g. table matters or reset hearings.

*Code of Ethics Art. VII, §§2(c), 5, and 6*

**4. Pleadings.** All pleadings (e.g., responses, amended complaints, etc.) from the parties must be submitted to the City Secretary's Office at least four business days prior to the hearing. Pleadings received after this deadline will only be considered by the Board upon affirmative votes of three members.

**5. Procedural Requests.**

- a. **Deadline.** All procedural motions from the parties must be submitted to the City Secretary's Office at least four business days prior to the hearing. Motions received after this deadline will only be considered by the Board upon affirmative votes of three members.
- b. **Distribution.** Within one (1) business day after receipt, the City Secretary's Office will promptly forward the procedural motions to the Board members, the Ethics Compliance Officer, and the opposing party.
- c. **Reset or Continuance.** In addition to other procedural matters, the Board may consider a request for a reset or continuance of a hearing. The Board may also, on its own motion, reset or continue a hearing. At the beginning of the hearing, the Board will consider and rule upon any such requests and procedural motions that were timely filed.

**6. Evidence & Witnesses.**

- a. Each party shall submit to the City Secretary's Office the party's witness list and any sworn statements and documentary evidence they desire to be considered. This information shall be submitted no later than four business days prior to the hearing.
- b. All exhibits submitted by the parties shall be numbered sequentially by the parties. Complainant's exhibits shall be pre-marked with the letter "C" followed by a dash, followed by a number; for example "C-1". The Person Charged in the Complaint shall pre-mark their exhibits with the letter "P," followed by a dash, followed by a number, for example "P-1".
- c. The City Secretary's Office shall forward that information to the parties, Board Members, and the Ethics Compliance Officer at least three business days prior to the hearing.
- d. The Board has discretion whether to hear testimony from witnesses during a hearing.  
*Code of Ethics Art. VII, §§5(b) & (c).*

**7. Appearance of the Parties.** The Chair shall call the names of the parties so they can announce if they are present.

**8. Sworn Testimony.** Each witness shall be duly sworn by the Chair before testifying.

**9. Opening Statements.** At the Chair’s discretion, each party shall be given the opportunity to present their positions with an initial statement in a narrative form including a summary of documents and witness testimony to be presented. Opening statements shall not exceed five minutes. Nothing herein obligates a party to make a statement.

**10. Questioning of Witnesses.**

- a. The questioning of witnesses shall be by the Board. Parties shall not be allowed to direct or cross-examine each other or witnesses.
- b. If present, the Complainant shall be questioned by the Board, followed by witnesses offered by the Complainant (if any, that the Board gives permission to testify).
- c. If present, the Person Charged in the Complaint shall be questioned by the Board, followed by witnesses offered by the Person Charged in the Complaint (if any, that the Board gives permission to testify).
- d. Nothing herein obligates a party to submit to questioning.

*Code of Ethics Art. VII, §5.*

**11. Presentation of Evidence.**

- a. At the Board’s discretion, the parties may offer such evidence in the form of documents (i.e., exhibits) that are relevant and material to the Complaint or any defense. All exhibits shall be admitted following the Opening Statements and prior to questioning. The Board has discretion to reject as inadmissible any offered evidence deemed by the Board to be hearsay or speculative that would be unfairly prejudicial to a party.
- b. All exhibits submitted by the parties shall be numbered sequentially by the parties. Complainant’s exhibits shall be pre-marked with the letter “C” followed by a dash, followed by a number; for example “C-1”. The Person Charged in the Complaint shall pre-mark their exhibits with the letter “P,” followed by a dash, followed by a number, for example “P-1”.

**12. Witness Testimony.**

- a. Witnesses may offer testimony if the witness is present and available for further examination.
- b. The Board has discretion whether to hear testimony from witnesses during a hearing.
- c. The parties cannot direct or cross-examine witnesses.
- d. All witness testimony shall be sworn (i.e., delivered under oath).

*Code of Ethics Art. VII, §5.*

- 13. Legal Representation.** The parties may be accompanied by, or represented by, legal counsel. At the Board's discretion, legal counsel to the parties may present evidence and / or speak on behalf of a party.

*Code of Ethics Art. VII, §5.*

- 14. Public Comment.** Prior to the closing of the hearing, the Chair will open the floor to public comments. Those who are not parties or witnesses but wish to address the Board must sign up on a list or cards (as designated by the City Secretary) prior to the start of the public comment period. Each speaker is limited to three minutes. Speakers cannot pool or donate their time. Comments are limited to the allegations then pending as raised in the Complaint made the subject of the hearing. The public comment period is not a general grievance opportunity. Speakers must remain civil and respectful showing decorum at all times in honor of the dignity of the proceedings being conducted.

- 15. Closing of Hearing.** After the opening statements, questioning of any witnesses, and offering of evidence, if the Board is satisfied that the record is complete, the Chair shall declare the hearing closed. If additional testimony or evidence is required, the Chair or Board may seek to continue the hearing to another date.

- 16. Additional Information.** On behalf of the Board, the Chair may request data from the City Manager's Office if relevant and germane to making a determination on a Complaint.

- 17. Executive Session.** The Board can go into executive session (i.e., conduct a closed-door meeting) at any point during a meeting or hearing in accordance with the Texas Open Meetings Act, pursuant to Texas Government Code § 551.071 (Consultation with Attorney), and/or § 551.074 (Personnel Matters). However, all decisions must be made in open session.

- 18. Deliberations.** Upon the closing of a public hearing, the Board shall conduct deliberations. During deliberations, the Board may discuss the Complaint, any evidence and testimony that was submitted, and the opinions of the Board Members about the credibility of the information before the Board, and the applicability of the Code of Ethics. Deliberations may be in open or closed session, but all decisions must be made in open session. Action requires a motion and a second.

- 19. Reliability of Evidence.** The Board shall rely on evidence that a reasonably prudent person commonly relies on in the conduct of the person's affairs. The amount of weight given to any evidence or testimony shall solely be at the discretion of the Board.

- 20. Standard of Proof.** No person may be held to have violated the ethics laws unless at least three Board Members finds that a preponderance of the evidence supports the conclusion.

*Code of Ethics Art. VII, §5(a).*

**21. Determinations.**

- a. The Board shall make all reasonable efforts to issue a written decision within sixty (60) days after the filing of a Complaint.

*Code of Ethics Art. VII §6(a).*

- b. Upon conclusion of deliberations, the Chair shall call for a motion. All votes will be by rollcall vote.
- c. If a decision is not unanimous, and only three members are present, the matter shall be reset until the full Board can attend.

*Code of Ethics Art. VII §5(a).*

- d. The written opinion shall state the Board's findings of fact and conclusions of law. The opinion shall be authored by the Chair with the assistance of the Ethics Compliance Officer.

*Code of Ethics Art. VII §6(a).*